

COLONY OF THE CAPE OF GOOD HOPE.



ACTS OF PARLIAMENT.

SESSION OF 1902,

BEING THE

FOURTH SESSION OF THE TENTH PARLIAMENT.

EDITED BY

COLONIAL SECRETARY'S DEPARTMENT

CAPE TOWN

CAPE TIMES LIMITED, GOVERNMENT PRINTERS.

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No. 1—1902.]

[August 29, 1902.]

ACT

To Apply a sum not exceeding Three Million Pounds Sterling towards the Service of the Year ending the 30th June, 1903.

[Assented to 29th August, 1902.]

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

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending 30th June, 1903, with a sum not exceeding Three million pounds sterling (£3,000,000) which sum shall be applied towards the service of the said year in conformity with the Estimates of the Expenditure for the year ended the 30th of June, 1902, which have been presented to Parliament. Revenue charged with £3,000,000 towards service of year ending 30th June, 1903.

2. This Act may be cited for all purposes as the "The Appropriation (part 1902-03) Act, 1902." Short Title.

No. 2—1902.]

[Sept. 10, 1902.]

ACT

To Repeal the High Commissioner's Salary Act, No. 38, of 1889.

[Assented to 10th September, 1902.]

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

1. The High Commissioner's Salary Act, No 38 of 1889, is hereby repealed. Repeal of Act No. 38 of 1889.

2. This Act may be cited as "The High Commissioner's Salary Act, 1889, Repeal Act, 1902." Short Title.

No. 3—1902.]

[Sept. 10, 1902.]

ACT

To Repeal the Second Section of the Basutoland Disannexation Act, No. 34 of 1883.

[Assented to 10th September, 1902.]

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

No. 4—1902.

Repeal of
Section 2 Act
No. 34 of 1883

1. The second section of the Basutoland Disannexation Act, No. 34 of 1883, providing for a contribution out of the Public Revenue of this Colony towards any deficiency that may arise in the Revenue of the Government of Basutoland is hereby repealed.

Short Title.

2. This Act may be cited as the "Basutoland Disannexation Act, 1883, amendment, Act 1902."

No. 4—1902.]

[Sept. 15, 1902.]

ACT

To Indemnify the Governor of this Colony and the Officer Commanding His Majesty's Forces in this Colony and all persons acting under their authority and in good faith in regard to acts done or committed during the existence of Martial Law, to validate certain sentences passed by Courts Martial or Military Courts, and to confer certain powers on Commissioners enquiring as to and reporting on such sentences being still unexpired.

[Assented to 15th September, 1902.]

Preamble.

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

Meaning of
word "per-
son" in this
Act.

1. In this Act the expression "person" shall, unless the contrary intention appears, include any body of persons corporate or unincorporate.

Indemnity
in respect of
certain acts
done for pub-
lic safety.

2. All actions, indictments, and legal proceedings whatsoever which might be brought or instituted in any of the Courts of this Colony against His Excellency the Governor of the Cape of Good Hope, or the Officer for the time being Commanding the Forces of Her late Majesty Queen Victoria or of His Majesty King Edward the Seventh in this Colony, or against any person or persons acting under them or either of them respectively, in any command or capacity, Military or Civil, for or on account or in respect of any acts, matters, and things whatsoever in good faith advised, commanded, ordered, directed, or done, as necessary for the suppression of hostilities or the establishment and maintenance of good order and government in, or for the public safety of this Colony, between the 12th October, 1900, and the date of the taking effect of this Act, shall be discharged and become and be null and void.

3. Every such person as aforesaid by whom any such act, matter, or thing shall have been advised, commanded, ordered, directed, or done for any of the purposes aforesaid, shall be freed, acquitted, discharged, released and indemnified against His Majesty the King, His heirs and successors, and all and every person and persons whomsoever in respect thereof.

No. 4—1902.
Certain persons indemnified.

4. Every such Act, matter, or thing referred to in the preceding sections shall be presumed to have been advised, commanded, ordered, directed, or done, as the case may be, in good faith until the contrary shall be proved by the party complaining.

Presumption of good faith.

5. (1) The several sentences pronounced by Courts Martial, or Military Courts, constituted and convened by proper authority; and holden in districts of this Colony in which Martial Law was proclaimed or imposed, and during the existence thereof, upon persons not ordinarily subject to Military Law tried by such Courts for acts of High Treason, murder, or for all or any other crimes or offences whatsoever, or for all or any contraventions of any Regulations expressed or purporting to be issued under Martial Law, and commonly termed Martial Law Regulations, are hereby confirmed; and all such persons confined in any prisons or other legal places of confinement within the Colony under or by virtue of such sentences shall be deemed to have been and to be legally confined there, and shall continue liable to be so confined there or elsewhere, as the Governor may direct, until the expiration of the sentences respectively passed upon them, or until their discharge by lawful authority, and such sentences shall be deemed to be sentences duly passed by duly and legally constituted Courts of this Colony and shall, subject in each and every case to the provisions of the ninth and tenth sections hereof be carried out, or otherwise dealt with, in the same manner, and sentences of such Military Courts as aforesaid shall be followed by the same disabilities, if any, as sentences of the Courts of this Colony.

Confirmation of sentences by Military Courts.

(2) Each and all of the officers of the prisons or other legal places of confinement mentioned in the preceding sub-section, who have, or had, at any time in good faith received into, or kept in, confinement any of the persons mentioned in the said preceding sub-section shall be deemed for all purposes to have acted legally.

Gaolers indemnified.

No. 4—1902.

Certain Acts
of deportation
validation
validated.

(3) All persons in this Colony who have been deported without the limits thereof under and by virtue of any of the foregoing sentences referred to in the first preceding sub-section shall be deemed to have been and to be legally deported without the limits of this Colony, and such acts or cases of deportation as aforesaid shall be deemed to be among, and shall be included under the acts, matters, and things referred to in the second Section of this Act.

Arrests, &c.,
under Martial
Law validated.

6. All persons who have been, in good faith, and under proper authority, and in any of the districts in which Martial Law has been proclaimed or imposed, and during its existence, arrested for High Treason, murder, or for all or any other crimes or offences whatsoever, or for all or any contraventions of any Regulations expressed or purporting to be issued under Martial Law, and commonly termed Martial Law Regulations, and all persons who in such districts have been similarly committed to gaol, and are there detained, to await their trial for any such crime, offence or contravention, shall be deemed to have been lawfully arrested, committed to, and detained in gaol, in the same manner and to the same extent as if they had been arrested and committed to gaol on warrants issued by persons authorised by law to issue them.

Interpretation of term
"proper authority."

7. In all cases where any doubt arises whether any act, matter, or thing alleged to have been commanded, ordered, directed or done under "proper authority" was done under such authority, it shall be lawful for the Attorney-General for the time being to declare such act, matter or thing to have been commanded, ordered, directed, or done under such authority, and such declaration, by any writing under the hand of the Attorney-General, shall in all cases be conclusive evidence as to such authority.

Martial Law
recognizances
validated.

8. Every recognizance, whether taken by a Magistrate or any other person in any district in which Martial Law has been proclaimed or imposed and during its existence, upon which a person accused of any of the crimes, offences, or contraventions referred to in the sixth Section of this Act has been admitted to bail shall be and is hereby declared to be of full force and effect.

Powers conferred on
Commissioners appointed
to enquire into certain
sentences by Military Courts.

9. The Commissioners appointed in England by and under His Majesty's Commission, dated in London the Second day of August, 1902, and set out in the first schedule hereto, shall upon and after their arrival in this Colony be vested with, have and exercise within this Colony all the several powers conferred upon them by and in terms of the said Commission, and any such further powers as may hereafter be conferred upon them by Royal Commission in extension of powers already conferred, and shall furthermore for the purposes, and in the

execution, of the said Commission, have the powers of a Judge of the Supreme Court on Circuit:—Provided No. 4—1902.

- (a) That in the event of the death, or resignation, or ceasing to act as such Commissioner, of any one or more of the aforesaid Commissioners, the person or persons duly appointed by His Majesty to take the place or act instead of any such Commissioner or Commissioners so dying, resigning, or ceasing to act, shall be deemed to be vested with, and shall have and shall exercise all the powers and authorities conferred by this Act on the commissioners appointed in the first instance.
- (b) That every summons or order for the attendance of witnesses or the production of documents may be in the form given in the second Schedule to this Act, and shall be signed by the Chairman, or any one Commissioner, or the Secretary, and served in the same manner and by the same officer as if it were a summons issued by the Resident Magistrate of the district in which the person summoned resides.
- (c) Any person who knowingly, wilfully, and with intent to deceive, shall, on oath, utter any falsehood in the course of any examination duly held, before the said Commissioners, or any one or more of them, under the powers conferred by this Act, and in pursuance and furtherance of the said Commission, and on any matter or thing then and there material, shall be deemed to be guilty of the crime of perjury.

10. It shall be lawful for the said Commissioners to report and make recommendations relative to the several matters and things inquired into by virtue and in pursuance of the said Commission, and thereupon it shall be lawful for the Governor, in so far as he may deem it expedient so to do, to give effect to such recommendations or any of them. Powers conferred on Governor to give effect to recommendations of Commissioners.

Provided, that nothing contained in this Section shall be deemed to question, diminish or interfere with the exercise of the prerogative of pardon vested in the Governor by virtue of his Commission, and to the extent that the same has been heretofore exercised by him.

11. This Act may be cited for all purposes as "The General Indemnity Act, 1902." Short title.

FIRST SCHEDULE.

SOUTH AFRICA.

Commission passed under the Royal Sign Manual and Signet, appointing the Right Honourable Baron Alverstone, G.C.M.G., Sir John Charles Bigham, and Major- Schedule I.

No. 14—1902.

General Sir John Charles Ardagh, K.C.I.E., C.B., to be Commissioners to enquire into the sentences imposed by the Military Courts established under martial law in the South African Colonies and Protectorates, and appointing Gilbert Mellor, Esquire, to be Secretary to the Commission.

EDWARD R. & I.

Dated 2nd August, 1902. Edward the Seventh, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India: To Our Right Trusty and Well-beloved Councillor Richard Everard, Baron Alverstone, Knight Grand Cross of Our Most Distinguished Order of St. Michael and St. George, Lord Chief Justice of England; Our Trusty and Well-beloved Sir John Charles Bigham, Knight, One of the Justices of Our High Court of Justice; Our Trusty and Well-beloved Sir John Charles Ardagh, Knight Commander of Our Most Eminent Order of the Indian Empire, Companion of Our Most Honourable Order of the Bath, Major-General of Our Forces; Greeting:

Whereas in consequence of the war declared by the late Governments of the South African Republic and Orange Free State against Her late Majesty Queen Victoria, it became necessary to proclaim martial law in Our Colonies and Protectorates in South Africa;

And whereas certain persons have been by Military Courts established under martial law in the said Colonies and Protectorates sentenced to terms of penal servitude and of imprisonment and to the payment of fines and are now undergoing the said sentences and have not paid but are liable to pay the said fines;

And whereas the aforesaid war having now ceased, it is expedient that inquiry should be made with regard to the aforesaid sentences with a view to ascertaining whether We might properly and without danger to the public safety of Our said Colonies and Protectorates extend Our grace and mercy to any of such persons and whether such sentences and any and which of them might properly be by Us remitted or reduced:

Now know ye that We, considering the premises and reposing great trust and confidence in your fidelity, discretion, and integrity, do authorise and appoint you the said Richard Everard, Baron Alverstone, Sir John Charles Bigham, and Sir John Charles

Ardagh to be Our Commissioners to inquire into the said sentences imposed by Military Courts established under Martial Law in Our said Colonies and Protectorates, and with as little delay as possible, to report to Us in writing under your hands and seals respectively whether in the case of the said persons, and of each of them respectively, who shall be at the date of your report then undergoing any such sentences or who shall not have paid but shall then be liable to pay any such fines, it is expedient, having regard to all the circumstances relating thereto, that such sentences or fines should be remitted or reduced.

And We do by these presents give and grant unto you for the purposes of such inquiry and report full powers to examine all the proceedings, depositions, and other documents in the several cases in which such sentences were pronounced, and, if you shall think it desirable to call for, have access to, and examine all such other books, papers documents, registers and records as may afford you the fullest information on the subject, and at your discretion in any special case in which you may deem it necessary, to call before you such persons as you shall judge likely to be able to afford you any information upon the subject of this Our Commission, and to inquire of and concerning the premises by all other lawful ways and means whatsoever, and to employ such persons as you may think fit to assist you in carrying out any inquiry which you may consider necessary.

And We do by these presents ordain that you Our said Commissioners or any one or more of you shall and may from time to time and at any place or places proceed in the execution of this Our Commission and of any matter or thing contained therein, although the same be not continued from time to time by adjournment.

And for the purpose of aiding you in such matters We hereby appoint Our Trusty and Wellbeloved Gilbert Mellor, Esquire, Barrister-at-Law, to be Secretary to this Our Commission.

Given at Our Court at St. James's, this Second day of August, 1902, in the Second Year of Our Reign.

By His Majesty's Command,

J. CHAMBERLAIN.

SECOND SCHEDULE.

No. 5—1903.

Schedule II.

To A. B. (*name of person summoned and his calling and residence if known*) You are hereby summoned to appear before the Commissioners, appointed under His Majesty's Commission, and empowered by Act of 1902 to enquire into cases of unexpired sentences pronounced by Court Martials or Military Courts, during the existence of Martial Law, and to so appear at (*place*) upon the day of 1902, at o'clock, and to give evidence respecting the subject matter of such enquiry. (*If the person summoned is to produce any documents, &c., add*). And you are required to bring with you (*specify the books, papers, documents, registers, or records required*).

Given under the hand of (*Chairman or Commissioner*)
Secretary) this day of 1902,

No. 5—1902.]

[Sept. 15, 1902.

ACT

To Indemnify the Governor and others in respect of certain prorogations of Parliament and non-registration of Parliamentary Voters.

[Assented to 15th September, 1902.]

Preamble.

WHEREAS, by the seventy-seventh section of the "Constitution Ordinance" as amended, ratified, confirmed and finally enacted by the Queen's Most Excellent Majesty, with the advice of Her Privy Council by Order in Council bearing date the 11th day of March, 1893, it is enacted that there shall be a session of the Parliament of the Cape of Good Hope once at least every year so that a period of twelve calendar months shall not intervene between the last sitting of Parliament in one session and its first sitting at the next session.

And whereas, by the seventy-fourth section of the said Ordinance as amended, ratified, confirmed and finally enacted, as aforesaid, it is enacted that it shall be lawful for the Governor of the Cape of Good Hope whenever he shall see fit so to do to prorogue, in the manner provided in the said section, the Legislative Council and the House of Assembly of the said Colony.

And whereas His Excellency the Governor did on the 15th day of October in the year 1900 prorogue the said Legislative Council and the said House of Assembly then last sitting in session.

And whereas, at the time of and subsequent to the said prorogation there existed and continued to be a state of war

between the Government of Her late Majesty Queen Victoria and of His Majesty King Edward the Seventh and the Governments respectively of the late Orange Free State and the late South African Republic, followed by invasion of Her Majesty's Territories in this Colony, and rebellion and by the proclamation or continued imposition of Martial Law throughout the Colony, the Transkeian Territories alone excepted;

And whereas, by reason of the said war, invasion, rebellion and imposition of Martial Law, it was deemed and considered by His Excellency the Governor that the provisions of the said seventy-seventh section of the said Ordinance could not safely or in the public interest be complied with, and His Excellency the Governor accordingly further prorogued the said Legislative Council and the said House of Assembly on the several dates following, to wit: the 12th day of September and the 14th day of November in the year 1901, and the 13th day of January, the 1st day of March, the 3rd day of April, and the 8th day of July in the year 1902;

And whereas, by reason of the said prorogations as aforesaid, the Parliament of the Cape of Good Hope has not duly met in session as required by the said seventy-seventh section of the said Ordinance;

And whereas, further, by the fifth section of "The Registration of Parliamentary Voters Amendment Act, 1899," it was enacted that the next registration of Parliamentary Voters should be commenced and undertaken not later than the last day of February, 1901;

And whereas during the time fixed and limited by the said section of the Act there was and existed such war, invasion, rebellion and Martial Law as aforesaid;

And whereas by reason of the said war, invasion, rebellion and Martial Law, it was deemed impracticable, inexpedient and not in the public interest that the registration of voters aforesaid should be undertaken within the time fixed and limited as aforesaid, and such registration was accordingly not so undertaken;

And whereas it is necessary to provide for a registration of Parliamentary voters:

Be it enacted and declared, and it is hereby enacted and declared, in Parts I. and II. of this Act respectively, by the Governor of the Cape of Good Hope by and with the consent of the Legislative Council and the House of Assembly thereof, as follows:—

PART I.

THE PROROGATIONS OF PARLIAMENT.

1. Each and all of the said prorogations of Parliament shall be deemed to have been and are hereby declared to be legal, valid, binding and effectual as if the provisions of the said

Certain prorogations declared to be legal.

No. 5—1902.

seventy-seventh section of the said Ordinance had been duly complied with and satisfied, anything to the contrary in the said section or in any other provision of any statute or law notwithstanding.

The Governor and other persons indemnified in respect of such prorogations.

2. His Excellency the Governor and all persons whatsoever concerned in the said prorogations are hereby freed, discharged, and indemnified from all and any responsibility and liability in respect of any and all acts and omissions done and made by them or any of them in respect of the said prorogations and any or all of them, and are so freed, discharged, and indemnified against His Majesty, his heirs and successors and any and all persons, and any body or bodies of persons, corporate or incorporate, whatsoever.

PART II.

THE REGISTRATION OF PARLIAMENTARY VOTERS.

The Governor and other persons indemnified in respect of non-registration of voters.

3. His Excellency the Governor, and all persons whatsoever upon whom, by the said Act of 1899 and any and all other Acts of Parliament, duties have been and are imposed in respect of the registration of Parliamentary Voters, are hereby freed, discharged, and indemnified from all and every liability and responsibility whatsoever which has or may have arisen or may arise towards Her Late Majesty Queen Victoria, His Majesty King Edward the Seventh, his heirs and successors, or towards any person and all persons whatsoever by reason that the registration of voters, required to be taken within the time limited and in the manner prescribed by the aforesaid fifth section, and the provisions of the said Act, or any other Act relative to the registration of Parliamentary Voters was not commenced and undertaken within the time limited and in the manner provided by the said Act or Acts.

Fresh registration provided for.

4. A registration of voters, within the meaning of the said Act, shall commence and be undertaken not later than the last day of February, 1903, and the provisions of the said Act shall apply in regard to the said registration, and thereafter there shall be a biennial registration of voters as provided by the said fifth section of the said Act, and the registration commenced and undertaken under and by virtue of this Act shall be deemed to have been commenced and undertaken under and by virtue of and in accordance with the provisions of the said Act.

Short Title.

5. This Act may be cited for all purposes as "The Parliamentary Indemnity Act, 1902."

No. 6—1902.]

[October 14, 1902.

ACT

To Indemnify the Governor and others in respect of the issue of certain Warrants and Advances of Public Money made thereunder and to authorise the appropriation of the Expenditure incurred thereunder during the financial years 1900-01 and 1901-2.

*Repealed by
Sec. 1 of Act
25 of 1924*

[Assented to 11th October, 1902.]

WHEREAS, owing to the unsettled state of the Country, consequent upon invasion and rebellion, it was deemed inexpedient that the Parliament of this Colony should be summoned for the despatch of public business; And whereas Parliamentary authority could not therefore be obtained for the issue from the Exchequer of sufficient public money to meet :

Preamble

- (a) The ordinary and annually recurring expenditure necessary for carrying on the public service of the Colony,
- (b) The cost of suppressing Bubonic Plague and preventing its spread,
- (c) The expenditure incurred in defence of the Colony consequent on invasion and rebellion, and
- (d) Other special expenditure ;

And whereas the Governor, acting upon the advice of the Executive Council, issued certain Warrants addressed to the Assistant Treasurer in his capacity as Paymaster-General, authorising him to make temporary advances to meet such expenditure; And whereas it is necessary to indemnify the Governor and all other persons concerned in the issue or acting in pursuance of the Warrants aforesaid, and all persons acting under directions relative to the said Warrants, which Warrants the Governor was not authorised by Law to issue, and to provide for certain ordinary and special expenditure incurred thereunder up to the 30th June, 1902 :

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

1. The Governor and all other persons concerned in the issue of the Warrants summarised in Schedule A to this Act, and all persons in good faith acting in pursuance of or under directions relative to such Warrants, and all persons in good faith concerned in the appropriating or expending of the sums of money set forth in the said Schedule A shall be and are hereby indemnified for and on account of the same as fully and effectually as if the said Warrants had been authorised by law and duly and legally issued.

Indemnification of Governor and all other persons concerned in issue, etc., of Warrants.

No. 6—1902.

Public Revenue charged with £1,109,923 1s. 1d. for service of year ended 30th June, 1901.

Revenue further charged for service of year ended 30th June, 1902, with £7,514,815.

Authority to expend £2,600,000 for Defence Forces, etc.

Excess of Actual Revenue over expenditure for 1901-2 to be applied in extinguishing deficit working balance on 30th June, 1911, and in meeting expenditure authorised by §4 hereof.

Proceeds of Bond of £1,800,000 issued by late Orange Free State Government to be applied to

2. The Public Revenue of this Colony is hereby charged with the sum of One million one hundred and nine thousand nine hundred and twenty three pounds one shilling and one penny sterling to provide for unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended the 30th of June, 1901, as detailed in the Schedule B annexed hereto, and more fully detailed on pages 259-263 of the "Report of the Controller and Auditor-General with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope, for the financial year 1900-1901" marked (G. 1-1902).

3. The Public Revenue of this Colony is further charged for the service of the year ended the 30th of June, 1902, with a sum of Seven million five hundred and fourteen thousand eight hundred and fifteen pounds sterling, in so far as the sum so granted has been applied within that financial year to the purposes and services expressed in the Schedule C hereto, and more particularly specified and set forth in the Estimates of Expenditure marked (G. 43-1901), and Additional Appropriation marked (G. 36-1902), for the said year, with the notes attached thereto, as submitted to both Houses of Parliament.

4. The expenditure of a sum not exceeding two million six hundred thousand pounds sterling incurred during the financial year 1901-1902 is hereby authorised in respect of the pay and other expenses of local defensive forces, town guards, and extra and special police, raised for the defence of the Colony, consequent upon its invasion and rebellion.

5. Any excess of the actual Revenue of the Colony for the financial year 1901-02 over the actual expenditure, authorised by the third section of this Act, shall be applied firstly, to extinguish the deficit "Working Balance" on the 30th June, 1901, amounting to one hundred and thirty-two thousand three hundred and eighty-five pounds six shillings and one penny sterling, as set forth on pages 323 and 334 of the "Report of the Controller and Auditor-General with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope, for the financial year 1900-1901," marked (G. 1-1902), and, secondly, to provide as far as may be for the expenditure authorised by the preceding section hereof, anything in the first section of the "Finance Act No. 37 of 1899," to the contrary notwithstanding.

6. For the further provision of funds required to meet the expenditure authorised by the fourth section of this Act, it shall be lawful for the Governor to apply the proceeds of a certain Bond dated the 1st January, 1897, for a sum of one million eight hundred thousand pounds sterling (£1,800,000), issued in favour of the Government of this Colony by the

Government of the late Orange Free State, under authority of No. 6—1902, Volksraad Act No. 35 of 1896, in respect of a portion of the purchase price of the lines of Railway constructed in that State, which Bond is now held under guarantee of His Majesty's Government: and it shall further be lawful for the Governor to raise by Temporary Loans, in such manner as may seem to him most expedient, such sum as may be necessary to cover the balance of the expenditure so authorised and for which the aforesaid provisions may prove to be insufficient.

No. 6—1902.
cover balance
of expendi-
ture autho-
rised by § 4
hereof.

7. This Act may be cited for all purposes as the "Financial Indemnity and Appropriation Act, 1902." Short Title.

SCHEDULE A.

Governor's Special Warrants issued to meet Ordinary and Extraordinary Expenditure during the period 1st June, 1901, to 31st July, 1902. Schedule A.

Month.	Ordinary Expenditure.	Extraordinary Expenditure.
<i>Financial Year 1900-1901.</i>		
June, 1901. ...	£ ...	£ 533,000
<i>Financial Year 1901-1902.</i>		
July, 1901 ...	633,600	100,000
August, " ...	494,245	187,000
September, " ...	555,984	168,050
October, " ...	616,684	305,000
November, " ...	516,584	259,500
December, " ...	337,748	323,400
January, 1902 ...	326,384	248,400
February, " ...	260,134	220,000
March, " ...	258,184	39,000
April, " ...	284,458	438,400
May, " ...	272,310	249,400
June, " ...	347,683	293,400
Total (1901-1902).	4,903,998	2,831,550
<i>Financial Year 1902-1903.</i>		
July, 1902 ...	347,909	541,400
Grand Totals	5,251,907	3,905,950

No. 6—1902.

SCHEDULE B.

Schedule B. Summary of Unauthorised Expenditure beyond the amounts voted or appropriated for the service of the Financial Year ended 30th June, 1901, whereof the details are set forth on pages 259-263 of the Report of the Controller and Auditor-General, 1900-1901, (G. 1—1902).

Ministerial Divisions.	Amount.		
	£	s.	d.
I. Prime Minister.....	241,234	2	8
II. Colonial Secretary	205,143	17	4
III. Treasurer	50,918	6	4
IV. Attorney General	108,837	2	5
V. Commissioner of Public Works	503,456	15	6
VI. Secretary for Agriculture	332	16	10
Total.....	<u>£1,109,923</u>	<u>1</u>	<u>1</u>

SCHEDULE C.

Schedule C. Summary of Recapitulations of Estimates and Additional Appropriation of Expenditure for the Financial Year ended 30th June, 1902. [For details see (G. 43, 1901) and (G. 36, 1902.)]

Ministerial Division.	Establishments.	Services exclusive of Establishments	Total.	Required to be provided for.
	£	£	£	£
I. Prime Minister	288,599	232,736	521,335	516,085
II. Colonial Secretary	249,646	869,784	1,119,430	1,112,575
III. Treasurer	519,236	2,063,079	2,582,315	1,141,033
IV. Attorney-General	666,818	204,972	871,790	852,790
V. Commissioner of Public Works	334,728	3,315,180	3,649,908	3,648,408
VI. Secretary for Agriculture ...	134,408	111,016	245,424	243,924
Grand Totals	2,193,435	6,796,767	8,990,202	7,514,815

No. 7—1902.]

[October 14, 1902.

ACT

To Provide for the Removal of Certain Structures on Private Lands erected for the purpose of defence in carrying on Military Operations

[Assented to 11th October, 1902.]

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

Preamble.

1. All buildings and structures (whether of stone, wood, iron, brick, or earth), and all wires and obstacles erected or placed on private or municipal property by the military authorities during the existence of hostilities, and for the purposes of defence or carrying on of Military operations arising from the existence of the late war and rebellion, shall be removed within a reasonable time, not to exceed four months from the date of the passing of this Act.

Military structures to be removed within four months from the passing of this Act.

2. No compensation shall be payable by the General Officer Commanding His Majesty's Forces in the Colony, in respect of the occupation of lands by buildings or structures, and the caretakers thereof, during the period limited in the preceding section of this Act.

Owners of land not to be entitled to compensation.

3. The owners or occupiers of such private or municipal property shall be entitled to be paid compensation in respect of occupation, or damage, resulting from failure to remove such buildings and structures within the time limited as aforesaid.

But compensation to be payable on failure to remove within period limited.

4. For the purposes of removing such buildings, structures, wires, and obstacles, the military authorities or any purchasers from them of any such buildings, structures, or materials thereof, or of any such wires or obstacles, shall have the power of entering by the existing roads if any, or if there are no roads by a route reasonably accessible, to be pointed out by the owner or occupier, upon the lands on which they are placed.

Right of entry for purposes of removal conferred.

5. The compensation, if any, to be paid under this Act shall be such sum as may be agreed upon between the parties concerned, provided that failing such agreement the matter shall be determined by arbitration, one arbitrator to be appointed by the owner, or occupier, as the case may be, and one by the General Officer Commanding the Cape Colony District, in so far as the Cape Colony south of the Orange River is concerned, and by the General Officer Commanding the Transvaal and Orange River Colonies, in so far as the Cape Colony north of the Orange River is concerned, with power to such arbitrators to nominate and appoint a third person as umpire, and, in case of any difference of opinion between the arbitrators, the decision

Compensation to be determined by arbitration if not agreed upon.

No. 8—1902.]

of the umpire shall be final and binding on both parties, the provisions of the Land and Arbitration Clauses Act, 1882, to apply in all other respects to such arbitration.

On certain conditions land-owners may remove certain obstacles within the limited period.

6. Owners or occupiers of farms may at any time remove wire fencing or entanglements which constitute impediments in the way of their carrying on agricultural or domestic pursuits, or in the way of free passage to and within their farms, provided that in such removal reasonable care shall be exercised and adequate provision shall be made for the storing and custody of the materials removed; and that all removals shall be undertaken only under the supervision of a person or persons appointed, without unreasonable delay, to supervise any such removal, by the General Officer Commanding, or by any military or police commissioned officer or Resident Magistrate authorised by such General Officer, to appoint supervisors for the purposes of this Act; and that reasonable notice of any intended removal is given either verbally or by letter to the Resident Magistrate of the district at his office.

Act No. 3 of 1887 saved.

7. Nothing in this Act shall be deemed in any way to alter, amend, or affect the provisions of the "Lands Expropriation Act, 1887."

Short title.

8. This Act may be cited as "The Military Structures Removal and Compensation Act, 1902."

No. 8—1902.]

[Oct. 14, 1902.]

ACT

To Provide for the appointment of Sub-Commissions to assist the War Losses Compensation Commission appointed in terms of Government Notice No. 465 of 1900.

[Assented to 11th October, 1902.]

Preamble.

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

Appointment of Sub-Commissions: provisions of sections 62, 63, 64 and 65 of Act, No. 6 of 1900 to apply.

1. It shall be lawful for the Governor to appoint Sub-Commissions each consisting of two Sub-Commissioners to assist the Commission appointed by the Governor in terms of Government Notice No. 465 of 1900, published in the *Gazette* of the 17th July, 1900, and the provisions contained in sections 62, 63, 64, and 65 of the Indemnity and Special Tribunals Act, 1900, shall apply to and in respect of any Sub-Commission so appointed: Provided further that it shall be lawful for the Governor to appoint one or more Commissioners to serve as Members of the aforesaid Commission in place of any Commissioner

or Commissioners heretofore appointed by the said Governor, and such one or more Commissioners shall have all the powers and be subject to the duties heretofore vested in or imposed upon the Commissioners as heretofore appointed.

No. 9—1902.

2. Any Sub-Commissioner heretofore appointed by the Governor to inquire into and take evidence as to any loss or damage sustained by the inhabitants of certain Districts of this Colony which have been subject to incursion by the Armed Forces of the late South African Republic and Orange Free State or in which Martial Law has been duly proclaimed, shall be deemed to have been appointed under and by virtue of the provisions of this Act.

Sub-Com
missioner al-
ready appoint-
ed to be
deemed a p-
pointed under
this Act.

3. It shall be lawful for the Commissioners appointed in terms of the said Government Notice and the Commissioners appointed under this Act to serve in the place of any such Commissioners, to take full cognizance of and, if they shall think fit to do so, to act upon any evidence taken or received by or before any Sub-Commissioners appointed as aforesaid, or as in this Act provided, and to assess the amount of compensation to be recommended as fully as though such evidence had in the first instance been taken or received by or before such Commission so assessing as aforesaid.

Com mis-
sioners may
act upon evi-
dence taken
before pre-
vious Commis-
sioners.

4. The losses into which the Commission appointed by the Government Notice No. 465 of 1900, were thereby empowered and appointed to inquire, shall be deemed to cover and include losses sustained at any time subsequent to the date of the said Government Notice.

Extension of
period cover-
ing losses to
be inquired
into

5. This Act may be cited for all purposes as the "War Losses Compensation Sub-Commissions Act, 1902."

Short Title.

No. 9—1902.]

[Oct. 14, 1902.

ACT

To Amend the Oudtshoorn Municipality Water Supply Act, 1898.

[Assented to 11th October, 1902.]

WHEREAS it is expedient that the Council of the Oudtshoorn Municipality should be empowered to raise a further sum of £15,000 for the purpose of securing a water supply to the said Municipality, and whereas it is expedient that the said Council should be empowered to levy a tenant's tax upon house property within the said Municipality, in order to assist in providing for the Interest upon the Loans raised for the above purpose, under Act No. 14 of 1898, Act No. 9 of 1899, and this Act.

Preamble

4366 OUDTSHOORN MUNICIPALITY WATER SUPPLY
AMENDMENT ACT.

No. 9—1902.

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

Loan autho-
rised.

1. The Council of the Oudtshoorn Municipality is hereby authorised and empowered to take up on loan by way of debentures or otherwise, for the purpose of Act No. 14 of 1898, as amended by Act No. 9 of 1899, and of this Act a sum or sums not exceeding £15,000 sterling, which sum or sums, when borrowed, shall be deemed and taken to be a debt or debts within the meaning of the Public Bodies Debts Act, 1867: Provided that it shall be lawful for the said Council, and it is hereby empowered, to raise the said sum or sums, or any portion thereof, by way of loan from the Government under the provisions of Act No. 24 of 1897 should it so determine.

Right of
taxation, and
mode of levy.

2. It shall be lawful for the said Council to cause a valuation to be made of all house property within the Municipality and to levy a tax upon all such property payable by the tenants or occupiers of the said houses, the said tax to be based upon the valuation of such houses, or according to such scale of charges as may be provided by a tariff to be approved of and published by the said Council at least once a week and for a period of not less than one month in an English and Dutch newspaper circulating in the division. The said tax shall be payable whether the said houses are or are not in receipt of water supplied by the said Council, and the proceeds thereof shall be applied towards payment of the Interest and other charges arising from the afore-said loans.

Method of
valuation.

3. The provisions of Sections 116 to 124 inclusive of Act 45 of 1882 shall, *mutatis mutandis*, apply to the valuation to be made under the provisions of this Act; and the provisions of Sections one hundred and twenty-seven to one hundred and forty-three inclusive of Act 45 of 1882 shall *mutatis mutandis* apply to the recovery of rates thereunder.

Payment of
tax.

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

Act not to
affect borrow-
ing powers
under other
Acts.

5. Nothing in this Act contained shall be taken to restrict or interfere with the powers of the said Council to levy any other rate or tax which is provided for by the said Act, No. 14 of 1898, or by any other law, but the powers conferred by this Act shall be exercisable in addition thereto.

Short Title.

6. This Act may be cited as the "Oudtshoorn Municipality Water Supply Amendment Act, 1902"

No. 10—1902.]

[Oct. 24, 1902.]

ACT

To Indemnify the Governor, Government Officials and others in respect of the violation of certain laws, to validate certain illegal acts of administration, and to provide for the framing of voters' rolls and elections in fiscal districts, and the resumption and continuance of administrative functions and duties.

[Assented to 22nd October, 1902.]

WHEREAS by reason of and during the existence of a state of war and rebellion within and the imposition of Martial Law in various districts of and throughout the Colony it was deemed to be impossible or inexpedient to carry out the provisions of certain laws: and Whereas in certain cases it was deemed expedient and in the public interest to issue administrative directions relating to the discharge or performance or the continued discharge or performance of certain administrative functions or duties, as the same had theretofore been duly discharged or performed, by officials or certain public bodies or their officers.

Preamble.

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

1. The term "person" shall include any body of persons, corporate or unincorporate.

"Person" defined.

2. The Governor, the various permanent heads of Ministerial Departments, and all officials and all persons whatsoever, are hereby indemnified, freed, and discharged against His Majesty the King, His heirs and successors, and all and every person or persons in respect of all acts, matters and things in good faith and within the Colony advised, directed, done, or omitted in contravention, or in violation, of any duties or rights imposed or conferred by any of the laws referred to in the Schedule hereto, or by any other law to which the Governor may from time to time be pleased to declare by Proclamation that the provisions of this Act shall extend, and so advised, directed, done or omitted at any time between the date of the outbreak of war, between her late Majesty's Government and the Governments of the late South African Republic and the late Orange Free State, and the date of the taking effect of this Act, or in consequence of the circumstances and conditions arising from the existence and continuance within the Colony of the said war and of rebellion by divers subjects of her late Majesty Queen Victoria, and of His Majesty King Edward the Seventh.

The Governor and others indemnified in respect of the violation of certain statutory duties.

No. 10—1902.

Provided, and it is hereby enacted, that no laws shall be proclaimed as before mentioned, which, or the contravention or violation of which, may affect the liberty of the subject, or the constitution, powers or privileges of Parliament, or the election of members thereof, or the registration of voters therefor.

Legal proceedings, &c., discharged.

3. All actions, indictments and legal proceedings whatsoever which might be brought or instituted in respect of any such matter or thing advised or directed, done or omitted as aforesaid, shall be discharged and be null and void.

Certain Acts, &c., by Councils and Boards validated.

4. All acts, matters or things, in good faith done or omitted by the Divisional Councils, Municipal Councils, and Village Boards of Management, or any members of such Councils or Boards who have, in pursuance of and in conformity with administrative directions, remained in office beyond the period or periods fixed by law and in contravention or in violation of, or without being authorised by, the provisions of any law, and so done or omitted with the intention of carrying out the duties imposed by law on any such bodies, shall be deemed to have been, and are hereby declared to be as valid, binding, and effectual as if such Councils and Boards or members thereof, as the case may be, had been duly elected, or continued in office, in accordance with the provisions of the law, and as if such members meeting in such Councils or at such Boards had observed the requirements of the law in respect of the number necessary to form a Quorum; and such Councils, Boards and members shall continue to act as they have heretofore acted until the requirements of the law shall be fulfilled or the provisions of or directions given by this Act shall have been satisfied or fulfilled; and all acts, matters and things done or omitted by them, in furtherance of the duties imposed and rights conferred on such bodies respectively by law, shall be deemed to be valid and effectual as aforesaid.

Proceedings of certain Licensing Courts validated.

5. All meetings held and resolutions adopted and acts done and rights or privileges conferred and duties assigned and conditions or restrictions imposed by Licensing Courts in this Colony within the period mentioned in the second section hereof, and so held, taken, done, conferred, assigned, or imposed in good faith and in furtherance of the purposes for which the said Courts have been constituted, and whether the constitution of such Courts may or may not have been legal or sufficient, shall be deemed to have been and to be legal for all purposes and in all Courts of Law whatsoever.

Triennial lists of voters to be framed

6. On or before the 1st day of February, 1903, the Secretary of every Council, or the person, in any division in which there shall be no Secretary, appointed by the Governor to act as Secretary for the Council of such division, whether any such Council for such division shall or shall not be in existence at the time,

shall make out a list, to be called the " Voters' Roll," containing the names of all persons qualified to vote under the provisions of the Divisional Councils Act, 1889, and thereafter such lists shall be made before the 1st day of July in every third year, and such roll and such rolls shall be deemed to have been made in accordance with the provisions of the said Act with regard to the date before which such rolls are thereby required to be made, and the said rolls shall be made and revised in accordance with all the other provisions of the said Act.

7. On a day to be appointed by the Governor by notice in the *Gazette*, and as soon as may be after the completion of the said Voters' Roll, the Civil Commissioner of every division shall give the notice required by the thirty-first section of the Divisional Councils Act, 1889, with a view to the election of Councillors in the said division under and for the purposes of the said Act, and thereupon and thereafter elections shall be held and all and every the provisions of the Divisional Councils Act, 1889, shall be complied with and shall apply to such elections, and the Councillors throughout the Colony who shall be elected in manner aforesaid shall come into office on the date of the first meeting of the Council to which they are elected, and shall go out of office on the 1st day of November, 1905, and a fresh election shall be held before the said day in the said last-mentioned year, and so on with triennial elections for ever, and all and singular the several provisions of the said Act, in so far as the same are not inconsistent with the provisions of this Act shall apply to all such successive elections.

8. The Council of every division to be elected and established under this Act shall, within such time as the Governor may by Proclamation determine, and thereafter not less than once in five years, and in accordance with the provisions of the second part of the eighth subdivision of the third division of the Divisional Councils Act, 1889, proceed to cause to be made for such division a valuation of all rateable property within the division: provided that the provisions in this and the two preceding sections contained shall not apply to the divisions of the Cape, Port Elizabeth and East London.

9. All auditors of accounts of Divisional Councils, appointed by the Governor or the Colonial Secretary, shall be deemed to have been legally appointed, and to be vested with all the powers and subject to all the duties vested in or imposed on auditors duly elected in accordance with the Divisional Councils Act, 1889; and the Governor is hereby empowered to appoint, at any time up to the 31st December, 1903, auditors for any Division in which it shall not be practical to elect Auditors in accordance with the provisions of the said Act as read with the provisions in this Act contained; and all auditors appointed or

No. 10—1902.

Elections to be held.

Valuation rolls to be made.

Appointment of Auditors by Government legalised.

No. 10—1902. to be appointed as aforesaid shall continue in office until the second Wednesday of the month of January, 1904, on which day, and thereafter, auditors shall be elected in accordance with the provisions of the said Act.

Terms of Office of certain Councils extended. 10. The Divisional Councillors duly and in accordance with the provisions of the law, elected in the Divisions of the Cape, East London, and Port Elizabeth, shall continue in office until the 1st day of November, 1905, before which date a fresh election shall be held, and so on, with triennial elections for ever; and all and several the provisions of the Divisional Councils Act, 1889, shall apply to all such elections.

In certain Municipalities Governor empowered to appoint Councils. 11. In Municipalities in which Voters' Rolls and elections have not been made and held respectively, within the period limited by and in accordance with the provisions of the law, it shall be lawful for the Governor by Proclamation to nominate and appoint, from persons qualified to be elected, a council, or members to fill up any existing vacancies in any council, and to appoint auditors; and such council and such members and auditors shall continue in office until a council or members or auditors shall be elected as hereinafter provided, and shall have all the powers and be subject to all the duties vested in or imposed on councils or members of councils or auditors, as the case may be, duly elected according to law.

In such Municipalities Voters' Rolls and Elections to be made and held. 12. In every such Municipality referred to in the preceding section the Voters' Roll shall be made out before the 1st day of June, 1903, and shall be made out in accordance with the provisions of the Municipal Act, 1882, and any law amending the same; and an election of councillors shall be held on the first Wednesday in August, 1903; and thereafter Voters' Rolls and elections shall be made and held in accordance with the provisions of the said law and laws.

And Auditors to be elected. 13. In every such Municipality two auditors shall be elected on the first Wednesday in August, 1903, and in accordance with the provisions of the Municipal Act, 1882; and thereafter auditors shall be annually elected as provided by the provisions of the said law; and until such auditors shall have been elected, on the date aforesaid, it shall be lawful for the Governor to nominate and appoint persons to act in the capacity of auditors duly elected in accordance with the provisions of the Municipal Act aforesaid.

Governor may in certain communities appoint Village Management Boards. 14. In communities in which Boards of Management have not been elected or elections have not been held in accordance with the provisions of the law, it shall be lawful for the Governor, by proclamation, to nominate and appoint, from among the persons qualified to be elected, a Board of Management in each of such communities, or members to fill up any existing vacancies in the Board of any such community; and such councils and members shall remain in office until elections shall have been held, and councils elected, as hereafter provided.

15. As soon as possible after Voter's Rolls have been framed in the several Divisions in accordance with the provisions of this Act, the Resident Magistrate of the Division in which any such community is situate, shall frame a list of all such voters as shall be resident within the limits of such community; and thereafter revised lists shall be framed, in accordance with the provisions in the Village Management Act, 1881, contained.

No. 10—1902.
Voters' lists to be framed in such communities.

16. Boards of Management shall be elected by the Voters enrolled on the list, framed in accordance with the provisions of the preceding section, on the first Wednesday of the month of July in the year 1903, and the provisions of the Village Management Act, 1881, shall apply to such elections, and thereafter elections shall be held in accordance with the provisions of the said Act.

And Boards to be elected.

17. Nothing in this Act shall be deemed to repeal, alter, amend, or suspend the operation of any law relating to the disqualification of voters for or members of Divisional Councils, Municipal Councils, or Village Boards of Management.

Saving clause.

18. This Act may be cited as the "Administrations Indemnity Act, 1902."

Short Title.

SCHEDULE.

STATUTE.

MATTERS, ETC., INDEMNIFIED.

1.—"The Divisional Councils Act, 1889" (Act No. 40 of 1889).

(a) Failure duly to hold elections, as required by the 79th section of the said Act (respecting triennial vacancies, and triennial elections) and by the 84th section thereof (respecting casual vacancies).

Schedule.

(b) Failure duly to make and revise "Voters' Rolls" as required by the 19th and following sections of the said Act.

(c) Failure duly to elect auditors, as required by the 107th and 111th sections of the said Act.

(d) The continuation and acting in office of councillors and auditors in violation of the 79th, 84th, 107th sections of the said Act.

(e) Failure duly to make valuation rolls, in accordance with the provisions contained

in the 2nd Part of the 8th Sub-Division of the 3rd Division of the said Act.

(f) Transaction of business by Councils in session, at which the full number of members required to form a quorum were not present, in contravention of the 86th section of the said Act.

(g) Continuation in office and the transaction of business by the Secretary and Auditors of Councils which had lapsed, and in respect of which the powers conferred by Division II., Part XIV. of the said Act were not exercised by the Governor.

8. The repair of roads in contravention of the provisions of the 141st and succeeding sections of the said Act, relating to the repair of roads.

(a) Failure duly to hold elections, as required by the 42nd, 43rd and 44th sections of the said Act (annual elections and casual vacancies) or the provisions of the said Ordinance.

(b) Failure duly to make out and revise Voters' Rolls, as required by the 31st and subsequent sections of the said Act.

Failure duly to hold meetings for the elections of new Boards, or of members to fill vacancies caused in any of the ways mentioned in the 9th section of the said Act), in contravention of the 5th, 8th and 9th sections of the said Act.

(a) The conferring and making of undue advantages and preferences in favour of the military forces of Her late

2. "The Municipal Act, 1882." (Act No. 45 of 1882.) Ordinance No. 9 of 1836.

3. "The Village Management Act, 1881" (Act No. 29 of 1881) and Acts extending or applying the same.

4. "The Regulation of Railways Act, 1861." (Act No. 19 of 1861, and Acts amending and applying the said Act.)

STATUTE.

MATTERS, ETC., INDEMNIFIED.

No. 10—1902.

Majesty, Queen Victoria, and of His Majesty, King Edward VII., of persons employed to aid and assist them, and of military equipment, arms and ammunition, transport, stores, supplies, necessaries for the army and comforts for the sick and wounded and prisoners of war and those residing in concentration camps.

(b) The unequal charging of tolls, fares and rates, in favour to refugees and others.

5. "The Crown Lands Disposal Act and Leasing Acts Amendment Act, 1895" (Act No. 40 of 1895), and so much thereof, and of any other law, as relates to the imposition of penalties, avoidance of sales, remission of forfeitures, cancellation of title deeds and waiver of defaults in respect of the passing of mortgage bonds, the payment of instalments, and the payment of interest on mortgage bonds.

(a) The extending of the period for passing mortgage bonds, the remission of penalties and forfeitures, non-cancellation of title deeds, the non-resumption of possession and the waiver of defaults, in violation of the provisions of the said Act. (Sections 4, 19, and 22).

(b) Refusal or failure to issue licences to hold land in accordance with the provisions in the 15th section of the said Act contained.

6. "The Land Grants Relief Act, 1899" (Act No. 26, 1899).

The extension, without authority of Parliament, of the period limited by the first section of the said Act during which the Board therein provided for may act for the purposes of the said Act.

7. "The Scab Act Amendment Act 1899" (Act No. 28 of 1899), and "The Scab Act, 1894" (Act No. 20, 1894).

(a) The suspension of the provisions relating to the dipping of infected sheep and more especially the provisions in the 14th, 15th, 16th, 18th,

No. 10—1902.

STATUTE.

MATTERS, ETC., INDEMNIFIED.

and 19th sections of the said Act of 1899 contained.

(b) Failure to inspect sheep by Scab Inspectors as required by the 22nd section of the said Act of 1894 and the 13th section of the Scab Amendment Act of 1899.

(c) Removal of sheep in contravention of the 37th, 47th and 48th sections of the said Act of 1894.

(d) Introduction of sheep into the Colony across the border, in contravention of the 49th section of the said Act of 1894.

(e) Failure to call for applications for appointments of inspectors and to submit applications to local Scab Boards, as provided by the 10th, 11th, and 12th sections of the said Act of 1899.

8. "The Native Locations Amendment Act, 1899," and the Act amended thereby.

9. "The Customs Act, 1872," and amending Acts.

The non-application of the provisions thereof in various districts of the Colony.

The non-collection and non-payment of duties on

(a) Food, clothing and necessaries imported for the use of refugees and prisoners of war.

(b) Supplies (including articles of food, and tobacco, cigars and cigarettes) imported for the use of officers' messes in the field or for distribution or sale by Field Force Canteens to troops paid out of Imperial Government funds.

STATUTE.

MATTERS, ETC., INDEMNIFIED.

No. 11—1902.

- (c) Articles imported by the National Red Cross Society or any other similar society, for the comfort of the troops in the field, and for the sick and wounded and for those residing in concentration camps.
- (d) Parcels imported and distributed through Parcels Post, containing presents for troops in the field.
- (e) Meat imported into the Colony for general sale and consumption.

No. 11—1902.]

[October 28, 1902

ACT

To Vest in the Council of the Municipality of "Walmer," the Commonage, Market Square, Outspan, Roads and Streets within the limits of the said Municipality.

[Assented to 27th October, 1902.]

WHEREAS in or about the year 1853 the owners of the farm "Welbedagt," formerly situated in the district of Uitenhage but thereafter and now in the district of Port Elizabeth, caused a portion of the said farm to be surveyed and subdivided with a view to the establishment of a town to be called "Walmer."

Preamble

And whereas one MacDonald, a Government Land Surveyor, did accordingly frame and prepare a General Plan indicating certain erven or lots which the said owners then and thereafter sold and transferred to various purchasers, and indicating also sundry roads and streets, and also an outspan, Market Square and Commonage.

And whereas the purchasers of the said erven or lots and their successors in title and also travellers, farmers and others, *bona fide* visiting or upon business at Walmer became in terms of the conditions of sale of the said erven or lots entitled to certain

No. 11—1902. rights in relation to the said Commonage, and the said roads, streets, outspan and Market Square became and were used as of common right by the inhabitants of Walmer.

And whereas in and by a certain Deed of Transfer dated the 28th day of December 1869 an area including the Commonage aforesaid and in extent 2,065 morgen 105 square rods and 104 square feet, was transferred by the owners of the remaining extent of "Welbedagt" to John Miller in his capacity as Mayor of the Municipality of Port Elizabeth and to his Successors in Office, and to be by him and them held in trust as a Commonage for the purposes recited in the said Deed and set forth in the Conditions of Sale aforesaid.

And whereas thereafter, by Proclamation No. 146 of 1883, the Governor did proclaim and declare the provisions of the "Villages Management Act 1881" to apply to the village of Walmer, the area whereof was, by the said Proclamation, so defined as to include the roads, streets, outspan, Market Square and commonage aforesaid, according to Plan No. 1,618, filed in the Surveyor General's Office.

And whereas thereafter by Proclamation No. 135 of 1899, the Governor did proclaim and make known that the village of Walmer was constituted a Municipality under the provisions of the "Municipal Act 1882" under the name of the Municipality of Walmer, the area whereof was by the said Proclamation so defined as to include within the Municipal limits the aforesaid roads, streets, outspan and Market Square, and also so much of the commonage aforesaid as remained after certain deductions or portions theretofore transferred by the Mayor for the time being of Port Elizabeth registered in his name in trust as aforesaid.

And whereas it is expedient and desirable to declare and enact that ownership, administration and control of the said roads, streets, outspan and Market Square and the remainder of the said commonage are and shall be vested in the Council of the Municipality of Walmer as being property in relation to which the inhabitants of the said Municipality should be enacted to have a common right, subject always to all the provisions of the Municipal Act 1882, including section 109 thereof, and further to enact that the Mayor of Port Elizabeth for the time being shall under this Act transfer to the Council of the Municipality of Walmer the remainder of the said Commonage to be so vested in the said Council as aforesaid, such transfer to be free from transfer duty, stamp duty or fees of office and to be effected at the expense of the said Council.

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

1. The Council of the Municipality of Walmer is hereby declared to be vested with the ownership, administration and control of

No. 11—1902.

Municipal Council vested with ownership, etc., of roads, open spaces and commonage.

- (a) All the said roads and streets shown in the General Plan of the Sub-divisions of the farm "Welbedagt" within the limits of the Municipality of Walmer.
- (b) Of the open spaces shown thereon consisting of the Outspan and Market Square, and
- (c) The Commonage still remaining untransferred and registered in the name of the Mayor of the Municipality of Port Elizabeth in trust, by the Deed of Transfer dated the 28th day of December 1869, copy whereof is set forth in Schedule A to this Act.

2. The said Council shall, as to the said roads and streets, outspan Market Square and commonage, portions of the said farm "Welbedagt," have and have power to exercise all the rights and powers conferred by Act No. 45 of 1882, including Section 109 thereof, as though the same were land, roads, streets and open spaces duly vested in the said Council by Section 159 of the said Act.

Council to have powers conferred by Act 45 of 1882.

3. The Mayor of the Municipality of Port Elizabeth is hereby authorised and required forthwith to transfer the remainder of the said Commonage to the said Council under this Act, but at the costs and charges of the said Council and such transfer shall simply recite that the transfer is passed for the purposes and subject to the provisions of this Act, whereof a copy shall be registered with such transfer.

Mayor of Port Elizabeth to transfer land to Walmer Municipal Council.

4. Upon passing of transfer of the said Commonage by the said Mayor of Port Elizabeth to the said Council, no transfer duty shall be payable to Government and no Stamp duties shall be charged in respect of such transfer.

No transfer or stamp duty payable.

5. This Act may be cited as the "Walmer Municipal Lands Act 1902."

Short Title.

SCHEDULE A.

DEED OF TRANSFER.

BY VIRTUE OF A POWER OF ATTORNEY.

Know all men by these presents that Ryk le Sueur appeared before me Registrar of Deeds, he, the said Ryk le Sueur being duly authorised thereto by a Power of Attorney granted to him by Anna M. Muller (born Vogel), Executrix Testamentary to the Estate of the late Cornelis Johannes Muller, Johannes Muller, Hilgert Muller, Petrus Hendrik Muller, Isaac Abraham Muller, Maria Magdalena Anderson (born van Rooyen; previously widow of the late Stephanus Muller, in whose Estate she

Schedule A

No. 11—1902.

is Executrix Testamentary, and William Knight, Executor Dative in the Estate of the late Ignatius Theodorus Muller, dated the ninth day of November, 1869, and drawn up at Mal Maison, in the presence of and certified by competent witnesses, which Power of Attorney was exhibited to me on this day.

And the said Ryk le Sueur declared that whereas Cornelis Johannes Muller, now deceased, Johannes Muller, Hilgert Muller, Petrus Hendrik Muller, Isaac Abraham Muller, Stephanus Muller, now deceased, and Ignatius Theodorus Muller, now deceased, did agree in and upon certain conditions on which a portion of the farm "Welbedagt" was divided into Lots and sold at Public Auction as the Village of Walmer, and that a certain extent of the said farm marked on the Plan and subdivision thereof, framed by Mr. Surveyor McDonald shall remain as Commonage for the exclusive use of the proprietors of said Lots; and whereas the said land so reserved for a "Commonage" as aforesaid still stands registered in the names of the aforesaid Cornelis Johannes Muller, Johannes Muller, Hilgert Muller, Petrus Hendrik Muller, Isaac Abraham Muller, Stephanus Muller, and Ignatius Theodorus Muller; and that whereas it is desirable to transfer the same to some person to be by him held in trust as a Commonage for the Proprietors of the Lots aforesaid now constituting the village "Walmer."

Now, therefore, the said Ryk le Sueur, in his capacity as Attorney aforesaid doth by these presents cede and transfer to and on behalf of John Miller, Esquire in his capacity as Mayor of the Municipality of Port Elizabeth, and to his Successors in Office, to be by him and them held in trust for the purposes above set forth in the conditions aforesaid,—

Certain piece of land coloured Yellow and marked "Commonage" on the diagram of the farm "Welbedagt," granted to A. M. Muller on the 3rd January 1815, and situate in the Division of Uitenhage. Measuring Two Thousand and Sixty five Morgen, One Hundred and Five square roods and One Hundred and Four square feet. Extending North towards the place called Bankens River, East towards the place called "Strandfontein,"

South-East towards the place "Fontein,"
South towards "Downs."

and the remainder and West towards Government Ground, and the remainder,—as will more fully appear from the annexed diagram framed by the Surveyor

Wherefore the Appearer q.q. the said Ryk le Sueur, renouncing all right and title his Constituents heretofore had to the premises on behalf as aforesaid, did, in consequence, also

acknowledge them to be entirely dispossessed of and disentitled to the same, and that by virtue of these presents the said John Miller, Esquire, in his capacity as Mayor of the Municipality of Port Elizabeth, and his Successors in Office (to be by him and them held in trust for the purposes above set forth, on the conditions aforesaid), now is and henceforth shall be entitled thereto conformably to local custom; moreover promising to free and warrant the property thus transferred, and also to clear it from all Encumbrances and Hypothecations according to Law,—Government however reserving its right.

In witness whereof I, the said Registrar, together with the Appearer q.q. have subscribed to these presents and have caused the Seal of Office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds in Cape Town, Cape of Good Hope, on the twenty-eighth day of December in the year of Our Lord One Thousand Eight Hundred and Sixty-Nine.

R. le Sueur q.q., R. le Sueur q.q., R. le Sueur q.q.,
R. le Sueur q.q., R. le Sueur q.q., R. le Sueur q.q.
R. le Sueur q.q.

In my presence

JOHN E. MONTAGU,
Registrar.

No. 12—1902.]

[Oct. 28, 1902.]

ACT

To Enable the Mayor, Councillors and Townsmen of East London to alienate under certain conditions and restrictions a certain piece of land for the building of a Public Library.

[Assented to 27th October, 1902.]

WHEREAS the Trustees for the time being of the East London East (formerly Panmure) Public Library applied to the Mayor, Councillors and Townsmen of East London for the grant or alienation to them and their successors in office of a certain piece of ground, part of the lands vested in the said Mayor, Councillors and Townsmen of East London by the Acts Nos. 23 of 1880 and 11 of 1895, for the purpose of erecting thereon certain buildings intended to be used as a Public Library, Reading and Lecture Rooms, which the said Mayor, Councillors and Townsmen are willing to do, subject to the conditions hereinafter mentioned;

Preamble.

4380 EAST LONDON EAST (FORMERLY PANMURE) PUBLIC
LIBRARY TRANSFER ACT.

No. 12—1902.

And whereas it is desirable in the interests of the Public and of the Inhabitants of East London that the said land should be granted or alienated ;

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

Municipality of East London authorised to transfer certain land on certain conditions to Trustees of East London Public Library.

1. It shall be lawful for the Mayor, Councillors and Towns- men of East London to transfer to the Trustees of the East London East (formerly Panmure) Public Library for the time being and their successors in office a certain piece of land situate at the corner of Argyle Street and Cambridge Street, being Lot A of Waterloo Square, in Ward No. 3, in the Township of East London, bounded

Northwards by Argyle Street,
Southwards by Waterloo Square,
Eastwards by Cambridge Street,
and Westwards by Waterloo Square,

comprising in extent by actual measurement

Seventy (70) Square Rods and One Hundred and Twenty-five (125) Square Feet. Cape Measure ;

Provided that the said land be used for the purpose of erecting buildings thereon to be used for the purpose of a Public Library, Reading and Lecture Rooms ; and provided that no sale, exchange, alienation, hypothecation, or transfer of the said piece of land shall be made at any time whatever without the previous consent in writing of the Mayor, Councillors, and Townsmen of East London for the time being, or their successors in office.

No sale or hypothecation without consent of Municipality.

Land may be alienated or encumbered with consent of Municipality.

2. As often as any sale, exchange, alienation, hypothecation or transfer of the said piece of land is proposed or intended to be made by the Trustees of the East London East (formerly Panmure) Public Library, for the time being, or their successors in office, a certificate in writing under the hand and seal of the said Mayor, Councillors and Townsmen or their successors in office, addressed to the Registrar of Deeds and certifying that the said Mayor, Councillors and Townsmen have consented to such sale, exchange, alienation, hypothecation or transfer, shall be sufficient proof of such consent for the purpose of the Deeds Registry, and thereupon the proposed transfer or hypothecation shall be passed ; Provided, further, that in the Deed of Grant or transfer the said Mayor, Councillors and Townsmen may reserve the right from time to time and at any time to make provision for the due succession in title to the said land of the Trustees of the said East London East (formerly Panmure) Public Library or for the substitution or reappointment of

Municipality may make provisions for due succession in title.

EAST LONDON EAST (FORMERLY PANMURE) UNDE- 4381
NOMINATIONAL SCHOOL TRANSFER AMENDMENT ACT.

Trustees for the purposes of this Act, in the event of the office of Trustees as aforesaid becoming or being vacant. No. 13—1902.

3. So much of the Acts No. 23 of 1880 and No. 11 of 1895 and of all other Acts or Laws which may be inconsistent with any of the provisions of this Act are hereby repealed. Repeal of conflicting laws.

4. This Act may be cited for all purposes as the "East London East (formerly Panmure) Public Library Transfer Act (1902)." Short Title

No. 13—1902.]

[Oct. 28, 1902.

ACT

To Amend Act No. 4 of 1898, relating to the alienation by the Mayor, Councillors and Townsmen of East London of a certain piece of land for the building of a Public School, and to release the transfers thereof from the operation of certain of its clauses.

[Assented to 27th October, 1902.]

WHEREAS it is desirable to amend the Act No. 4 of the year 1898, entitled "An Act to enable the Mayor, Councillors and Townsmen of East London to alienate under certain conditions and restrictions a certain piece of land for the building of a Public School" in certain respects by the removal therefrom of certain conditions and restrictions under which the said piece of land was alienated under the said Act :

Preamble.

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

1. The following parts of the said Act No. 4 of 1898, namely, that part of the first section commencing "and that the said transfer and the tenure of the said land" down to the end of the said section ; the whole of the second section, and that part of the third section commencing "provided that in the deed of grant or transfer" down to the end of the said section, shall be, and the same are hereby, repealed, and the said Act shall henceforth be read and construed as if the said parts had never formed portion thereof. Section 2 and parts of sections 1 and 3 of Act No. 4 of 1898 repealed.

2. The deeds of transfer of the said land passed of date 14th August, 1901, in favour of firstly, the Managers or Trustees for the time being of the East London East (formerly Panmure) Undenominational Public School, and thereafter in favour of the Superintendent General of Education for the time being, the Mayor of East London for the time being, and the Chairman for the time being of the Committee of Management of the Transfers passed in pursuance of Act No. 4 of 1898 to be read as free from the conditions and restrictions imposed

C

No. 15—1902. East London East (formerly Panmure) Undenominational Public School, in trust for the said School, respectively, shall be read and construed as free from the conditions and restrictions imposed by the parts of the said Act hereby repealed.

by sections hereby repealed.

Short Title. 3. This Act may be cited for all purposes as the "East London East (formerly Panmure) Undenominational School Transfer Amendment Act (1902)."

No. 14—1902.]

[November 7, 1902.]

ACT

To Provide for a Further Contribution to His Majesty's Navy.

[Assented to 31st October, 1902.]

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

Meaning of "Admiralty." 1. In this Act the expression "The Admiralty" shall have the meaning assigned to it in the first section of "The Navy Contribution Act, 1898."

Further annual payment of £20,000 to Admiralty. 2. From and after the taking effect of this Act there shall be paid annually to the Admiralty or to such person as they may be pleased to appoint in that behalf and in such manner as they may be pleased to direct a sum of twenty thousand pounds sterling out of the public revenue of this Colony, in addition to the sum of £30,000 required to be paid by the second Section of "The Navy Contribution Act, 1898," as a further contribution towards the annual expenditure by the Imperial Government in connection with His Majesty's Naval Service.

Short Title. 3. This Act may be cited as "The Navy Contribution Increase Act, 1902."

No. 15—1902.]

[November 7, 1902.]

ACT

To Establish a Public Holiday on the Twenty-fourth day of May in every Year.

[Assented to 31st October, 1902.]

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

The 24th May constituted a Public Holiday. 1. The Twenty-fourth day of May in every year shall be observed and set apart as a public holiday throughout the Colony of the Cape of Good Hope, and shall be designated "Queen

Victoria Day," to commemorate the Reign of Her Late Majesty Queen Victoria: Provided that, whenever the 24th day of May shall fall on a Sunday, the Monday following shall be observed as and be deemed to be the public holiday established by this Act. No. 16—1902.

2. The public holiday established by this Act or the day to be observed as and to be deemed to be such public holiday shall be a "non-business" day within the meaning of the "Bills of Exchange Act, 1893." 24th May to be a "non-business" day.

3. This Act may be cited for all purposes as the "Queen Victoria Day Act, 1902." Short Title.

No. 16—1902.]

[November 7, 1902.]

ACT

To Amend the "Milnerton Railway Act, 1898."

[Assented to 3rd November, 1902.]

WHEREAS by Act No. 16 of 1898, commonly called the "Milnerton Railway Act, 1898," the Company therein styled the "Milnerton Estates (Limited)" is authorised, subject to the provisions of the said Act, to construct, equip, maintain, and work the line of railway referred to in the said Act and more particularly disclosed in and upon the plans and sections duly deposited in the office of the Clerk of the House of Assembly; Preamble.

And whereas it is expedient to amend the said Act by conferring authority and power upon the said Company by notarial deed and all customary deeds of transfer duly registered in the office of the Registrar of Deeds with the consent of the Governor to let, sell, assign, or otherwise dispose of and to make cession and transfer of the property, rights, powers, and privileges conferred upon or acquired by it under the said Act, subject always to suitable safeguards for the rights of the Government or of any other person, company or body corporate;

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

1. The "Milnerton Estates (Limited)" may by notarial deed duly registered as a cession in the office of the Registrar of Deeds of this Colony lawfully let, sell, assign or otherwise dispose of and lawfully make cession and transfer of all or any of the property, rights, powers and privileges conferred or acquired by it under the provisions of the "Milnerton Railway Act, 1898," provided that "Milnerton Estates (Limited)" may cede and transfer property, rights, &c., under Act No. 16 of 1898, with consent of Governor.

(a) Any transfer of immovable property so acquired which shall be agreed upon in any such deed shall be simul-

No. 16—1902.

taneously, or at such time as the Government shall approve, executed and effected in due and customary form, and shall be subject to the due discharge and fulfilment of all payments, duties and obligations by any law imposed in connection with the transfer of such property.

- (b) No such notarial deed, or deed of transfer, shall be accepted by the Registrar of Deeds for registration or execution as aforesaid unless or until there shall be produced to him a certificate signed by the Commissioner of Public Works setting forth that the Governor approves of such notarial deed and sanctions such registration or execution.

Cessionary to become bound by obligations of the Company under the Act, and to have *domicilium citandi et executandi* in this Colony at Cape Town.

2. The person, company, or corporate body to, and in favour of whom any such cession and transfer may be made, shall forthwith, upon the registration of such notarial deed, be and become subject to the due performance of all conditions, duties and obligations, and to all liabilities imposed, by the said Act, upon the "Milnerton Estates (Limited)," save and except such conditions, duties, obligations, or liabilities as shall have been, at the date of the taking effect of this Act, already duly performed or discharged by the said company, or as may, with the approval of the Governor, have been specifically, in such notarial deed, excluded, and reserved for performance by the "Milnerton Estates (Limited)," and such person, company, or corporate body shall, in and by such notarial deed, appoint an office or place of business, in Cape Town, which may from time to time be removed to some other place in Cape Town provided that notice of removal be given to the Registrar of Deeds and be registered by him, which office or place of business shall be the *domicilium citandi et executandi* by such person, company or corporate body, within the Colony.

"Milnerton Estates (Limited)" not deemed to be excused from contractual obligations by this Act.

3. Nothing in this Act or in any such notarial deed contained shall be deemed or taken to excuse the "Milnerton Estates (Limited)" from the due performance of all obligations by it undertaken and agreed to be performed pursuant to any contract or agreement whether with the Government or any person, company, or corporate body unless the Government, or such person, company, or corporate body, as the case may be, shall consent and agree to accept in place of the "Milnerton Estates (Limited)" for such performance the person, company, or corporate body to and in favour of whom such notarial deed as aforesaid may be registered.

Period for completing railway not extended.

4. Nothing herein contained shall be deemed or taken to extend the period of four years specified in section 20 of the said Act.

Effect and Short Title.

5 This Act shall be read as one with the "Milnerton Railway Act, 1898," and may be cited as the "Milnerton Railway Amendment Act, 1902."

No. 17—1902]

[Nov. 6, 1902.

ACT

To Authorise a further Loan of One Million Two Hundred and Fifty Thousand Pounds Sterling for the purpose of providing Compensation in respect of certain claims for compensation for War Losses.

[Assented to 6th November, 1902.]

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

Preamble.

1. It shall be lawful for the Governor to raise by public loan a sum not exceeding one million two hundred and fifty thousand pounds sterling, in addition to the amount of the loan raised as provided by the 1st Section of Act No. 16 of 1900, for the purpose of meeting the payment of certain claims to compensation that may be assessed, after investigation, by the Commission duly authorised to make inquiry into the direct loss and damage sustained by the inhabitants of certain Districts of this Colony which have been subject to incursion by the armed forces of the late South African Republic and Orange Free State, or in which Martial Law has been duly proclaimed.

Loan of £1,250,000 authorised to meet claims for compensation for war losses.

2. Any money so raised may be expended in manner authorised and laid down by the 66th Section of the "Indemnity and Special Tribunals Act, 1900"; save that it shall be lawful for the Governor if he shall think fit and proper so to do to authorise the Treasurer to pay to individuals whose claims have been recommended as provided in the said section of the said Act the whole of the amount of any such claim, notwithstanding anything to the contrary contained in the aforesaid Act or in "The War Losses Compensation Loan Act, 1900."

How money so raised may be expended.

3. Anything to the contrary contained in any Instruction issued by the Governor in terms of the Commission promulgated by the Government Notice No. 465, of the 16th July, 1900, notwithstanding, the persons to whom the payment of compensation may be recommended by the Commission shall be classified as follows:—

Classification of persons to whom payment of compensation may be recommended.

- (a) Those who have not been found guilty of the crime of High Treason by any of the ordinary Tribunals of the Colony, of competent jurisdiction, or by any of the special Tribunals established under "The Indemnity and Special Tribunals Act, 1900," or by any Military Court or Tribunal whose sentences have been validated and legalised by virtue of the General Indemnity Act, 1902.

No. 17—1902.

(b) Those who have been found guilty of the crime of High Treason by any of the Tribunals or Courts mentioned in the preceding sub-section.

Persons not convicted of High Treason to be first considered.

4. In the appropriation of the sums raised under this Act and under the Act No. 16 of 1900, the claims of the persons mentioned in sub-section (a) of the preceding section shall be first considered and dealt with; and the recommendations of the Commission with respect to such claims, shall first be regarded and given effect to; and no sum of money shall be paid by way of compensation to any person convicted as aforesaid, of the crime of High Treason until all and singular the recommendations of the Commission in respect of the claims of the persons mentioned in the sub-section (a) aforesaid, have been considered, and the sums recommended to be paid, have been paid.

Convicted persons not to be compensated in respect of losses sustained prior to their capture or surrender.

5. Persons convicted of High Treason, by any of the Tribunals or Courts in Section three mentioned, shall not be paid any compensation in respect of any loss sustained at any time, prior and previous to their capture or surrender, whether such persons at the time when such loss or part thereof was sustained were or were not in a state of rebellion; and it is hereby declared that the provisions of this section shall apply to persons who have taken up arms, or otherwise committed the crime of High Treason, on a second or subsequent occasion: provided that no rebel who continued in arms up to or after the 1st June, 1902, shall receive any compensation whatever for loss sustained at any time previous to the date of their surrender.

Immaterial whether loss was inflicted by Imperial, Colonial, or Enemy's Forces, or by rebels.

6. In the consideration of the loss or damage inflicted or sustained, it shall be deemed to be immaterial whether the loss or damage was inflicted by or in the course of the carrying on of military operations by the Imperial forces of His Majesty, or by the Colonial Defence forces, or by the forces of the late Republics, or any of them, or by the rebels or by the removal and concentration of live stock under Martial Law Regulations, provided that for horses and mules taken into Concentration Camps and not returned to owners, or horses and mules destroyed by the Military, compensation shall be granted on the basis of the value of similar animals immediately before the outbreak of hostilities, or alternatively at the option of said owners, a uniform contribution of five pounds shall be paid.

Saving Clause as to movable goods requisitioned by Colonial Defence Forces.

7. Nothing in this Act contained or in any instructions issued in terms of the Government Notice appointing the Commission aforesaid shall be deemed to disentitle any person convicted at any time of High Treason from being paid the price fixed, or, where no price may have been fixed, compensation in respect of movable property requisitioned by the Colonial Defence Forces in accordance with the laws of war.

Short Title.

8. This Act may be cited as "The War Losses Additional Compensation Loan Act, 1902."

No. 18—1902.]

[Nov. 11, 1902.

ACT

To Repeal the Acts No. 23 of 1869, No. 12 of 1878, No. 10 of 1885, No. 8 of 1891, No. 14 of 1894, and No. 12 of 1896, and to consolidate, amend and add to the Law regulating the Municipal Corporation and Government of Grahamstown.

[Assented to 7th November, 1902.]

WHEREAS it is expedient to consolidate, amend and add to the existing law regulating the Municipal Corporation and Government of Grahamstown, and with that object to repeal the Acts No. 23 of 1869, No. 12 of 1878, No. 10 of 1885, No. 8 of 1891, No. 14 of 1894, and No. 12 of 1896; to amend the constitution of the Municipal Corporation and the mode of election of Councillors, and generally to confer upon the Town Council of the City of Grahamstown amended or increased rights, powers and privileges with regard to municipal property, works and undertakings, and the acquisition of immovable property for municipal purposes, with regard to the levying of certain rates for municipal purposes, with regard to municipal officers, with regard to the good, cleanly and healthy order and condition of the Municipality of Grahamstown and the inhabitants thereof, and with regard to maintaining and developing good municipal government therein by means of suitable rules and regulations made by the Council and approved of by the Governor.

Preamble.

1. The Act No. 23 of 1869, entitled "The Grahamstown Municipality Act, 1869"; the Act No. 12 of 1878, entitled "The Grahamstown Municipality Act, 1878"; the Act No. 10 of 1885, entitled "The Grahamstown Municipal Amendment Act, 1885"; the Act No. 8 of 1891, entitled "The Grahamstown Municipality Monetary Advances Act, 1891"; the Act No. 14 of 1894, entitled "The Grahamstown Municipality Act, 1894"; and the Act No. 12 of 1896, entitled "The Grahamstown Water Supply Act, 1896," are hereby repealed: Provided that the Town Council of the City of Grahamstown constituted under this Act shall be subject and liable to every contract, engagement, claim, debt, and demand to which the Town Council of Grahamstown, constituted under the Act No. 23 of 1869, is subject or liable at the time of the taking effect of this Act, and in like manner shall be vested with or entitled to all rates, assets, benefits, rights and claims which the last-mentioned Town Council was at the time of the taking effect of this Act vested with or entitled to; Provided further that all the mem-

Repeal of previous Acts, vesting of assets in new Council, passing over of rights and liabilities and as to tenure of office of Councillors and vacating of same

No. 18—1902.

members of the Town Council in office at the time of the passing of this Act, and all their successors in such office elected more than one month prior to the first Wednesday in June, 1903, shall, unless incapacitated by the provisions of such Act, retain such office until the 30th day of June, 1903, and on that day those of them who have not, prior to the said date, been elected to the said office in accordance with the provisions of the 14th Section of this Act, shall cease to hold such office; and provided also that any vacancies occurring in the said Council between the date of the promulgation of this Act and the commencement of one month prior to the date of the holding of the annual election of Councillors in June, 1903, shall not be filled up unless such vacancies reduce the total number of the Councillors below sixteen and that immediately on the promulgation of this Act every member of the said Council shall, for the purposes of such Act, be deemed to be a Councillor for the then existing Ward, the boundaries whereof include the boundaries of the previously existing Ward which he represented in the said Council existing before the promulgation aforesaid.

Boundaries
of Municipality.

2. The Municipality of Grahamstown (hereinafter styled the Municipality) shall include the space of ground constituting the area comprised within limits determined by contact with boundary lines of all the following farms, viz.: Sunnyside, Belmont, Eland's Kloof, Gletwyn, Glen Craig, Thorn Park, Burnt Kraal, Zyperfontein, Goodwin's Kloof, Howison's Poort Farm, Featherstone's Kloof, West Hill Farm (otherwise called "Amos"), Mount Pleasant (otherwise called "Stone's Hill"), Town Hills (otherwise called "Gooseberry Farm"), and Thorn Farm (otherwise called "Pigeon-house Farm").

Boundaries
of wards.

3. The said Municipality shall be divided into four wards, to wit:

Ward No. 1.—Bounded south by High Street and Prince Alfred Row; east by Hill Street and Upper Hill Street; north by City Boundary; west by Somerset Street and City Boundary.

Ward No. 2.—Bounded south by City Boundary; east by Hill Street and Somerset Street; west by City Boundary; north by High Street and Prince Alfred Row.

Ward No. 3.—Bounded south by High Street, Anderson Street and Albany Road; east by City Boundary; north by City Boundary; west by Hill Street, Upper Hill Street and City Boundary.

Ward No. 4.—Bounded south by City Boundary; east by City Boundary; west by Hill Street; north by High Street, Anderson Street and Albany Road.

4. The Town Council may, from time to time, if it shall see fit to do so, alter the boundaries of the said wards. No. 18—1902.

5. There shall be in the said Municipality a body corporate, which shall take and bear the name of "The Mayor, Councillors, and Citizens of Grahamstown," and by that name shall have perpetual succession, and shall have a common seal, and shall by that name sue and be sued, and shall, by the Council thereof, do all acts, and have and enjoy all the rights and privileges which bodies corporate, as such, may in this Colony do and have. Same may be altered. In Corporation of Municipality.

6. The Town Council of the City of Grahamstown (hereinafter referred to as the Council) shall, from and after the 1st July, 1903, consist of sixteen Councillors (one of whom shall be the Mayor), four of whom shall be elected from each ward, in manner hereinafter provided, by the voters whose names shall appear in the Citizen's Roll of the said Municipality. Constitution of Council.

7. Every person of full age being duly enrolled in manner hereinafter mentioned, who is the owner or occupier of any immovable property in any ward of the Municipality valued in the Municipal Assessment Roll at not less than one hundred pounds sterling, shall be entitled and qualified to vote at any election of Councillors or a Councillor of such ward or at any public meeting of citizens or ratepayers called in pursuance of the provisions of this Act. Qualification of Municipal voters.

8. When any immovable property is jointly owned or occupied by more persons than one, each of such joint owners or occupiers shall, being duly enrolled, be entitled to vote in respect of such property: Provided the valuation of the said property in the Municipal Assessment Roll shall be an amount, when divided by the number of such joint owners or occupiers, equal to the sum of one hundred pounds for every and each such joint owner or occupier. Certain joint owners qualified to vote.

9. No person having his affairs in liquidation under assignment, or conducted by arrangement with his creditors; no insolvent who shall not have obtained his rehabilitation; no alien who has not been naturalized; no person of unsound mind; and no person who is not qualified, shall be capable of being elected or of continuing a Councillor for any ward of the Municipality. Disqualification of Councillors.

10. No person holding any office or place of profit under Government, or under or in the gift of the Council, or concerned in or participating in the profit of any contract with the Municipality, or concerned in or in the profit of any work to be done under the authority of such Council, shall be capable of being or continuing a Councillor of such Municipality: Provided that nothing in this section contained shall extend or apply to the case of a lease between the Council and a Councillor, or to any contract entered into by any company, partnership or association Further disqualification. Exception

No. 18—1902. — consisting of more than twenty persons, or any incorporated company, when such contract is entered into for the general benefit of such company, partnership or association; and provided that it shall be lawful for any Councillor to purchase at public sale any property or right which the Council of which he is a member shall offer to sell by public competition.

Property qualification of Councillor.

11. No person shall be capable of being elected a Councillor for any ward who has not been an owner or occupier of immovable property within the Municipality, valued in the Municipal Assessment Roll at not less than two hundred and fifty pounds sterling, for not less than twelve months next before the election: Provided that different premises or properties, owned or occupied in immediate succession, shall satisfy this section as to ownership or occupation as if they had been one and the same premises or property.

Candidate to receive requisition.

12. No person shall be eligible as a candidate at any election of Councillors, nor qualified to be elected a Councillor for any ward, unless his name appear on the Citizen's Roll for the time being, and shall have been invited to become such candidate by a requisition signed by at least three qualified voters of such ward, and shall have transmitted such requisition, with his acceptance thereof, to the Mayor, as is provided for in the 15th and 31st sections of this Act.

Present voters' list to remain in force.

13. The list of persons qualified to vote at the election of Councillors in force immediately before the time of the taking effect of this Act shall remain conclusive evidence of the qualification of any person to vote at any election of members of the said Council, or any meetings of voters, and upon the taking of a poll of the Voters of the Municipality, until a Citizen's Roll shall have been made in pursuance of the provisions of this Act, provided however the persons whose names appear in such list as voters in any ward heretofore existing shall be deemed to be voters of the ward constituted under this Act within which the original ward is now included.

Holding of first and subsequent elections of Councillors.

14. At the first yearly election of members of the Council under this Act, which election shall be held on the first Wednesday in June, 1903, there shall be elected four Councillors for each ward, and at every subsequent yearly election of such members, which shall take place on the first Wednesday in June of each year after 1903, there shall be elected two Councillors for each ward to serve for the terms specified in the 31st Section of this Act.

Notice of vacancies in Council and calling for nominations to be given.

15. Not less than twenty-one days before the day appointed for the yearly election of Councillors, the Mayor shall, in one or more of the local newspapers, give public notice of the vacancies about to occur in the Council, and by such notice shall appoint a day, not being more than ten or less than seven, days from the

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date of the first publication thereof, for the purpose of considering and determining upon such requisitions as shall be addressed to any candidates for the seats in the Council about to become vacant, but such requisitions, and the acceptances thereof, shall be delivered at the Town Office not later than three o'clock p.m. on the day so appointed.

Return of
unopposed
Candidates.

16. If on the day appointed, as in the last preceding section mentioned, it is found that the requisitions delivered at the Town Office are addressed to and accepted by no more than one candidate for each vacancy in any ward, the Mayor shall, without any further action or proceeding, issue a notice in one or more of the local newspapers declaring the candidates who have so accepted the said requisitions to be duly elected to occupy the said seats as soon as they have become vacant as aforesaid, and the said candidates shall be deemed duly elected accordingly.

What if no-
minations in-
sufficient.

17. If, on the day appointed as aforesaid, it is found that the requisitions delivered at the Town Office are not addressed to and accepted by at least one candidate for each of the seats vacant in any ward, each of the persons who has received and accepted a requisition to become a candidate for one of the said seats and no more shall in the manner provided in the last preceding section be declared by the Mayor to be duly elected, as in that section specified, and shall be deemed so elected accordingly, and to supply any vacancy arising from failure to provide a candidate for each of the other seats the like proceedings shall be taken as in the case of an extraordinary vacancy in the Council.

If contest
for seats no-
tice of elec-
tion to be
given.

18. If on the day appointed as aforesaid it is in any instance found, by inspection of the requisitions delivered at the Town Office, that more persons have received and accepted requisitions to become candidates for seats in the Council than there are to be filled up in the representation of any ward, all such requisitions shall be published by affixing them on some conspicuous place in the Town Office, and the Mayor shall, within seven days after the day appointed as aforesaid, publish in one or more of the local newspapers the names of the several competing candidates aforesaid, and at the same time therein give not less than seven days' notice to the citizens of the respective wards for representation whereof in the Council such candidature is made, calling a meeting for the election of Councillors to fill up the impending vacancy or vacancies, and in such notice he shall also state the date, hour and place of such meeting.

Mayor to
appoint retur-
ning officer.

19. Every such meeting for the election of any Councillor or Councillors shall be presided over by a returning officer, to be appointed for that purpose by the Mayor, and if in case of illness or other cause any such returning officer shall be prevented from attending, or shall refuse to attend, the Mayor or Town Clerk shall, by writing under his hand, appoint a substitute, who

No. 18—1902. shall have all the power and authority of the person for whom he was substituted. The poll shall commence at ten o'clock in the forenoon and shall finally close at six o'clock in the afternoon of the same day.

Time of polling.

Adjournment of election.

20. If from any cause, after a poll has been appointed for any election, no election takes place on the day appointed, the election shall stand adjourned until the same day of the following week, and the Mayor shall give not less than three days' notice thereof by advertisement or by placards affixed in public places in the Municipality. And in all such cases the Councillors (if any) who would on the day appointed for the election have retired from office by rotation shall continue in office until the day to which such election or polling for the same has been adjourned.

Retirement of candidate.

21. If, after a poll has been appointed at any election, any candidate for election to the office of Councillor shall be desirous of retiring from his candidature he may, not later than three days before the day of polling, sign and deliver to the Town Clerk a notice of his retirement; and the Mayor, on receipt of such notice, shall, if the number of candidates in any ward is by such retirement reduced to the number of persons to be elected at such election, issue a notice in one or more of the local newspapers declaring the remaining candidates to be duly elected, and if the said number is not so reduced shall omit the name of the person so retiring from the list of candidates, and such person shall not be capable of being elected at such election.

Voting to be in person.

22. At every meeting for the election of any Councillor or Councillors who shall have accepted a requisition or requisitions in manner aforesaid, every qualified citizen, duly enrolled as aforesaid, shall be entitled to vote in person, but not otherwise.

Voting to be by ballot.

23. The votes shall be taken by ballot, and the person or persons having the greater number of votes shall be taken to be duly elected: Provided that all candidates shall have the right to be present, either personally or by proxy, during the whole time the voting is going on, and when the contents of each ballot-box are examined by the returning officer.

Indecisive ballot.

24. If such ballot shall be rendered indecisive by reason of an equality of votes, the returning officer shall thereupon publicly determine by lot which of the persons shall be elected for whom an equal number of votes shall have been given.

Result of poll to be made to Mayor.

25. The returning officer for each ward shall, immediately on the conclusion of the election of any Councillor or Councillors therefor, transmit the name or names of the person or persons elected, together with the final state of the poll, to the Mayor.

Mayor to publish result.

26. When the Mayor has received the names of the persons so elected, or when he himself has declared persons elected as aforesaid, he shall forthwith cause a list of all such persons,

with the names of the wards for which they are elected, to be published by advertisement in one of the local newspapers. No. 18—1902.

27. In the event of any person accepting a requisition to become a candidate for election in more than one ward at the same time he shall be disqualified from candidature at such election. No candidate to stand for more than one ward.

28. No election under the provisions of this Act shall be liable to be set aside by reason only of any defect in or want of title of the officer or person by or before whom such elections, or any polling for the same, has been held: Provided that such person has been acting in the office giving the right to preside at such election. Defect in title of officer not to invalidate election.

29. On the second Thursday following every annual election of Councillors those of the Councillors then in office who do not retire from the Council by rotation on the last day of June in that year, together with the persons who are to enter into office as Councillors on the first day of the following July, shall choose from among themselves by ballot the Mayor and Deputy-Mayor of the City for the year commencing on the last-mentioned date. Every such Mayor and Deputy-Mayor shall enter upon his office on the first day of July next after his election, and shall continue therein for one year then next ensuing: Provided, however, that the chair at such meetings of the Council as shall be held for the purpose of such election shall be taken by some member of the Council who is not a candidate for the office of Mayor or Deputy Mayor. Election and tenure of office of Mayor and Deputy Mayor.

30. Such two of the persons chosen as Councillors in each Ward as shall at the general election in June, 1903, have been elected by the smallest number of votes shall vacate their seats at the expiration of one year from the 30th day of that month, and in case by reason of any such Councillors having been elected by an equal number of votes, it shall be uncertain which of them shall vacate their seats, the Mayor shall cause such question to be determined by lot, and the remaining Councillors for each ward shall vacate their seats at the expiration of two years from the said 30th day of June, 1903, and upon the retirement from office of such Councillors respectively they shall be succeeded by Councillors who shall be elected as provided by this Act, so that at every subsequent yearly election there shall be elected two Councillors for each ward, who shall enter upon their office on the first day of July next after their election, and continue therein for two years, and every retiring Councillor shall be re-eligible unless disqualified by the provisions of this Act. Rotation of Councillors.

31. Within seven days after the occurrence of any extraordinary vacancy or vacancies in the office of Councillor, the Mayor shall in one or more of the local newspapers give public Proceedings in case of extraordinary

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vacancy amongst Councillors.

notice of such vacancy or vacancies, and by such notice shall appoint a day not being more than fourteen or less than seven days from the date of the first publication thereof, for the purpose of considering and determining upon any requisition or requisitions which may in accordance with the provisions of the 12th section of this Act be addressed to any candidate or candidates for the seat or seats in the Council which has or have become vacant, each of which requisitions and the acceptance thereof shall be delivered at the Town Office not later than 3 o'clock p.m. on the day so appointed, and thenceforward all proceedings in regard to the election shall be regulated *mutatis mutandis* by the provisions in reference to the election of Councillors contained elsewhere in this Act: Provided that any person elected to fill an extraordinary vacancy in the Council shall hold the office for which he is so elected for the remainder of the term for which the Councillor, whose office has so become vacant, and whom he shall succeed would otherwise have remained a member of the Council.

No extraordinary vacancy to be filled within one month before annual election.

32. In case any extraordinary vacancy occurs in the office of Councillor within one month before any annual election of Councillors and the Councillor vacating office would have gone out of office at such election, or was one of several Councillors who might have gone out of office by rotation at such election, such vacancy shall not be filled up, and the person vacating office shall be reckoned one of the Councillors going out of office at such election.

Town Clerk to frame list of voters.

33. On or before the first Monday in September in every year the Town Clerk shall cause a true list to be made, in alphabetical order, of all persons qualified to vote at the election of Councillors for the city of Grahamstown, setting forth the Christian name and surname of each, at full length, the place of their abode, their business or quality, the nature of their qualifications, and the ward or wards in which they are entitled to vote, and shall transmit the same to the Mayor.

List and notice to be published.

34. The Mayor shall forthwith cause such list to be published by affixing it in some conspicuous place upon the Municipal Office, and to every list so published he shall subjoin a notice of not less than fourteen days that all objections thereto will be heard and determined at such time and place as he may fix for that purpose.

Revision of list.

35. The Mayor, and two Councillors to be elected for that purpose by the Council, shall have the power, after hearing such objections in open court, to strike out of the lists the names of all persons not entitled to be therein, and also to insert in the said lists the names of any persons which have been improperly omitted.

36. The list so settled shall be called the Citizens' Roll of Grahamstown, and shall be brought into use on the first Wednesday in November in each year, and shall continue to be used for one year thence next ensuing.

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Settled list to be Citizens' Roll.

37. The Mayor shall, immediately after the settlement aforesaid, cause such roll to be published by posting the same in front of the Municipal Office.

Roll to be posted.

38. Any printed or written copy purporting to be a copy of the Citizens' Roll of the Municipality signed by the Mayor, Deputy Mayor or acting Chairman of the Council shall be *prima facie* evidence of such Roll and of the contents thereof.

Copy to be *prima facie* evidence.

39. If from any cause the preparation or revision of the Citizens' Roll has been omitted or not completed, the Governor may at the request of the Council of the Municipality direct the same to be done within such time as may be prescribed by the Order in Council authorising it and upon the publication of such order in the "Gazette," such omission or non-completion shall be rectified and such Citizens' Roll validated in accordance with the terms of such order.

If time passed Governor may sanction framing of Roll.

40. No person elected a Councillor shall have or receive any salary, or shall exact, take or accept any fee or reward whatsoever for or on account of anything done as such Councillor, nor shall he act as agent for any ratepayer at any Court held in pursuance of the provisions of this Act.

No Councillor to receive reward or act as agent.

41. No Councillor shall vote upon or take part in the discussion of any matter in or before the Council in which he has directly or indirectly by himself or his partners any pecuniary interest. And any Councillor contravening the provisions of this section shall, for every offence, be liable to a penalty not exceeding fifty pounds.

No Councillor to vote on matter in which he is interested.

42. All proceedings of the Council or of any person acting as Mayor, Deputy Mayor, Councillor, Town Clerk, or any other municipal official, as the case may be, shall notwithstanding that it be discovered that there was some defect in the election or appointment of any such Mayor, Deputy Mayor, Councillor, Town Clerk, or other official or person as aforesaid, or any disqualification, be as valid and effectual as if every such Mayor, Deputy Mayor, Councillor, Town Clerk or other official or person had been duly elected and qualified.

No defect in office of Councillor or other officer to affect proceedings.

43. If any Councillor shall die or resign, or shall cease to possess the qualifications by this Act provided, or who is the paid agent for a Candidate at any Municipal election under this Act during his term of office, or shall refuse to accept the office of Councillor, or shall be absent for a period of four consecutive calendar months from the meetings of the Council or of any Standing Committee thereof, of which he is a member, the office of any such Councillor shall be by the Mayor at any

How Councillor's office may become vacant.

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- master builders to be unsafe to the public or to have been allowed to fall into a dilapidated or ruinous condition, and for doing so at the cost of the owners or their local agents and recovering from such owners or agents the amounts of the fees payable to the said master builders for inspecting the said buildings, walls, bridges, earthworks or stoeps and granting the said certificate ;
- (11) For regulating the inspection of buildings and structures by the Council and its officers ;
 - (12) To provide for the due and proper care of the common pasture and other municipal lands, and therein to specify and regulate the quantity and kinds of live stock which each inhabitant shall be allowed to keep and depasture on the said lands ;
 - (13) For preventing the spread of contagious or infectious diseases and for preserving the public health ;
 - (14) For establishing, regulating and preserving public parks, walks, avenues, wash-houses, abattoirs, urinals, latrines, cabmen's shelters, coffee stalls, public baths, public places of recreation and open spaces, and preventing offences, nuisances and annoyances therein ;
 - (15) For regulating the storing, carriage, removal and use of gunpowder, dynamite, petroleum, oils, fireworks and other combustibles and explosives, and for regulating the use of firearms ;
 - (16) For regulating the removal of night soil, stable litter, filth and refuse from private premises and from all streets, roads and public places, and for regulating the time and mode of the removal of any offensive matter or thing ;
 - (17) For imposing a tax upon the keeping of dogs and providing with regard to the seizure, sale and destruction of ownerless dogs and those in respect of which the tax has not been paid ;
 - (18) For the abatement of nuisances and causing vehicles to be kept under proper control ; for preventing and removing obstructions in the streets, roads, public thoroughfares, squares, open spaces, foot pavements and sidewalks of the City ; for dealing with diseased animals, and the burial of dead animals, and the driving of live stock through the streets, and as to live stock found straying in the streets ;
 - (19) For regulating the naming from time to time of the streets, roads, thorough fares, and open spaces in the Municipality, and the numbering and renumbering the houses, buildings and places therein, and imposing duties and obligations upon the inhabitants in respect thereof ;

- (20) For regulating the killing of cattle and conveyance and sale of butcher's meat, the establishment and locality of slaughter houses, the keeping of slaughter houses and meat shops in a cleanly and proper state, and removing the filth therefrom, and requiring that all such places shall be provided with a sufficient supply of water ;
- (21) For providing that cattle, dogs, live stock and poultry shall not be kept in such places, or in such manner as to be a nuisance or annoyance to the inhabitants ; for prescribing the situations or places in which swine may be kept, and for prohibiting, if deemed advisable, the keeping of swine ;
- (22) For regulating the beating or shaking of carpets, rugs or mats in streets or public places generally, and the hours within which carpets, rugs or mats may be beaten ;
- (23) For regulating the supply and distribution of any water under the control or management of the Council, the quantity of water to be supplied to and taken by the inhabitants, the price to be paid therefor, the time or times at which such supply is to be received, and for the purpose of preventing any waste of drinking water within the Municipality ;
- (24) For establishing one or more pounds within the Municipality and for providing for the management of pounds, the appointment of poundmasters, and for making such pound regulations as may seem necessary or expedient ;
- (25) For preventing any person or persons from carrying any board, basket or burden so as to obstruct or incommode passengers on any sidewalk or foot pavement, and for preventing the wheeling of wheelbarrows and similar vehicles on any sidewalk or foot pavement, except for the purpose of crossing the same to or from any house or building ;
- (26) For preventing persons from congregating with others and thus causing an obstruction in any footpath, foot pavement, sidewalk or crossing, and for preventing the flying of kites, the use of catapults, and playing of games in public streets, thoroughfares, and open spaces, and for preventing the obstruction of public streets, thoroughfares and open spaces ;
- (27) For preventing the pollution of any water which the inhabitants have a right to use ;
- (28) For regulating the width, kerbing, paving, guttering, gravelling, cleansing and watering of roads and streets ;

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- (29) For granting licences or permits for the making of bricks and for digging or removing sand, clay or gravel, and for quarrying stone, and for cutting firewood, brushwood or grass upon municipal lands, and to prescribe the fees (if any) to be paid for the same ;
- (30) For regulating traffic and processions ;
- (31) For regulating, supervising and licensing cab drivers and porters, hackney carriages and cabs, omnibuses and other vehicles plying for hire, for fixing the amount of licence fees to be paid, the number of passengers to be carried, the fares to be charged, amount of luggage allowed to passengers, for regulating disputes as to fares, the position of such carriages, cabs, omnibuses and other vehicles on stands to be appointed by the Council, and for the safety and convenience of passengers and the public ;
- (32) For regulating, supervising and licensing wagons, carts and other conveyances or vehicles drawn by any horse, mule, donkey or ox kept or used within the Municipality or plying for hire or profit, and for fixing the licence fees to be paid ;
- (33) For regulating the supervising and licensing of tramway cars, traction engines, motor cars and omnibuses, and for fixing the licence fees to be paid, the number of passengers to be carried, precautions to be taken and provisions to be made against accidents, and regulating for the safety and convenience of the public ;
- (34) For regulating the keeping in repair and paving of tramway and railway lines running over public streets or roads, and the keeping in repair and paving by tramway and railway companies, and owners of tramcars and railways of the roadway between and adjacent to their rails ;
- (35) For regulating the use of bicycles, tricycles and velocipedes in streets, squares, thoroughfares and public places ;
- (36) For regulating or prohibiting the cleaning and training of animals, repairing, cleaning and outspanning of vehicles in streets and public places ;
- (37) For regulating the conditions upon which and the locality where noisome and offensive trades may be carried on and for prohibiting, if deemed desirable, the establishment of and for restraining the same ;
- (38) For planting and preserving trees and shrubs ;
- (39) For regulating and registering houses let or occupied as common lodging houses and sub-let tenement houses, boarding-houses and hotels, and inspecting such houses and hotels, and the keeping the same in a cleanly and wholesome state ;

(40) For maintaining generally the good rule and government of the Municipality, and the safety, convenience and comfort of its inhabitants; and in framing regulations the Council may prescribe the time within which any works or things required to be done shall be executed, done or completed, and may provide in case of default for the execution, doing or completion by the Council of any such work or thing at the expense of the defaulter.

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53. Any rule or regulation made under this Act may impose a penalty for any breach thereof and may also impose different penalties in case of successive breaches thereof, but no penalty shall exceed twenty pounds; and any such rule or regulation may provide that in addition to any such penalty any expense incurred by the Council in consequence of the breach of any such rule or regulation and in the execution of any work directed by any such rule or regulation to be executed by any person and not executed by him shall be paid by the person committing such breach or failing to execute such work.

Regulations may impose penalties and repayment of expenses incurred.

54. It shall be competent for any municipal regulations to provide that if the person convicted of contravening the same shall not forthwith pay the fine imposed in respect of such contravention such person shall be liable to be imprisoned, with or without hard labour, for any period prescribed by such municipal regulation: Provided, however, that such period shall not exceed three months.

Imprisonment in default of payment of fine.

55. No municipal regulation shall be of force until it shall have been by the Council submitted to the Governor, and shall have been approved of by him and published in the "Gazette."

Regulations to be approved of by Governor and published in "Gazette."

56. After any municipal regulation shall have been so published as aforesaid it shall not be necessary, in any proceeding founded upon it, to prove that three-fourths of the members of the Council were present at the meeting at which it was framed nor shall any evidence be received to prove the contrary.

Constitution of meeting at which resolutions passed not to be challenged.

57. The Council may by resolution, or the Mayor may by directions given in writing, order proceedings to be taken in the name of such Council for recovery of any penalties, and for the punishment of any person offending against the provisions of this Act or of any municipal regulation and the Court in which the prosecution is taken may adjudge such person to pay the whole or any part of the costs of such proceedings if he be convicted of offending. All costs to be incurred by the Council may, if not recovered from the person offending, be paid out of the municipal funds.

How prosecutions or regulations may be instituted and as to payment of expenses.

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Offenders against regulations may be summarily arrested, but may be released on depositing security or entering into recognizances.

58. Any person found committing any offence punishable under the provisions of this Act or any municipal regulation may be taken in to custody without a warrant by any constable or member of a police force, or may be apprehended by a municipal officer, and such person may be detained until he can be delivered into the custody of a constable or policeman to be dealt with according to law: Provided that no person shall be arrested or detained without warrant unless there shall exist reasonable ground for believing that, except by arresting the person offending, such person could not be found or made answerable to justice without delay, trouble or expense. Any person taken into custody without warrant shall be brought before some competent court as soon as possible after such person is so taken into custody, and if it is not practicable to bring such prisoner before such court within twenty-four hours after the said arrest the chief constable or any officer of the local police force may enquire into the case and shall discharge the prisoner upon his or her making a deposit of twenty pounds or entering into a recognizance conditioned in a like sum with or without sureties as such chief constable or police officer shall require, to appear before some competent court on a day and at a time to be stated in the recognizance, and every such recognizance shall be returned to the court at which the party was bound to appear, at the next ensuing sitting of the same; and if such person fails to appear at the place and time notified by the person taking the same, any deposit so made shall be forfeited, and any such recognizance shall be recoverable in the same manner as any recognizance taken and acknowledged before a Justice of the Peace.

Offender may be released on payment of penalty.

59. Any person taken into custody for contravening any provisions of this Act or of the municipal regulations may be released with the sanction of the Mayor or Town Clerk on payment of the penalty provided in such Act or regulation for such contravention thereof.

Council may sue for penalties: imprisonment in default of payment.

60. As an alternative to the mode of procedure appointed by the 57th and 58th sections of this Act for the enforcement of the provisions of such Act and of the municipal regulations it shall in each case of alleged contravention thereof be competent for the Council to proceed by civil action in any Resident Magistrate's court for the recovery of the penalties imposed by the said Act or regulations: Provided that if the Council decide to appeal from any decision of such court it shall be entitled so to do, but shall have no right to obtain costs in any superior court.

Regulation contravened need not be stated in summons.

61. In any prosecution for contravening the provisions of any municipal regulation it shall be sufficient to allege that the accused is guilty of contravening or offending against a municipal regulation and alleging the act complained of without describing the regulation by number or otherwise.

62. A copy of the "Gazette" containing any bye-law or regulation shall be evidence of the due making of such bye-law or regulation and of the contents thereof.

63. All fines or penalties imposed by this Act or by any municipal regulation may be prosecuted or sued for in any competent court in the name of "The Council of the City of Grahamstown," and, so long as any part of the cost of the police is payable by the Council, shall, when recovered, be paid to the Town Treasurer for municipal purposes: Provided that no such prosecution or suit as aforesaid shall be commenced later than three months from and after the date of the act or omission upon which such prosecution or suit shall be grounded.

64. All acts, matters or things hereby authorised or required to be done by the Council, and all questions that may come before it shall, except as elsewhere in this Act excepted, be done and decided by the majority of Councillors who shall be present at any meeting at which not less than seven members of the Council shall attend.

65. An ordinary meeting of the Council shall take place at least once in every week, and all meetings of the Council shall be open to the public.

66. The Mayor or any seven Councillors may at any time call a special meeting of the Council, provided that he or they cause a notice of the time and place of such intended meeting, specifying the object thereof, to be served on every Councillor either personally or by leaving the same at his usual place of abode or business twelve hours at least before such meeting.

67. At every meeting of the Council, the Mayor, if present, shall preside, and in case of his absence the Deputy Mayor, or in the absence of both, the Councillors present shall elect a chairman from among themselves.

68. In all cases of equality of votes, the Mayor or Chairman, as the case may be, shall have a second or casting vote.

69. Minutes of the proceedings of every meeting of the Council shall be regularly entered in a book to be kept for that purpose and shall be confirmed at the next succeeding ordinary meeting, and signed by the person presiding thereat.

70. The Council may from time to time make rules of order not inconsistent with the terms of this Act for the regulation of their proceedings and business and may vary or revoke the same; and until they do so the existing rules of order shall be and remain in full force, excepting in so far as they may be opposed to the provisions of this Act and in the said rules of order the Mayor, Deputy-Mayor or Chairman (as the case may be) shall have power to name a Councillor, and upon motion made and adopted by not less than two-thirds of the Councillors present, and voting on the question to suspend a Council-

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"Gazette" to be proof of regulation.

Council may sue for penalties in its own name: no prosecution after three months.

Majority of Councillors to decide: Quorum.

Ordinary meetings of Council to be held once a week and to be public.

Special Meeting may be called on notice.

In absence of Mayor and Deputy-Mayor, Chairman to be elected.

Chairman to have casting vote.

Minutes of meetings to be kept.

Rules of order.

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Council may appoint committees.

71. It shall be lawful for the Council to appoint out of their own body such and so many committees either of a general or special nature, and consisting of such members as the Council may see fit, for the purpose of examining and reporting upon any matter or performing any act which in the judgment of the Council would be more conveniently performed or examined into by means of a committee and may fix the quorum of such Committee: Provided always that the proceedings of every such committee shall be regularly entered in its minute book, and the result reported to the Council. The Mayor to be *ex-officio* a member of all such committees.

Council may appoint and remove Town Clerk, Treasurer and other officers.

72. It shall be lawful for the Council from time to time to appoint fit persons (not being members of the said Council) to be Town Clerk and Treasurer, and also to appoint such other officers as they may think necessary for enabling them to carry into execution the provisions of this Act, and to pay all the officers so to be appointed such salaries as the Council shall deem reasonable, and, unless it shall be otherwise stipulated in the contract of service, to remove all such officers upon a notice of not less than one month, or, in case of misconduct, without any notice.

No officer to be engaged in other business.

73. No officer appointed by the Council shall be engaged, directly or indirectly, in any other business, trade or profession than the business of the Council save with the express sanction of the Council.

Council may appoint policemen and street keepers.

74. The said Council are hereby empowered from time to time to appoint and employ such number of able-bodied policemen and streetkeepers as shall be required for the protection of the inhabitants and property, streets and public places within the Municipality, by day and by night, and to provide all such policemen and streetkeepers with such clothing, arms, ammunition and weapons, and shall appoint to them such duties and hours and times of duty, and shall also make such rules, orders, and regulations relative to such policemen and streetkeepers and their duties as shall be deemed fit.

Same to act as constables.

75. All such policemen and streetkeepers shall act as constables while in the execution of their duties under this Act, and are hereby invested with and shall have and enjoy the like powers and authorities, privileges, and immunities, and shall be subjected to such and the like penalties and forfeitures, as constables are invested with, or shall or may have or enjoy or are or may be subject or liable to by law.

76. All persons owning or occupying property within the limits of the Municipality, excepting such property as is by this or any other Act exempted, shall be liable to be rated on account of such property to the City rate in such manner and to such extent as is hereinafter provided; Provided that nothing in this Act contained shall be taken to authorize the assessment of a rate both upon the owner and the occupier of any one property in respect of such property.

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Owners and occupiers of property may be rated.

77. The existing Valuation Roll for Municipal purposes shall remain in force until a general valuation of all and singular the immovable property situate within the Municipality shall be made for municipal assessment purposes and the Council shall from time to time thereafter, but not less than once in five years, appoint one or more competent appraisers, not being a Councillor or Councillors, for the purpose of making such valuation.

Quinquennial appraisal to be made.

78. Every appraiser shall, for the purpose of making the valuation as aforesaid, have power to enter at all reasonable hours in the day time into and upon any rateable property within the Municipality without being liable to any action or other proceeding on account thereof.

Appraiser may enter on property to value same.

79. It shall be lawful for any appraiser to put to any person in occupation or charge or being the owner of any rateable property which such appraiser shall have been authorised under the provisions of this Act to value, questions upon all such matters as may be necessary to enable such appraiser correctly to value such property and to state the names of the owner and occupier thereof and such other particulars as may be necessary to be stated in his valuation with regard to the premises. And if after being informed by such appraiser of his purpose in putting such questions and of his authority under this Act to put the same, any such person in occupation or charge or any such owner shall refuse or wilfully omit to answer the same to the best of his or her knowledge and belief or shall wilfully make any false answer or statement in reply to such questions, such owner or person in occupation or charge shall for every such offence be liable to a penalty not exceeding ten pounds.

Appraiser may interrogate owner or occupier: penalty for refusing to answer or giving false answers.

80. As soon as any valuation as aforesaid shall be completed it shall lie at the office of the Town Clerk for the inspection of every owner or occupier of any property included therein who may, upon all lawful days and at all reasonable times, inspect the same and take extracts therefrom, within the period of one calendar month thence following, and the Council shall, by public notice, announce for general information that it will, on some day not more than a fortnight after the expiration of the said month, and at some hour and place to be fixed in such notice, hold a court for the purpose of hearing and determining objections to such valuation, provided that such notice shall be

Valuation to lie for inspection. Court to be held to hear objections: procedure at same.

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published immediately after the valuation shall be ready for such inspection, and repeated every week in one of the local newspapers during the said month: Provided, also, that it shall not be necessary in any suit or proceeding for the recovery of any rate to prove the fact of due notice of any such valuation as aforesaid, having been given; and upon such day as aforesaid, and at the place and hour mentioned in such notice, the said Council shall hold a court and shall hear all objections which may be urged to any valuation by any owner or occupier, or other person or persons on his or her behalf, and shall inquire into the merits of such objections, and for that purpose may, if the said court thinks it desirable, take the oath of any person whom it shall see fit to examine (which oath the presiding member of the court is hereby authorised to administer) and shall confirm or correct any valuation objected to, provided that the said court may be adjourned from time to time as such court may deem necessary; and provided further that it shall not be competent for any Councillor when any objection to the valuation of his property or of premises rented by him is raised, to sit in his place, hear, and determine or vote upon such objection, and such objection shall be determined by the remaining members present forming the court.

Property
may be re-
valued.

81. If, in the opinion of the said court, any property in the Municipality should appear to be undervalued, it shall be competent for the court to submit the value of such property to a duly qualified appraiser, other than the original valuer of the same, and should such appraiser be of opinion, after inspection of the property, that the same has been undervalued, then the owners or occupiers of such property, together with the appraiser aforesaid, and the first valuer, shall be cited to appear before the Council on a day to be named, not being less than three days from the date of citation, and the several matters in question, together with any evidence which may be tendered and produced in support of or opposed to the valuations, shall then be heard by the Council, which shall decide thereon.

Appeal a-
gainst valua-
tion.

82. In the event of any person feeling aggrieved by the valuation put by the Council upon any property owned or occupied by him he shall be entitled to appeal within one month from such decision to the Supreme or Eastern Districts Court, and such Court shall inquire into such valuation, and make such order as to costs as to the Court may seem fit, and the decision of such Court shall be final and conclusive.

If property
divided rates
may be levied
on sub-divi-
sions; or may
be revalued.

83. After any valuation of the immovable property in the Municipality has been made in manner herein before provided, should any such property be subdivided by the proprietor or proprietors and the several sub-divisions or any of them be sold

by public auction to other persons it shall be competent for the Council, pending the time of taking the next valuation, to levy rates on such sub-divisions according to the price agreed at the auction to be given for the same respectively by each purchaser, and in such case the original valuation, in respect of the entire undivided lot, shall be dispensed with and each sub-division valued at the price given therefor, and the rates thereupon shall be claimable from the purchasers respectively. But should such property be sub-divided and either the whole or a portion of it be transferred to other proprietors by private sale or by demise or otherwise, then an appraiser or other duly qualified person may be appointed by the Council to value the said properties, and the Council shall appoint a day of which a week's notice shall be given in writing to the owners of the sub-divided property, on which any objection the said valuation shall be heard in the manner provided in the 80th Section of this Act, and the new valuation as finally determined by the Council shall stand in the roll of assessment in place of the original valuation, and the same process shall be adopted in the case of any portion of a property sub-divided as aforesaid which is, when other portions are alienated, retained by the proprietor or proprietors by whom sub-division is made, and also in the case of any property at any time discovered to have been omitted from the valuation roll.

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84. In case any property shall have been omitted from the Valuation Roll, or if any building be erected, added to, or altered at any time after the making of any general valuation the Council may have a valuation thereof, and of the land upon which such building is erected, made in the same manner and with the same forms as are in this Act provided with regard to general valuation.

Interim valuations.

85. Instead of the mode aforesaid of ascertaining the value of property within the said Municipality to be rated as aforesaid, it shall be lawful for the Council, by resolution, to adopt the valuation of such property subsisting and in force for the time being made for road purposes by or under the direction of the Divisional Council of Albany; and such valuation shall thereupon become and be the valuation for the purposes of this Act, just as if it had been made by appraisers appointed by the Council as aforesaid.

Council may adopt valuation of Divisional Council.

86. In addition to the powers conferred upon it elsewhere in this Act, the Council shall have power and authority to do the following acts: To make, alter and keep in repair the roads, streets, dams, sewers, drains, culverts and bridges within the limits of the Municipality; to define as and render public thoroughfares such streets as may be made over private property by the owners thereof, which streets shall only become such public

General powers and authorities of Council.

No. 18—1902.

thoroughfares upon application to the said Council by the majority of such owners ; to excavate, construct, and lay water courses, water pipes, conduits, sluices, dams, reservoirs, aqueducts, and other works for supplying the Municipality with water, and to keep the same in repair, or to grant leave to any person or company of persons to lay down pipes or to execute any other like works ; to establish and regulate markets ; to light or provide for the lighting of the streets ; to hold, occupy, or purchase any land, and to erect or purchase and to keep in repair any building for any of the purposes required by the said Council ; to cause all buildings used by the public capable of containing more than three hundred persons to be provided with sufficient and proper means of egress in case of fire or other dangerous casualty ; to assize weights and measures according to the standards in force by law ; to grant licences or permits for any purpose to be defined by the Municipal regulations of the city ; and to levy tolls and dues as elsewhere provided in this Act, and generally to devise and carry out all such measures as shall appear to the Council to be to the advantage and convenience of the Municipality ; and by Municipal regulations to do any of the following acts, that is to say : To regulate the confining or killing of dogs, pigs, goats and fowls ; to levy a tax on all carts and carriages kept within the limits of the Municipality ; to regulate the width of any footpath or pavement in the street in front of any private property, and to determine on the nature and description of the material to be used therefor ; to compel owners of vacant land to fence in any such land situated in the vicinity of roads and streets ; and to provide for the registration at the Town Office of all sales of landed property that may occur within the Municipality, for the maintenance of order in the streets, public places and thoroughfares of the Municipality, for the conduct of traffic therein, and the conservancy of the water kloofs, reservoirs, and all property and plant connected with the Municipal water supply. The Council shall by municipal regulations have the further power to appoint one or more competent persons to examine meat and other provisions and drinks exposed for sale, and who, in case such meat or other provisions or drinks be found unfit for human food or drink, shall be empowered to cause the same to be destroyed ; to prevent and abate nuisances, and to provide for the management of the common pasture lands of the Municipality, and for fixing the number and description of cattle which each householder shall be allowed to depasture on such lands. The municipal pound shall be entirely subject to the control of the Council, and notwithstanding any provisions to the contrary contained in any Act of Parliament or Legislative Ordinance, no animals shall be admitted into the said pound, nor shall the Council or the pound-

master be required to provide for the custody of any animals, except such as the said Council may in its discretion allow to be received into such pound. No. 18—1902.

87. The Council may from time to time out of its revenue pay such sums as it may deem necessary towards public functions, public demonstrations and to defray the expense of the representation of the Council as such on any occasion; provided always that nothing herein contained shall be construed so as to permit any Councillors to make any profit out of such sums; and the Council may further annually pay to the Mayor, to be expended by him as Mayor for the purposes of public hospitality, a sum not exceeding Three Hundred Pounds Sterling, anything to the contrary in this Act notwithstanding, provided, however, that no payments shall be made in terms of this clause, unless and until the Council have obtained the approval of a majority of enrolled citizens present at a public meeting called for the purpose, upon not less than seven days' notice given in one or more of the local newspapers. Cost of public functions and entertaining allowance to Mayor.

88. For the purpose of raising the means for making new roads, streets, market conveniences, bridges, drains, sewers, water courses, reservoirs, aqueducts, and other waterworks; for the purchase of such lands or erection of such buildings as may be required in or about the execution of the powers hereby given to the Council; for the purchase of water pipes, fire engines and appurtenances; for the effecting of all other public works and improvements within the Municipality; for the purpose of raising the means for effecting the repairs of such works as the Council is empowered to make or to have made; for the maintaining of waterworks, fire engines, police establishments, markets and pounds; for the maintenance of sanitation within the Municipality; for the payment of interest on loans, debentures and overdrafts of banking and other accounts; and for the payment of salaries and all other ordinary current expenses required to be borne by the Municipality, the Council shall have power to impose, levy and recover all such market dues, water rates, pound fees, dog, carriage, cart and other vehicle tax, as shall be deemed necessary and reasonable, and shall be authorised by any such municipal regulations aforesaid, and shall have the power, as often as shall be deemed necessary, to make and levy a town rate and assessment upon all immovable property within the Municipality, the value of which is to be ascertained in the manner hereinbefore provided: Provided that no town rate shall be made or levied by the Council unless there shall be at least three-fourths of the members of the said Council present at the meeting at which such rate shall be imposed; and provided, also, that no town rate or assessment shall be imposed upon any immovable property belonging to His Majesty the King, nor on Council for general purposes authorised to levy dues, fees and taxes and may assess municipal rate.

What properties exempted from payment of rate.

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any buildings solely appropriated to public worship, nor upon any burial grounds, nor upon public prisons or police stations, alms houses, State-aided hospitals, or Asylums, excepting only such premises occupied as quarters in connection with such institutions as may be separated therefrom by public roads or streets, nor upon school or college buildings solely appropriated to the purposes of education, provided that the last-mentioned exemption shall not be construed to extend to any separate or adjoining building or buildings in which the teacher or teachers of any school or his or their family or any other person or persons dwell, or which he or they anyway occupy, whether such separate or adjoining building or buildings are either upon or apart from the premises of such schools or colleges, but shall solely apply to such buildings as are especially appropriated for the education and use of the pupils of a school or college in which none but instruction is imparted, and that every portion of the premises and buildings not so appropriated shall be rated in like manner as other immovable property not exempted within the said Municipality : provided also that these exemptions shall not extend to any immovable property which, although belonging to His Majesty the King, shall be possessed or occupied by any person or persons in his or their individual capacity only as lessee or lessees, sub-lessee or sub-lessees or otherwise.

What persons or properties shall or shall not be liable for market dues and water rates.

89. No market dues shall be levied on any person not using the public market, nor shall any compulsion be used to induce any person to use such public market ; nor shall water rates be levied in respect of any property in the Municipality which cannot be supplied with the water provided by the Council, but the Council shall have the power to impose on the proprietors or occupiers of all buildings, houses, shops or stores situated in streets through which the said Council's main water pipes run, or within twenty-five yards from those main water pipes, the current water rate in respect of the said premises charged either in accordance with whatever tariff may at the time be applicable to premises to which the aforesaid water is furnished or as a poundage upon the amount at which the property in respect whereof the charge is made is valued in the Municipal Assessment Roll, except where tanks have, previous to the promulgation of this Act, been formed or supplied to hold a quantity of water which the Council by resolution may have affirmed to be adequate for the said premises, provided, however, that notwithstanding this exception, the water rate shall be payable in respect of all such premises situated as aforesaid, although containing such tanks, unless, within one calendar month after the promulgation aforesaid, the said tanks are duly registered at the office of the Town Clerk, and certificates of such registration, signed by that official, are furnished to the persons by whom such registration is made.

90. The Council shall annually, in the month of February, make an estimate of the amount of money required for the purposes specified in the 88th section of this Act, and shall assess the town rate accordingly, and give public notice thereof in one or more of the local newspapers, and shall, in like manner, if any further unforeseen expenditure shall become necessary during the same year, make a supplementary estimate thereof and assess a second rate or further rates, whereof they shall give public notice in like manner: Provided that it shall not be lawful for the Council in any one year to levy any town rates amounting in the aggregate to more than threepence in the pound on the value of the immovable property assessed, without obtaining the consent of the majority of the citizens present, and entitled to vote, at a public meeting to be called for the purpose of considering such rate or rates, of the object and time and place of holding which meeting at least seven days' notice shall be given in manner hereinbefore mentioned; and provided that it shall be lawful for any two or more duly enrolled citizens at such meeting to demand a poll of the citizens entitled to vote, which poll shall be taken on a day to be fixed by the Mayor, not later than fourteen days from the date of the meeting, of which day not less than three days' notice shall be given in one or more of the local newspapers, and which poll shall commence at ten o'clock a.m. and close at five o'clock p.m. on such day.

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Power of Council to assess a rate on immovable property; no rate exceeding threepence in the pound to be levied without the consent of Citizens's Meeting.

91. Every rate so assessed as aforesaid shall become due and payable upon a certain day, to be fixed by the Council, of which day and the amount of which rate the said Council shall give at least fourteen days' notice in one of the local newspapers: Provided that it shall not be necessary, in any suit or proceeding for the recovery of any such rate, to prove the fact of due notice of such day and amount having been given.

Rate to become due on date fixed by Council.

92. When the Council shall have announced in one of the local papers the day on which any rate duly assessed under the provisions of this Act will become due and payable, it shall be incumbent upon all persons liable to such rate to pay the amount thereof so due to any person whom the Council may have authorised to receive the same, on pain of being forthwith liable to legal proceedings, at the suit of the Council on a power signed by the Town Clerk, for the recovery of the amount: Provided, also, that any occupier who shall have paid any such rate shall be entitled to recover the same from the owner, unless there be any agreement to the contrary.

Rate payable without further notice; occupier may recover rate from owner.

93. In case any rates (including water rates) made or levied by the Council shall remain unpaid after three months from the date fixed by the Council for the payment thereof, interest upon such rates shall be chargeable and recoverable by such Council at the rate of six per centum per annum reckoned

Interest chargeable on overdue rates.

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Penalty on occupier for refusing to give or falsely giving information.

94. If on the request of the Council or any collector of rates duly authorised by the said Council as such the occupier of any property refuses or wilfully omits to disclose or wilfully misstates to the Council or collector making such request the name of the owner of such property or of the person receiving or authorised to receive the rents of the same, such occupier shall be liable to a penalty not exceeding five pounds.

Council may recover rates from owner or his agent or the occupier: procedure in Court of Resident Magistrate of Albany or other districts; service of summons on occupier or agent; limitation of claim against occupier.

95. The Council may, in suing for the recovery of rates (including water rates), proceed against the person who was the owner of the property in respect of which the said rates are due, at the time such rate was levied or who shall have become the owner within a period of six months after such rate fell due, or, in case such owner shall not reside within or is absent from the district of Albany, his or her agent, or the person receiving the rents for him or her in his capacity as such agent or receiver of rents or the occupier, either separately or both of them in one and the same action, each for the whole rate, in any competent court, and recover the same by the judgment and process of such court; and any such rates remaining unpaid after the day when they become due and payable shall, in case the amount thereof do not exceed fifty pounds, be recoverable at the suit of the Council by action in the Court of the Resident Magistrate of Albany, or, in case the person liable for such rate shall not reside within the district of Albany, then either in the Court of the Resident Magistrate of such district, or in the Court of the Resident Magistrate of the district in which such person shall reside: Provided that as often as any such person not resident in the district of Albany shall be proceeded against in the Court of the Resident Magistrate of such district, the summons directed to such person may be served upon the person, if any, in occupation of the property in regard to which the rate alleged to be due is claimed, or upon the person who is agent for the owner of the said property, or receives the rents thereof on his or her behalf, or upon the person summoned by the messenger of the Court of any Resident Magistrate in which such person shall be found: Provided that no occupier of any immovable property shall be liable to pay any rate which had become due and payable thereon at any time before he or she entered on the occupation thereof; and provided further that any person who as aforesaid shall continue to be liable for such rate although he or she may have ceased to occupy the property in respect of which the rate had been imposed: Provided also that in cases where judgment shall be obtained against the agent or receiver of rents for any such absent owner

of property it shall be competent for the Court in which such judgment shall be obtained to declare the rents received and to be received by such agent or receiver of rents in respect of such property executable for the said debt, and any such agent or receiver of rents who shall defeat such declaration shall be guilty of a contempt of Court and shall also be personally liable for the amount of the judgment. No. 18—1902.

96. In any proceeding to levy or recover rates (including water rates) or consequent on the levying or recovering of any rate made and levied by the Council the valuation rolls and rate books of the Council and all entries purporting to be made therein or extracts or certified copies thereof, signed by the Mayor, shall upon production thereof alone be *prima facie* evidence of such rate and of the contents thereof without any evidence that the notices required by or other requirements of this Act have been complied with. In proceedings for rates, books of Council or extracts to be *prima facie* evidence.

97. The Council shall once in every year publish in one or more of the local newspapers a statement of every amount of town rate and water rate in arrear and of the property in respect of which the same is due. Statement of rates in arrear to be published annually.

98. Whenever any municipal rates (including water rates) accrued on any rateable property situated in the Municipality shall have been unpaid for five years the Council may take possession of such property and grant leases of the same subject to the provisions of this Act: Provided that in regard to properties in the Hottentot and Fingo Locations or properties held under quitrent tenure the Council shall not have the power to take possession, or to issue leases, unless the consent of His Excellency the Governor has first been had and obtained. When rates unpaid for five years, Council may take possession and grant leases of same.

99. Every such lease shall be for such term not exceeding five years as the Council may deem fit, and shall be granted for the best rent which may be reasonably had for such property, and subject to such covenants and conditions as the Council may determine. These covenants and conditions shall contain a provision securing the annual appropriation, for educational purposes for the benefit of the inhabitants of the Hottentot and Fingo Locations, of the sum of five shillings sterling out of the lease money raised on each of the allotments that may be so leased, and shall be subject to the approval of His Excellency the Governor whenever the land to be so leased is part of either the Hottentot or Fingo Locations, in which cases the person of the lessee shall also be subject to the approval of the Governor. Such lease may be for five years

100. The said Council shall not take possession of any such property until three months after a notice in writing, setting forth that rates in respect of such property are unpaid, and demanding payment thereof, and stating that in the default of pay- Council not to take possession until notice served and published.

D

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ment the said Council will take possession of such property under the provisions of this Act has been served upon the owner of such property, if within this Colony, and whose name and address is officially known to the said Council, or if there is no such owner within this Colony, or no such owner whose name and address is so known, until such notice has been published in the "Gazette" at least once a month during three months; and every such notice shall contain a sufficient description of the property to identify the same; but every lease granted by the said Council otherwise in accordance with the provisions of this Act shall be valid, notwithstanding the non-compliance with the provisions of this section, unless all arrear rates and interest thereon are paid within twelve months after the said Council shall have taken possession.

Owner may within thirty years pay rates and interests and resume property.

101. Within three months after demand by the owner of any property taken possession of by the said Council as aforesaid, made within thirty years after the date of taking possession, and after payment of all arrears of rates due in respect thereof and interest upon such arrears at the rate of six per centum per annum, such owner shall be entitled to resume possession of such property subject to the terms of any lease theretofore lawfully granted by the said Council under the provisions of this Act.

Council to receive rent and moneys payable under lease and to deduct rates, &c., therefrom.

102. All rent and other moneys payable under any such lease shall, until the payment of all arrears and interest as aforesaid by the owner, or the expiration of thirty years from the date of taking possession of such property by the said Council, whichever shall first happen, be received by the said Council and shall be applicable:

After thirty years property to vest in Council.

- (1) In defraying the expenses of and incidental to the giving of the notices as aforesaid and the execution of such lease and the collection of rents;
- (2) In payment to the said Council of all arrears of rates and other payments due in respect of such property, together with interest on all arrears of rates at the rate of six per centum per annum from the time when interest upon such rates shall accrue respectively, and in payment of all rates and other payments becoming due thereon;

And the residue of such money shall belong to such person as would have been entitled to receive the rents or profits of such property if this Act had not been passed.

If rates not paid within thirty years the property vests in the Council.

103. Unless some person entitled to resume possession of any property of which the said Council has taken possession as aforesaid shall within thirty years after the date of taking possession pay all arrears of rates, interest and incidental expenses properly chargeable under this Act, such property and all

accumulations of rent and other moneys received in respect of such property shall vest absolutely in the said Council, except in the case of properties within the Hottentot and Fingo Locations which will in that case revert to the Government, while the accumulation of rent and other moneys in respect of such properties, except such moneys as are to be applied to educational purposes under Section Ninety-nine of this Act, shall as in other cases vest absolutely in the said Council, and except also properties held under quitrent tenure, which shall be dealt with under the laws relating to quitrent land.

104. All land or immovable property heretofore vested in the Council of the Municipality now existing for the City of Grahamstown shall, after this Act, come into force, and by virtue thereof, be transferred to and vested in the Corporation heretofore mentioned, upon the like trusts and purposes for which the same were originally granted or transferred; and in like manner all liabilities, debts, contracts, or engagements incurred, made, or entered into by the aforesaid Council for the time being, or their predecessors, on behalf of the Municipality of Grahamstown, shall become and be the liabilities, debts, contracts, and engagements of the said Corporation.

Immovable property and liabilities, contracts and engagements of previous Council to vest in Council under this Act.

105. The Council may lease any portion of the lands belonging to the Municipality, or any buildings already erected thereon, for a period not exceeding twenty-one years; Provided that such leases shall be put to public competition, after public notice of not less than fourteen days, and that they shall contain a power to re-enter for non-payment of rent or non-performance of covenants.

Council may lease Municipal lands or buildings by public competition.

106. The Council may by public sale or tender, after public notice, from time to time, lease the privilege of working any mines or quarries belonging to the Municipality for any term not exceeding five years.

Council may lease mines or quarries.

107. No lessee of any such lands, buildings, mines, or quarries as aforesaid shall assign or sublet the same without the previous consent, in writing, of the Council; and any assignment of sub-letting, without such consent, shall, as against the Council, be null and void.

No lessee of Council to assign or sublet without written consent of Council.

108. The Council may, with the consent of the Governor raise, by sale at public auction or by mortgage of any land or property belonging to the Corporation, or by debentures on the security charged upon such land or property, any sum of money which shall be necessary in order to carry on any important public work, or other municipal purpose which the Council shall deem desirable, and of which the Governor shall approve: Provided that the Council shall, at least two months previously to such intended sale, or mortgage or issue of debentures, cause to be published a full and clear statement of

Council may with Governor's consent sell or mortgage corporation property or issue debentures to raise funds for municipal purposes; notice of intention to be published.

No. 18—1902. the situation, nature, and extent of such land or property, and the object and purpose for which the money is required.

Council may with consent of citizens' meeting mortgage one-third of rates for ten years.

109. The said Council may for the like purpose in the preceding section mentioned, with the consent of the majority of the enrolled citizens of the said Municipality present at a public meeting of such citizens, to be convened in manner hereinafter provided, mortgage, or charge by debentures, one-third of the rates of the said Municipality for a period not exceeding ten years: Provided, nevertheless, that only one such loan shall exist at the same time, and that every such loan shall be called for by public tender.

Form and order of preference of mortgage debentures.

110. As often as the said Council shall raise money by the issue of debentures, to be charged upon any such land or property as aforesaid, such Council shall execute, to and in favour of any person or persons whom the said Council shall select, a mortgage of the land or property upon which it is intended that the said debentures shall be charged, to be held by such person or persons in trust for the holders of the debentures so issued, which holder shall, according to their respective amounts and interests, rank *pari passu* upon the proceeds of the land or property comprised in such mortgage.

How mortgages and debentures to be executed.

111. Every mortgage aforesaid, or power of attorney for authorising the execution of a mortgage of any land or property under this Act, shall be under the common seal of the Corporation, and shall be executed by the Mayor and be countersigned by the Town Clerk, and every debenture issued under this Act shall be executed in the same manner under the common seal.

Council may grant fresh mortgages or debentures to pay off existing ones.

112. As often as any mortgage granted or debenture issued under any of the preceding sections of this Act shall be called up, or any debenture shall become payable, it shall be lawful for the said Council to raise by a fresh mortgage of the same land, property, or rates which was or were mortgaged by such mortgage, or to raise, by the issue of fresh debentures, any sum not exceeding the sum then required to be paid off; and the Council may raise upon debentures moneys required to pay off mortgages and conversely may raise by mortgage moneys required to pay off debentures, so long as the same land, property and rates which were charged by the one form of security and none other, shall be charged by the other or substituted form of security: Provided that it shall not be necessary for the Council to obtain the consent of the Governor aforesaid for the granting of any mortgage or the issue of any debentures under the provisions of this section.

Council may take land and buildings for public pur-

113. In case the said Council shall require to take or use any land with or without the buildings, if any, erected thereon, for the purpose of making, widening, or improving any street,

market or public building, or for the purpose of laying down pipes or constructing drains; or for such purpose, to dig out or carry away any materials belonging to any person within the said Municipality; or for the purpose of supplying the said city with water, to appropriate or make use of any springs, streams or other supplies of water within the said Municipality belonging to any person who shall not be bound by law to allow the Council so to do, then and in that case it shall be lawful for the said Council, and it is hereby authorised and empowered, to treat and agree with every such person for the purchase or hire thereof or for a right of servitude, as the case may be, of any such land, buildings, materials, springs, streams or other supplies of water as aforesaid, or for the payment of consequential damages, and generally to enter into such contract or contracts relative to the obtaining of any such land, buildings, materials, springs, streams, or other supplies of water, upon such terms and conditions as the said Council shall judge expedient. And in case any such person and the said Council shall not agree upon the purchase-money, hire or recompense to be respectively given by the one party and accepted by the other, then the said Council shall cause to be served upon such person a written notice offering as recompense or compensation whatever sum of money it shall deem sufficient, and requiring such person to state, in writing, to the said Council, or to some person by it appointed, within a certain time, to be specified in the said notice, not being less than fourteen days from the service of the said notice, whether he is willing to accept the sum therein mentioned or not; and in case the person shall refuse to accept the sum offered, or shall neglect to reply to the said notice, the said Council shall, by another notice in writing, call upon such person to refer to arbitration the amount of recompense or compensation to be paid to him by the said Council, and for that purpose to transmit to the said Council within a certain reasonable time, to be specified in the lastmentioned notice, the name of some person whom he shall select to be an arbitrator upon such arbitration; and the said Council, upon receiving the name of the person so selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed, on behalf of the said Municipality, by the Town Clerk for the time being, and by the person claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, together with a power to the said arbitrators before commencing such arbitration to appoint an umpire, and their or his decision shall be final; and the award of such arbitrators or umpire, as the case may be, shall be made a rule of the Supreme Court, Eastern Districts' Court, or any Circuit Court of this Colony,

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poses; manner in which powers may be exercised and proceedings in arbitration to settle compensation.

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and shall be binding and conclusive, and may be pleaded in bar of any action or proceeding at law brought for or on account of the same subject matter. And in case such person as aforesaid claiming such recompense or compensation shall neglect, or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, it shall be lawful for the said Council, and it is hereby authorised, to lodge in some joint-stock bank in the Eastern Province of this Colony the sum of money offered by it, as aforesaid, in its first notice in this section mentioned, for or on account and at the risk of such person aforesaid, who shall at all times be entitled to draw the same out of the said bank as his absolute property; and the said Council, upon so lodging the said sum, shall be authorised and entitled to take or use the said land, buildings, materials, springs, streams, or other supplies of water in question, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been an order by the arbitrators or umpire under the provisions of this section; and as if all acts by law required for vesting in the said Council a sufficient title to the use of or property in the land, buildings, material, springs, streams, or other supplies of water aforesaid had been duly done and performed.

Proceedings
when owner
of land, &c.,
absent.

114. In case the said Council shall, for any purpose in the last foregoing section in that behalf mentioned, require to take or use any of the land, with or without the buildings, if any, erected thereon, or to dig or carry away any of the materials, or to appropriate or make use of any springs, streams or other supplies of water in the last preceding section mentioned, of which the owner shall be absent from the Colony, and not represented therein by any agent duly accredited, or shall not be discoverable, it shall be lawful for the said Council, and it is hereby authorised, to cause a notice to be inserted in the *Gazette* and one or more local papers for four successive months, describing as accurately as may be, the materials, land, buildings, springs, streams, or other supplies of water which are required to be taken or used, and calling by name on the owner of the said land, buildings, materials, springs, streams, or other supplies of water, if known, or, if not known, then upon the owner, whoever he may be, to take notice that the said Council is ready and willing to treat with the owner, or any person duly authorised by him, for the recompense or compensation to be made or paid by the said Council for the said land, buildings, materials, springs, streams, or other supplies of water, and requiring such owner to apply within six months from the date of such notice, which shall be the day of its first publication, to the said Council, stating the recompense or compensation claimed, and if the owner shall so apply within the said period, then the like proceedings in regard to the agreeing for or otherwise determin-

ing the recompense or compensation to be respectively given and received shall in all respects be had and taken, which are prescribed in the last preceding section, precisely as if the said owner or owners had from the first been in actual occupation. And in case such owner shall not apply to the said Council within the said period, then it shall be lawful for the said Council to appoint some competent person, to be approved of by the Civil Commissioner of the division, to appraise the value of the land, buildings, materials, springs, streams or other supplies of water required, and such person shall make oath before any justice of the peace that he hath to the best of his judgment fairly appraised such value; and thereupon it shall and may be lawful for the said Council to pay whatever sum such person shall have valued the land, buildings, materials, springs, streams, or other supplies of water in question at, into the Guardians' Fund, to the credit of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th July, 1833, in regard to moneys placed in the said fund belonging to the persons absent from the Colony; and the said Council, upon so paying the said sum, shall be authorised and entitled to take or use the land, buildings, materials, springs, streams or other supplies of water in question, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all acts by law required for vesting in the said Council sufficient title to the use of or property in the land, buildings, materials, springs, streams, or other supplies of water aforesaid had been duly done and performed.

115. In every case in which any immovable property in the Municipality outside the Hottentot and Fingo Locations not being property held on quitrent tenure has already been or may hereafter be abandoned, deserted and left derelict by the grantee, registered owner or lessee thereof as the case may be of such property, and his lawful representatives in regard to the same cannot be found, the Council shall be entitled to restrain any unauthorised person from enclosing, fencing or occupying the same, and may when any rates accrued thereon have been unpaid for five years take possession thereof, and act in terms and have the rights set out in clauses 98 to 103 hereof inclusive.

Derelict property to vest in Council.

116. It shall be lawful for the Council, by any municipal regulation as aforesaid, to impose such toll or dues as may be reasonable on all persons making use of any road, bridge, or market place within the Municipality, which the Council is hereby empowered to make or maintain, and in case of the non-payment of such tolls or dues, to recover the same by legal process, or in such manner as may by the municipal regulations be in that behalf provided.

Council may levy tolls at roads, bridges or markets.

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Storing of
explosives re-
gulated.

Council may
close over-
crowded bu-
rial grounds.

Council may
maintain fire
brigade.

Powers of
Superinten-
dent of fire
brigade.

117. The storing of gunpowder, or other explosive or inflammable material shall not be permitted, except such as is stored by persons in such places as may be approved of and licensed by the Town Council for that purpose.

118. So soon as any burial ground or portion thereof shall become so crowded as to be, in the opinion of two-thirds of the Council, dangerous to the public health, the Council shall be empowered to give six months' notice that burials therein shall cease; and after the expiration of the said term of six months, any person causing any interment to be made therein shall be liable to pay a fine not exceeding fifty pounds, to be recovered in any competent court.

119. The Council may purchase or provide such engines for extinguishing fire, and such water buckets, pipes and other appurtenances for such engines, and such fire escapes and other implements for safety or use in case of fire, and may purchase, keep or hire such horses for drawing such engines as they think fit; and may purchase, build, provide or hire places for keeping such engines with their appurtenances, and for the horses, and for the accommodation of the persons charged with the management thereof, and may employ a force of firemen, to be called "The Grahamstown Municipal Fire Brigade," which shall be under the command of an officer appointed by the Council, and styled the "Superintendent" of the Fire Brigade, and the Council may make rules for the regulation of the said force, and may therein prescribe who shall be the officer in charge of the brigade at any fire when the superintendent is absent or incapacitated from acting, and may also give such firemen and other persons such salaries and rewards for their exertions in case of a fire as the Council think fit. In the absence or incapacity of the superintendent, unless it be otherwise prescribed in the regulations, the senior in rank in the brigade present at any fire shall assume the duties of the superintendent, and be the officer in charge for the time being.

120. On the occasion of any fire within the Municipality, the superintendent of the said brigade, or the officer in charge, shall, from the time he arrives at the fire, have control over the property on fire, and over such other property as may be considered by him at risk, and shall so continue until he reports to the Council that the fire has been extinguished, which report may be made verbally to the Mayor or Town Clerk. He may in his discretion avail himself of the assistance, and if he does accept such assistance, shall take command, of any persons who may voluntarily place their services at his disposal, and generally he may take any measures that may appear expedient for the protection or saving of life or property, with power by himself, his men, or any person under his command, to enter upon, break into, or through, or

take possession of, pull down, or destroy any buildings or other property for the purpose of protecting, saving life or property, or putting an end to or preventing the spread of a fire, doing as little damage as possible; and for these purposes he shall have free right of access to, and liberty to draw water from all tanks, cisterns, pipes or other supplies of water, whether on Municipal or other property. The persons volunteering as aforesaid, and any persons whose services may be temporarily engaged, for the time they are assisting shall be deemed to be members of the said Brigade, and the superintendent or the officer in charge shall have power to dispense with the services of any of them at any time. No. 18—1902.

121. The police shall aid the brigade in the execution of their duties; they may close any street, passage or thoroughfare, in or near which a fire is burning; and they may, on their own authority, and shall at the request of the superintendent or other officer of the brigade, remove any persons who may interfere, or are considered as likely to interfere by their presence or otherwise with the operations of the brigade. Police to assist fire brigade.

122. The brigade, the police, and all persons acting under the orders of the superintendent or the officer in charge are hereby indemnified and exempted from all claims or demands whatever by reason of anything necessarily done in the execution of their duty, and the Mayor, Deputy-Mayor, and Council are hereby indemnified and exempted from all claims or demands whatsoever by reason of any damage done upon sufficient necessity by them, the brigade, the police, and other persons aforesaid. In demnification of fire brigade, police and Council for acts properly done in case of fire.

123. The Council shall be authorised to charge on a private dwelling-house and its outbuildings which shall be or shall have been on fire, the sum of not exceeding ten pounds sterling for the services of the brigade and the use of the fire engines and appliances, and also the sum of not exceeding one pound sterling per hour for every jet of water supplied from the municipal waterworks during the time that such jet shall be playing upon the said dwelling-house, its outbuildings, and contents, and upon the adjoining buildings and erections, to prevent the extension of the fire. And the Council are hereby authorised to charge on every building (other than a private dwelling-house and its outbuildings) which shall be or shall have been on fire, the sum of not exceeding fifteen pounds sterling for the services of the brigade and the use of the fire engines and appliances, and also the sum of not exceeding two pounds sterling per hour for every jet of water supplied from the municipal waterworks during the time that such jet shall be playing upon any such building and its contents and upon any adjoining buildings and erections to prevent the extension of the fire, the Council undertaking no Council authorised to charge buildings which have been on fire or in danger with payment of certain expenses.

No. 18—1902. risk or obligation whatever to supply, or in supplying or failing to supply such water.

Such payments to be assessed amongst owners and occupiers.

124. The amounts charged on any building, in terms of the last preceding section, shall be payable by the owners and occupiers of such building in equitable proportions, and the distribution thereof shall be made by the superintendent or officer in charge, whose certificate shall be final and binding upon all parties interested, without appeal or review on any ground whatever. The amount charged on any building shall, however, be recoverable by the Council from the owner or occupier thereof, or both, who may be sued jointly or severally, each for the full amount, in any court of competent jurisdiction, and any owner or occupier paying the full amount charged as aforesaid shall be entitled to be reimbursed by the other owners and occupiers to the extent to which, according to the said certificate, they are severally liable.

Expenses of pulling down buildings not to be charged by Council, but Council not to be liable to rebuild or pay compensation therefor.

125. No expenses incurred by the Council, superintendent or officer in charge, in causing to be pulled down or destroyed any buildings or erections, or any parts thereof, for the purpose of putting an end to or preventing the spread of a fire, or for saving life, or in attempting to save buildings adjacent to or in the vicinity of a fire, shall be chargeable against the owners or occupiers of immovable property, but the Council shall not be liable to rebuild or repair or make compensation for any damage caused to any person or any building or other erections so dealt with

Council may recover expenses of salving and may sell salvaged property to recover same.

126. The Council shall be entitled to sue for and recover all expenses incurred by them, the superintendent and officer in charge, in salving and removing and in attempting, or with a view to salve or remove movable property from any buildings or erections on fire, and from any building or erections adjacent to or in the vicinity of any building or erection on fire, and all expenses in keeping safe custody thereof, from the owners of the movable property saved or removed in equitable proportions, and the Council shall have an absolute lien upon the movable property so salvaged or removed until the expenses aforesaid shall have been received by the Council. The apportionment of the expenses aforesaid shall be made by the superintendent or the officer in charge, whose certificate shall be binding on all parties without appeal or review on any ground whatever; and if the aforesaid lien be not paid and discharged within twenty-one days, the Council shall have the right to sell and dispose of the said movables, or any of them, by public auction, after three days' notice in one or more newspapers published in Grahamstown, and after applying the net proceeds in reduction of such expenses may sue for and recover any deficiency which may be found to exist.

127. The superintendent or the officer in charge shall make a report in writing to the Council on every fire he attends, and shall also send a similar report to the Resident Magistrate of Grahamstown forthwith after the fire.

No. 18—1902.

Superintendent to report to Council and Resident Magistrate after fire.

Certain expenses, charges and damages to be admitted loss under Fire Policy.

128. All expenses incurred by the superintendent, the brigade, and the Council in the saving and removing, or attempting to save or remove, movable property, and in operations to save property and extinguish fire, charged against, and recoverable by the Council from owners or occupiers of movable or immovable property under this Act, and all damage occasioned by the brigade in the execution of their duties, and all sums chargeable upon any buildings, and payable in terms of section 124, shall be deemed to be loss or damage by fire within the meaning of any policy of insurance of such property or buildings against fire. Provided that nothing herein contained shall be construed so as to compel any insurance company to pay any sum in excess of the full amount insured in terms of such policy.

129. It shall be lawful for the Council to borrow, from time to time, at interest not exceeding six per cent. per annum, any sum or sums of money, not exceeding in the whole the sum of sixty thousand pounds sterling, for the purpose of improving the water supply of the Municipality, and, in order to provide for the payment of the interest and principal of the money so to be borrowed, to impose rates upon the immovable property situate within the Municipality and liable to be rated for municipal purposes; and every rate so imposed by the said Council shall be of the same force and effect, and shall be levied in the same manner, as if it had been a rate imposed under the provisions of the 90th section of this Act.

Council may borrow £60,000 for improving water supply and may levy rate for purpose.

130. The aforesaid sum of sixty thousand pounds sterling, or such lesser sum as shall have been borrowed for the purpose aforesaid by the said Council, is hereby charged upon and made payable out of the rates and revenues in the last preceding section mentioned: provided that it shall be lawful for the said Council to apply to the payment of the interest or principal or interest and principal of the said debt any fund or moneys coming to them from any other source whatever, and not specially appropriated or required for any other object; provided also that nothing in the section contained shall be construed to impair or affect the provisions of any of the next succeeding sections of this Act.

Council may devote other funds to payment of capital and interest of water loan.

131. The Council shall grant to the party or parties, or company, society or co-partnership, from whom they shall borrow such moneys as aforesaid, a written acknowledgment or acknowledgments of or for the moneys borrowed by the said Council for the purpose aforesaid, not exceeding in the whole the aforesaid

Acknowledgments for loan to be granted by Council.

No. 18—1902. sum of sixty thousand pounds sterling, which acknowledgment or acknowledgments shall in substance be in the form annexed to this Act, and shall be signed on behalf of the said Council by the Mayor, and countersigned by the Town Clerk, and the common seal of the said Council shall be affixed thereto in the presence of any two Councillors for the time being.

Water Loan Tender Act 12 of 1896, and this Act to be the Public Bodies Debts Act.

Council may purchase lease or acquire water rights and servitudes for water.

Sanction of ratepayers' meeting required to authorise loan.

Temporary borrowing powers of Council.

How public meetings to be convened: notices to be given.

132. All money borrowed in pursuance of the provisions of Act No. 12 of 1896 and of this Act shall be deemed to constitute a just debt and liability of the said Council within the meaning of the "Public Bodies' Debts Act, 1867."

133. It shall be competent for the said Council, and it is hereby authorised, to enter into and conclude with any person or persons, company or companies, or any individuals whom it may concern, any contract or agreement, whether of purchase, lease or otherwise soever, for the acquirement of any property, lands, water rights, privileges or servitudes which may be deemed necessary for the acquisition of water and the conveyance thereof to and through the Municipality.

134. Provided always, and it is hereby enacted, that no sum or sums of money shall at any time be borrowed or taken up, nor any contract or agreement entered into and concluded under the foregoing provisions of this Act, before or until the scheme or schemes to be acted upon and carried out shall have been approved of by a majority of ratepayers of Grahamstown, present at a meeting or meetings specially convened for the purpose, at which meeting or meetings the total amount required for the purpose of carrying out such scheme or schemes shall be stated and decided upon; and provided, further, that the sum or sums to be borrowed and taken up shall not at any time exceed the amount or amounts stated and decided at such meeting or meetings: Provided that any ratepayer present at such meeting and dissatisfied with this decision of the meeting may there and then demand that a ballot of the ratepayers shall be taken, and such ballot shall be taken between the hours of 8 a.m. and 5 p.m. on such day, and in such manner and place as the Mayor shall direct.

135. For the temporary accommodation of the Council it shall be lawful for the said Council to obtain advances from time to time from any bank, person, institution or Company by overdraft of the current account, or otherwise, upon the credit of the Municipality, but no such overdraft or accommodation shall at any time under any circumstances exceed one half of the prior year's income of the Municipality.

136. Every notice calling a public meeting of the citizens, and every notice or other document or thing required by this Act to be published shall, except when otherwise provided, be so published by causing a copy thereof to be inserted in one or

more of the local newspapers, and a copy of the same shall also be affixed in some conspicuous place upon or near the Municipal Office, provided always that the Mayor shall call a meeting upon receiving a requisition signed by not less than thirty duly qualified ratepayers, and provided further that the expenses incurred by the Council through the Mayor or any of its officers in calling such meeting shall be defrayed by the persons signing the requisition, unless it shall appear to the Council that such meeting was purely connected with Municipal purposes, or its object of such a character as in the opinion of the Council would warrant it in charging the same expenses to the Municipality.

137. The Treasurer of the said Municipality shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters in respect whereof such sums shall have been received and paid. All such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance-sheet thereof, shall yearly, at such times as the Council shall appoint, be handed by him to the auditors, and to such members of the Council as the Mayor shall name, for the purpose of being examined and audited; and such abstract or balance-sheet, when found correct, shall be signed by the auditors, and be forthwith published by the Treasurer in one or more of the local newspapers.

Treasurer to keep proper books; his accounts to be audited, and balance sheet to be published.

138. Any person vacating office as Mayor, or as a Councillor or Auditor, may be re-elected to such office if for the time being he is eligible under the provisions of this Act of being or continuing a Mayor, Councillor or Auditor.

Mayor, Councillor, or Auditor, may be re-elected.

139. Every order, notice or other document requiring authentication by the Council may be sufficiently authenticated without the common seal of the Municipality, if signed by the Mayor, or two Councillors, or by the Town Clerk.

Documents may be authenticated by signature of Mayor, two Councillors or Town Clerk.

140. Every entry purporting to record the proceedings of any meeting of the Council or of any of its Committees, and to be signed by the Chairman of the meeting next succeeding that at which such proceedings took place, or a copy of or an extract from such entry, attested by the signatures of the Mayor or Town Clerk, shall be received as evidence in all courts without proof of the meeting to which the same shall refer having been duly convened or held, or of the persons attending such meeting having been or being members of the said Council or Committee respectively, or of the signature of the Chairman or of the fact of his having been Chairman, all which last-mentioned matters shall be presumed until the contrary is proved.

Record of proceedings of Council or extract to be admissible in evidence without further proof.

141. If from any cause the revision of any list or roll awaiting revision under this Act has not been made or completed within the proper time appointed or allowed for that purpose,

If List or Roll not completed within time provided

No. 10—1902. the Governor may appoint a day for holding a court for revising such list or roll and such day shall, as to all such acts and proceedings as then remain to be done or had with respect to such list or roll, be deemed to be for all intents and purposes the day appointed for such revision and all further proceedings shall be had and taken accordingly.

By Act, Governor may sanction subsequent proceedings. No omission to notify or advertise shall invalidate proceedings. 142. No omission to make any notification by advertisement or otherwise with regard to any list or roll or to exhibit or keep any list or roll for inspection shall be deemed to prevent, invalidate or render imperfect any of the proceedings by this Act prescribed with regard to the compilation or completion of any list or roll or to invalidate any such list or roll.

References to Mayor shall include Deputy Mayor. 143. Wherever in this Act any reference is made to the Mayor such reference shall be applicable to the Deputy-Mayor on every occasion when there shall be no Mayor or when, by reason of absence or otherwise, the Mayor shall be unable to act on such occasion in the manner prescribed or authorised by his Act.

Failing Mayor, Chairman, or Town Clerk, Council or Governor may appoint Councillor or officer to act. 144. If at any time there shall be no Mayor or Chairman, or Town Clerk, or any Mayor, Chairman or Town Clerk shall refuse to act, or be incapable of acting as by this Act provided, all acts and things which may or are required to be done by such Mayor, Chairman or Town Clerk, as the case may be, may lawfully be done and performed by such one of the Councillors or Municipal officers as the Council may appoint for that purpose, and failing such appointment by the Council, by such person as the Governor may so appoint.

Proceedings of Council or Committee shall not be invalidated by reason of vacancy in Council. 145. No proceedings of the Council, or of any of its Committees, shall be invalidated or be illegal in consequence only of there being any vacancy in the number of Councillors at the time of such proceedings.

Invalidity of any election shall not affect suit by or against Council. 146. The invalidity of any election under this Act shall not affect any action, suit or other proceeding by or against the Council, but every such action, suit or other proceeding shall be tried and determined as if no such objection existed.

Power of Council to enter upon land and buildings in pursuance of Act regulations. 147. The Council shall, for the purposes of this Act and of the municipal regulations made by virtue thereof have power by any of its members and officers thereto authorised by itself to enter at all reasonable hours in the daytime into and upon any building or land within the Municipality for the purpose of executing any work or making any inspection which the said Council shall, in pursuance of the provisions of the said Act or municipal regulations, have duly authorised to be executed or made, and shall not be liable to any legal proceedings on account thereof.

148. Whenever any penalty shall have been imposed under the provisions of this Act, and the person convicted shall not forthwith pay the same, the court may direct that such person be imprisoned with or without hard labour for a period not exceeding three calendar months, and such person shall be detained and kept to hard labour accordingly, unless he or she shall sooner pay the penalty.

No. 19—1902.
Imprisonment provided in default of payment of penalty.

149. In addition to the statutes repealed by the first section of this Act, all other ordinances, statutes or laws, in so far as they may be repugnant to or inconsistent with any of the provisions of the said Act shall be and are hereby repealed.

Laws repugnant to Act repealed.

150. This Act may for all purposes be cited as "The Grahamstown Municipal Act, 1902."

Short title.

SCHEDULE.

We, the undersigned, do hereby acknowledge that the Mayor, Councillors and Citizens of Grahamstown are indebted to _____ in the sum of £ _____ for so much money borrowed by the Municipal Council of Grahamstown for the purposes set forth in "The Grahamstown Municipal Act, 1902," and certify that the said sum is and stands secured by the said Act in manner and form as by the said Act provided. And we further covenant for and on behalf of the said Mayor, Councillors and Citizens of Grahamstown that the interest and principal of the said debt shall be payable and paid in manner following, that is to say: (here insert the rate of interest, times of payment, and other conditions agreed upon.)

Schedule.

Given under our hands at Grahamstown this _____ day of 190 .

A.B., Mayor.
C.D., Town Clerk.

Witnesses:

E.F. }
G.H. } Councillors.

No. 19—1902.]

[Nov. 11, 1902.]

ACT

To Provide for the Construction of certain Irrigation Works.

[Assented to 7th November, 1902.]

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

Preamble.

1. So much of any law as is repugnant to or inconsistent with the provisions of this Act is hereby repealed.

Repeal of repugnant Laws.

No. 19—192.

Irrigation
Works autho-
rised.

2. It shall be lawful for the Governor as soon after the taking effect of this Act as may seem to him expedient to acquire the land and cause to be constructed the works set forth and described in the Schedule to this Act as the "Thebus Irrigation Scheme" and for the purpose of the construction of the said Works, to raise by way of loan from time to time in such manner and in such amounts as may seem to him most expedient, a sum not exceeding £142,462, as specified in the said Schedule, and the costs necessarily incurred in raising such loan, including discount, if any, commission and other charges, shall be a first charge against the amount of such loan: Provided, however, that the works mentioned in the schedule shall not be commenced until the plans and specifications or modifications thereof have been approved by some Hydraulic Engineer of repute, to be selected by the Government.

Governor
may take
Land, etc., for
purposes of
Works.

3. If, at any time, the Governor shall require or deem it expedient to take or use for the purposes of the construction of the works specified in the said Schedule, or for the purposes of carrying out a system of irrigation from, by means of, or in connection with the works so to be constructed, any land or the bed of any river, stream, or river tributary, and there may not be any right or power by law to take or use such land or property without the consent of the proprietor thereof, it shall be lawful for the Governor to take or use such land or property for the purposes aforesaid, and the proprietor thereof shall therefore be entitled to compensation to be settled in case of difference by arbitration.

Arbitration
Clause.

4. For the purposes of any arbitration under this Act, the provisions of "The Lands and Arbitration Clauses Act, 1882," shall apply: Provided that in every such arbitration when the parties thereto have not concurred in the appointment of a single arbitrator, and each party has appointed an arbitrator, it shall be lawful for the Governor to appoint as third arbitrator a Judge of the Supreme Court, who shall, in respect of such arbitration and for the purposes of the said Act, be deemed to be a third arbitrator duly appointed under the provisions thereof.

Regulations
to be framed
by Governor.

5. It shall be lawful for the Governor to frame and cause to be applied to the area embraced within the scheme in the Schedule referred to, such rules and regulations for the disposal, control and use of all land and water accruing to or existing within such area as he may deem necessary and expedient for the proper development and efficient maintenance of the said scheme: Provided that such rules and regulations be submitted to Parliament before effect be given thereto.

Short Title.

6. This Act may be cited for all purposes as the "Thebus Irrigation Act, 1902."

SCHEDULE.

No. 20—1902.

Description of Scheme.	Area	Cost
<p><i>Thebus Irrigation Scheme :—</i> The acquisition of certain Lands, Water Courses, and Water Rights on the Thebus River, in the Divisions of Steynsburg and Cradock, and the Construction of a Storage Reservoir, Head Works, Canals, Furrows, and other Works and Appurtenances necessary for the proper development of an Irrigation Scheme in general accordance with the Plans, Descriptions, and Estimates presented to Parliament and published in Blue Book G. 50—'99</p>	Morgen. 24,060	£ 142,462

No. 20—1902.]

[Nov. 18, 1902.]

ACT

To Amend the Forest Act, 1888.

[Assented to 14th November, 1902.]

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

1. It shall be lawful for the Governor to make Regulations and to prescribe penalties not to exceed those herein prescribed, for any breach thereof, with regard to Crown Forests, for any of the following purposes: Governor empowered to make Regulations for control of Crown Forests.

- (a) Felling, cutting, taking, working and removing trees, whether reserved or unreserved, or any part thereof, timber, firewood, or other forest produce.
- (b) Grazing or depasturing of cattle.
- (c) Clearing, cultivating, or breaking up of land for cultivation or other purposes.
- (d) Squatting, residing, building huts or kraals, or encamping.
- (e) Hunting, shooting, fishing, driving, or pursuing game.

Any person convicted of contravening, or of aiding or abetting any person in the contravention of, any of the aforesaid Regulations, shall be liable to the penalty prescribed, and in case no penalty is prescribed, shall be liable to a fine not exceeding

No. 20 of 1902.

£10 sterling, or to imprisonment with or without hard labour for any period not exceeding three months, or to both such fine and such imprisonment, and shall also be liable to pay such damages as shall be assessed by the Conservator or such other Forest Officer as may, by such Regulations be empowered and directed to assess damage for the purposes of this Section.

Certain Sections of Act No. 28 of 1888 amended.

2. The Forest Act, 1888, is hereby amended, as follows :

- (a) In Section sixteen, Sub-section (c), the words "whether within or within twenty yards of such Forest" shall be and are hereby expunged.
- (b) In Section nineteen, Sub-section (d), the words "whether within or within twenty yards of such boundary" shall be and are hereby expunged.
- (c) The provisions in Section twenty contained shall be and are hereby extended and applied to undemarcated forests.
- (d) In Section twenty-one the words "one-fourth of a" shall be and are hereby expunged, and the word "one" is hereby inserted in lieu thereof.
- (e) Section twenty-four shall be read as if the words "or within one mile of" were inserted after the words "kindling any fire within".
- (f) Section thirty-eight is hereby repealed, and the following Section is hereby substituted therefor :

"38. After due notice it shall be necessary for all owners, workers, or occupiers of any forest to register in the Conservator's Office, and to retain the use of a mark, whereby timber cut in or proceeding from such forest may be distinguished from any other timber. All unmarked timber or forest produce in course of conveyance without a permit signed by a Forest Official, or by a registered owner of private forest, shall be liable to seizure, and to detention pending enquiry, and should it afterwards appear that such timber or forest produce had not been removed fraudulently, or in contravention of the provisions of this Act, no damages shall be recoverable on account of such seizure or detention.

"All such unmarked timber or forest produce without a permit as aforesaid, shall, in the absence of proof to be furnished by the person in charge of such timber or forest produce, that the said timber or forest produce is private property, be deemed to be Crown property."

(g) Section thirty-nine is hereby repealed, and the following Section is hereby substituted therefor : No. 20—1902.

“39. Any person found within any forest or on any road in its vicinity, and having in his possession unstamped timber, wattles, firewood or bark, without a permit as aforesaid, and who, on being required by any forest official or other person duly authorised, refuses, or is unable to give a satisfactory account of the manner in which he became possessed of such timber, wattles, firewood, or bark, may be taken by the party interrogating him before any Justice of the Peace ; and if such person does not satisfy such Justice of the Peace that he came lawfully by the said timber, wattles, firewood or bark, he may be taken before the Resident Magistrate, and shall, on conviction, forfeit any sum not exceeding five pounds.”

3. After the date of the passing of this Act it shall not be lawful, without the consent of both Houses of Parliament first had and obtained, to alienate, or grant, or dispose of any servitude upon any Crown Forest which has been formally declared to be a demarcated forest, or any part thereof ; and all such alienations, grants, or disposals that may hereafter be made shall be null and void ; providing that nothing in this Act shall be taken as affecting existing rights, or as prohibiting the sale of forest produce or the grant of grazing rights in such forests, under and in accordance with Regulations made under the Forest Act of 1888, or under the said Act as amended by this Act ; and provided that it shall be lawful for the Minister to effect by exchange of lands or otherwise small rectifications of the boundaries of any demarcated forest ; and provided further, nothing in this Act contained shall be held to affect the rights of Government to issue permits or licences, under the provisions of the Precious Stones Act of 1899, the Precious Minerals Act of 1898, and the Mineral Lands Leasing Acts of 1877 and 1883, for prospecting for precious stones, precious minerals, or other minerals, or to dispose of land containing such stones and minerals.

4. Whenever any Municipality or any Village Management Board upon resolution passed by a majority of three-fourths of the ratepayers, signifies to the Minister that such Municipality or Village Management Board is prepared to take over, at its own risk and expense, the control of such areas of undemarcated forests as are situate within the boundaries of the jurisdiction of

Alienations without the consent of Parliament prohibited.

Under certain conditions Municipalities, etc., may be vested with control

No. 21—1902.

such Municipality, or Village Management Board, if the said Minister, after due investigation, is satisfied, and reports that such Municipality or Village Management Board may be properly entrusted with such control, it shall be lawful for the Governor, by Proclamation, to vest the control of such areas of Forest land in the said Municipality or Village Management Board, as the case may be, and in such manner and under such Regulations, restrictions and conditions, as to the Governor may appear to be necessary or expedient, and as may from time to time be repealed, altered, amended, or added to by him.

Extension
of Section 3
Act 28 of 1888
to sand drift
Lands.

5. The provisions of the third Section of the aforesaid Act shall be and are hereby extended, so as to apply to any land on which any sand drift, or the origin of any sand drift which is shown to be the cause of public danger, is situated.

Short Title
and Interpretation.

6. This Act may be cited for all purposes as "The Forest Act 1888 Amendment Act, 1902," and shall be read as one with the Forest Act of 1888.

No. 21—1902.]

[November 18, 1902.]

ACT

To apply a Sum not exceeding Seven Hundred and Eighty-two Pounds Seven Shillings and Ninepence sterling, for the purpose of meeting and covering certain Unauthorized Expenditure.

[Assented to 14th November, 1902.]

Preamble.

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

Revenue
charged with
£782 7s. 9d.
unauthorised
expenditure
year ended
June 1900.

1. The public revenue of this Colony is hereby charged with the sum not exceeding Seven hundred and eighty-two pounds seven shilling and ninepence sterling, to meet unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended the 30th June, 1900, described on page 243 of the "Report of the Controller and Auditor-General, with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope for the financial year 1899-1900" (G.1—1901).

Short Title.

2. This Act may be cited as the "Unauthorized Expenditure Act, 1902."

No. 22—1902.]

[November 18, 1902. No. 23—1902.]

ACT

To Provide for the Establishment of Scholarships in the University of the Cape of Good Hope in Commemoration of the Reign of Her Late Majesty Queen Victoria.

[Assented to 14th November, 1902.]

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

1. There shall be paid out of the public revenue of the Colony to the Council of the University of the Cape of Good Hope on the 1st December, 1902, the sum of £300 (Three hundred pounds), on the 1st of December, 1903, the sum of £600 (Six hundred pounds), and thereafter on the 1st of December in each year the sum of £900 (Nine hundred pounds) for the purpose of establishing annually two Scholarships in the said University, to be known as the Queen Victoria Scholarships. Provision for Establishment of Queen Victoria Scholarships.

2. It shall be lawful for the said Council to frame regulations for the award and tenure of such Scholarships, but no such regulations shall be of any force or effect until they shall have been approved of by the Governor and published in the *Gazette*. Regulations for award and tenure of Scholarships.

3. This Act may be cited for all purposes as the “Queen Victoria Scholarships Act, 1902.” Short Title.

No. 23—1902.]

November 18, 1902.]

ACT

To Further amend and extend the provisions of the Electric Telegraph Act, 1861.

[Assented to 14th November, 1902.]

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

1. The term “electric telegraph” wherever and whenever used in the “Electric Telegraph Act, 1861,” or any law amending or extending the same, or relating to “electric telegraphs,” shall be interpreted as including any system or means of conveying Definition of Electric Telegraph in Act No. 20 of 1861, extended.

No. 23—1902.

signs, signals, or communications by electricity, magnetism, electro-magnetism or other like agency, and whether with or without the aid of wires; and including the system commonly known as wireless telegraphy or aetheric signalling, and any improvements or developments of such system; and the term "line of electric telegraph" shall be interpreted as including any apparatus, instrument, mast, standard, wire, substance, matter or thing whatever, which is or may be used for the purpose of sending, transmitting, conveying or receiving such signs, signals or communications.

Definition of "person" extended.

2. The meaning of the term "person" shall be further extended, so as to include any body or persons corporate or unincorporate.

Amendment of section one of the said Act.

3. The first section of the said Act shall be read as if the words "or the territorial waters thereof" were inserted immediately after the word "Colony."

License of Governor necessary for construction of lines.

4. It shall not be lawful within the Colony of the Cape of Good Hope or the territorial waters thereof for any person, not expressly authorized therefor by any Act of Parliament, to erect or make use of any mast, standard or apparatus of any kind for the purpose of aetheric signalling without wires by means of electricity, magnetism, electro-magnetism or other like agency, or to erect or construct any line of electric telegraph except under a licence to be granted by the Governor.

Governor may confer terms and conditions.

5. The terms and conditions of such Licence shall be subject to such regulations as may from time to time be made by the Governor.

Duration of period under license.

6. No licence shall be for a longer period than seven years, but a licence may be renewed from time to time with the approval of the Minister, and subject to such further conditions as may be considered necessary in the public interest.

Application to be made to Postmaster-General.

7. All applications for licences under this Act shall be addressed to the Postmaster-General, who shall report upon every such application to the Minister.

Publication of Regulations.

8. Notwithstanding the provisions of Section 4 of the Electric Telegraph Act of 1861 all regulations made under the authority of that Act shall be published in the *Gazette* under the provisions of Section 7 of Act Number 5 of 1883.

Short Title.

9. This Act may be cited as "The Electric Telegraphs Amendment Act 1902," and shall be read as one with the Electric Telegraph Act, 1861.

No. 24—1902.]

[November 18, 1902.]

ACT

To Declare certain Patents to be exempted from the operation of certain provisions of Act No. 17 of 1860 providing for the granting of Patents for Inventions.

[Assented to 14th November, 1902.]

WHEREAS, by reason of the state of war and rebellion lately existing in the Colony, it became, in many instances, impossible for those by whom certain sums of money were required to be paid in respect of letters patent for inventions granted under Act No. 17 of 1860, to pay such sums, Preamble.

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

1. Notwithstanding anything to the contrary in Section ten of Act No. 17 of 1860 contained, no patent shall be deemed to have become void by reason of the non-payment of the sums of money required by law to be paid within the time limited by or under the said Act, where such non-payment has resulted from such circumstances, which have arisen from the late existence of a state of war, invasion, rebellion, or from the imposition of Martial Law within the colony, as in the opinion of the Colonial Secretary rendered it impossible or highly inconvenient for such payments to be made: provided that all such sums of money shall be paid within the period of three months from the date of the coming into operation of this Act.

Relief granted against avoidance of Patent (through non-payment of fees) on payment thereof within time limited hereby.

2. On payment of such sums of money within the time limited by this Act the Colonial Secretary shall issue under his hand a certificate of such payment and shall endorse a receipt for the sum on the letters patent, and thereupon the payment shall be deemed, for all intents and purposes, to have been made within the time limited by or under the said Act of 1860; and the powers and privileges granted by any letters patent in respect of which such payment shall have been so made, shall be deemed to have continued without interruption.

Effect of payment within time limited by this Act.

3. On failure by the person required to pay the sum required to be paid in respect of his letters patent to pay such sums within the time limited by this Act, his patent shall become and be void, and the powers and privileges thereby granted shall cease, and shall be deemed to have become void, and to have ceased, on and from the day on which payment should have been made under the conditions of his patent.

Effect of non-payment within time limited by this Act.

4. This Act may for all intents and purposes be cited as

“The Patents Fees Relief Act, 1902.” Short Title

No. 25—1902.]

[Nov. 18, 1902.]

ACT

To Enable the Town Council of Port Elizabeth to supplement the supply of water to the Town and Municipality of Port Elizabeth, and for that purpose to take water from the Sand River, the Palmiet River, and Bulk River, all in the District of Uitenhage, to acquire Government and other lands required for the construction of the necessary waterworks, and to erect lines of telegraph and telephone along or near to the line of such waterworks.

[Assented to 14th November, 1902.]

Preamble

WHEREAS it is desirable that the supply of good water to the Town and Municipality of Port Elizabeth should be supplemented, and that provision should be made for the supply of water to any Government Native Location established at Cradock Place and Deal Party and to any other Native Location hereafter established with the concurrence of the Municipality within the Fiscal Division of Port Elizabeth either within or without Municipal limits, and the Town Council thereof have caused surveys to be made, and are advised that an additional supply of water can be obtained from the Sand River, Palmiet River and Bulk River, all in the District of Uitenhage: And it is expedient that the works necessary to accomplish that object should be constructed either by the said Council or by a joint stock company or co-partnership of individuals or an individual with whom the said Council may contract either for the whole or any portion of the said works, or the material therefor: and that to enable the said Council to obtain the necessary funds, the said Council shall be empowered to issue debentures from time to time for any sum or sums of money not exceeding in the aggregate the sum of three hundred and sixty thousand pounds sterling (£360,000). And that in order that the said Council may be enabled to pay the interest on the said debentures as well as to contribute annually a sum not less than one-quarter per cent. on the said capital, by way of sinking fund in order to enable the said Council to pay off the said debentures, the said Council shall be empowered and compelled in each and every year to impose, levy and collect such rate or assessment as will produce an amount sufficient to pay such interest and contribution as aforesaid, in addition to any such rates as the said Council are at present empowered to levy.

PORT ELIZABETH SUPPLEMENTARY WATER SUPPLY 4437
ACT.

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

No. 25—1902.
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1. In the interpretation of this Act the words "Municipality" and "Council" shall mean respectively the Municipality and Council of Port Elizabeth as constituted under Act No. 27 of 1897, and the word person shall include any company or corporate body.

Interpretation Clause.

2. The Council is hereby empowered to construct and make all such works as may, in the opinion of the said Council, be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking or conveying the water hereinafter referred to, whether by reservoirs, dams, watercourses or leadings, pipes, conduits, drains, ditches or other means, and to erect such buildings as may be deemed requisite for the purposes of the said works for securing an adequate supply of water for the inhabitants of the said Town and Municipality of Port Elizabeth and for the shipping visiting the port of Algoa Bay, and for such Government Native Locations as aforesaid as are or may hereafter be established within the Fiscal Division of Port Elizabeth, and, for such other purposes as the said Council may desire, and is further empowered to raise and widen such dams and reservoirs, and widen such watercourses, and otherwise from time to time to increase the works so as to increase their capacity for impounding, storing, diverting, appropriating, taking and conveying the said water.

Power to construct necessary works for securing water supply.

3. The Council is empowered to take, impound, divert, appropriate, and convey from the Sand River, Palmiet River, and Bulk River, all in the District of Uitenhage, such a supply of water from the said rivers, or any of them, as they may require for the purposes of this Act: Provided, however, that if such taking, impounding, diversion, appropriation, or conveyance shall deprive any person of any water or right of water which he may, at the time of the taking effect of this Act, possess or be entitled to, in reference to the said rivers or any of them, or in reference to the Elands River and Zwartkops River to which the aforesaid rivers are tributaries, or in any way interfere with or lessen such water, or right to water, the Council shall compensate such person for such impounding, diverting, appropriating and conveying such water, and in estimating the amount of compensation to be paid all the like proceedings shall be taken and observed as are in the tenth and eleventh sections enacted. Provided further that the Council shall have right to purchase any property or properties in respect whereof any such water or right of water is enjoyed instead, and in lieu of compensation where it shall be so mutually agreed between the Council and the person or persons so deprived of such water or right of water.

Power to take water from Sand, Palmiet and Bulk Rivers.

No. 25—1902.

Power to take lands and materials for carrying on Works.

4. The Council is hereby empowered in the manner hereinafter provided to enter upon, occupy, enclose, take and use any land the private property of any person whomsoever, which may be required for the purposes of this Act, and may take, carry away or use for the like purposes any stone, clay, gravel or other material, and may break up or excavate any land, whether land belonging to His Majesty the King, commonly called "Crown Lands," or otherwise for the purpose of laying down, repairing, inspecting, maintaining or removing any reservoir or reservoirs, pipe or pipes, or other works.

Power to take lands to protect source of water.

5. It shall be lawful for the said Council to acquire and take possession in the manner hereinafter provided of any land, belonging to private persons, that may be required for the purpose of protecting the sources of the said rivers, or any of them, or the sources of supply from whence, or the area over which, the water may flow into the reservoirs, dams, or places, where the works may take off the water of the said rivers.

Power to lay pipes in thoroughfares without compensation.

6. The said Council are hereby further empowered to lay down pipes or construct conduits under or along any public road or street or under or along any ground set apart in the diagram or Conditions of Sale of any sale of land as a street or thoroughfare, without making or being liable to make any compensation in respect thereof.

Power to construct telegraph and telegraph for said Waterworks.

7. The Council is hereby further authorized and empowered to construct, maintain and work for the purposes of the said Waterworks, and for no other purposes, a telegraph and telephone line or either of them along or near the said line of works, subject to the provisions of Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs," or any law amending or extending the same, and to any regulations from time to time made under the provisions of such Acts.

Power to enter into contracts for construction of Works.

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

Right of way over lands.

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

Mode of acquiring lands or materials.

10. If any person from whom any water or right of water, land or any stone, gravel or other material may be required to be taken or used for the purposes of this Act, and the said Council shall not agree upon the purchase money, or hire or other

recompense to be respectively given and accepted, then the said Council shall cause to be served upon such person or persons a written notice, setting forth what is required to be done offering as recompense or compensation whatever sum of money they shall deem sufficient, and requiring such person to state, in writing, to the said Council or to some other person by them appointed, within a certain limited time to be specified in the said notice, being not less than fourteen clear days after the service of such notice, whether he is willing to accept the sum therein mentioned or not and if such person shall refuse the sum offered or neglect to reply to the said notice, then the said Council or other person aforesaid shall, in writing, call upon such person to refer to arbitration the amount of recompense or compensation to be paid to him by the said Council, and for that purpose to transmit to the said Council, or other person as aforesaid within a reasonable time to be specified in the last mentioned notice, the name of some person whom he shall elect to be an arbitrator, and the said Council or other person as aforesaid, upon receiving the name of the person so selected, shall nominate a second arbitrator, and the said two arbitrators shall before proceeding in the arbitration, choose a third arbitrator, the said three arbitrators to sit together, and the said Council or other person as aforesaid shall cause a deed of submission to be prepared, which shall be signed by the said Council or other person aforesaid, and by the person claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, and the award in writing of the said arbitrators or a majority of them shall be binding and conclusive and may be pleaded in bar of any action of proceeding at law brought for or on account of the matter referred to their arbitration. And if any person as aforesaid claiming such recompense or compensation for land or materials shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the deed of submission, then the said Council or other person aforesaid may lodge in some joint stock bank in the Colony the sum of money offered by them as aforesaid in their first notice in this section mentioned, for or on account and at the risk of such person as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his absolute property, and the said Council or other person aforesaid, upon so lodging the said sum, shall be authorised to take and use the land or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been awarded by the arbitrators under the provisions of this section, and as if all acts by law required for vesting in the said Council or other persons aforesaid a sufficient title to the use of or property in the land or materials aforesaid had been duly done and performed.

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As to lands
or materials
of minors, &c.

11. In case the said Council or other person aforesaid shall require to take or use any land, or to dig out or carry away any materials or to acquire any water or right of water belonging to any minor or other person under guardianship or curatorship, then the guardian, or curator as the case be, shall be authorised in his capacity as such guardian or curator to treat and agree with the said Council or other person aforesaid for the purchase or hire of the land or materials or water or right of water required, and to execute any contract which may be needful for carrying out any agreement which may be made, and in case of non-agreement to refer the matter in difference to arbitration, as in the last preceding section mentioned. But all moneys which shall either by agreement or arbitration be payable by the said Council for or on account of any land or materials or water or right of water in this section mentioned, shall be paid by the said Council to the Master of the Supreme Court administering the Guardian's Fund, who is hereby authorised to receive the same and to place the same to the credit of the minor or other person entitled to such money and if in any case any person of full age shall by way of fidei commissary limitation or any limitation of a like nature be entitled to a life or other limited interest in any such land as aforesaid, in which any minor or other person under guardianship or curatorship shall be also interested in remainder or expectancy, then the whole value of the land or materials as fixed by contract or appraisement shall be paid as aforesaid to the Master of the Supreme Court, and the person who was entitled to the life or other limited interest may draw the interest on the sum so paid in: Provided, however, that if any such person shall desire to have his share of such sum apportioned and paid out, it shall be lawful for him to apply by motion to the Supreme Court for an apportionment of such sum, and such Court shall in a summary manner, upon hearing the parties interested, apportion the said sum and order the said share of the applicant to be paid out to him, leaving the share of the minor or other person under disability, in the hands of the said Master, to be administered in like manner as moneys in the Guardian's Fund, the property of minors and persons under disability, are therein administered: subject, however, at all times to such orders as the Supreme Court aforesaid may, upon motion of any person having an interest, see fit to make in regard to such money. And in case the said Council shall require to take or use any land or materials or to acquire water or right of water, of which the owner shall be absent from the Colony and not represented by any agent duly accredited, or shall not be discoverable, then it shall be lawful for the said Council, and it is hereby authorised to cause a notice to be inserted in the *Government Gazette* and one or more local papers for four successive weeks, describing as accurately as may be the

land or materials or water or right of water which are required to be used or taken, and calling by name on the owner of the said land or materials or water or rights of water if known, to take notice that the said Council is ready and willing to treat with the owner or owners or any person duly authorised by him or them, for the recompense or compensation to be made by the said Council for the said land and materials or water, or right of water, and requiring such owner or owners to apply within six months from the date of such notice, which shall be the day of its publication, to the said Council stating the recompense or compensation claimed, and if the owner or owners shall apply within the said period then the like proceedings in regard to the agreement for or otherwise determining the recompense or compensation to be respectively given and received shall in all respects be had and taken which are prescribed in the last preceding section, precisely as if the said owner or owners had from the first been in actual possession. And in case the owner or owners shall not apply to the said Council within the said period then it shall be lawful for the said Council to appoint some competent person to be approved of by the Civil Commissioner of the Division to appraise the value of the land or materials, and such person shall make oath before some Justice of the Peace that he hath to the best of his judgment fairly appraised such value, and thereupon it shall be lawful for the said Council to pay the sum at which such person shall have valued the land or materials or water or right of water in question into the Guardian's Fund to the credit of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th July, 1833, in regard to moneys placed in the same fund belonging to persons absent from the Colony. And the said Council upon so paying the said sum shall be authorised to take or use the land or materials or water or right of water in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all acts by law required for vesting in the said Council title to the use of or property in the land or materials as aforesaid had been duly done and performed.

12. It shall be lawful for the said Council, from time to time to borrow and take up at interest such sum or sums of money, not exceeding in the whole three hundred and sixty thousand pounds sterling (£360,000) as may be required for the purposes of this Act, and to charge the Municipal rates of the said Municipality as security for any such sum or sums borrowed by the said Council.

Borrowing powers conferred.

13. In order to pay the interest and to establish the sinking fund hereinafter mentioned, and to provide for all claims arising by reason of the exercise of the powers under this Act, the Council shall be empowered and compelled to impose, levy and collect

Annual rate to be levied.

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ACT.

No. 25—1902.

a sufficient annual rate or assessment over and above what the said Council is already empowered to impose and levy upon the annual rental, or if no rental be paid, then upon the estimated annual rental of the whole of the immovable property within the limits of the said Municipality : and every rate or assessment so imposed or made by the said Council shall be of the same force and effect and be levied in the same manner as if it had been a rate imposed under the provisions of the Act No. 27 of 1897, as far as the same are applicable : Provided that it shall be lawful for the said Council to apply to the payment of interest or principal, or both, of the moneys borrowed under the preceding section, any funds or moneys coming to the said Council from any source whatever, and not specifically appropriated or required for any other object.

Assessment
of rate.

14. The amounts entered for assessment on the tenants' assessment roll in force within the said Municipality for each and every year shall be the amounts on which the rates shall be levied for the purposes of this Act so far as the properties included in such tenants' assessment roll are concerned, but for any or all properties not included in such tenants' assessment roll, the annual value shall be made and determined annually by some competent person to be appointed by the Council : Provided that such valuation shall lie open for public inspection at the office of the Council for the space of one calendar month from the levying of the said annual rate, and the Council shall give notice in one or more of the newspapers published within the said Municipality that the same lies open for inspection, and the provisions of the said Act No. 27 of 1897 in regard to the hearing and deciding upon objections to valuations shall apply to objections lodged against such valuations as are mentioned in this section.

When rate
payable, &c.

15. Every such rate or assessment so made and assessed as aforesaid shall become due and payable and be collected and recovered in like manner as is provided in the said Act No. 27 of 1897 for the levying, payment and collection of such water rates as the said Council is authorised to levy and collect under the said Act.

Public Bodies
Debts Act,
1867, to apply.

16. All moneys borrowed and debts lawfully incurred by the said Council under the provisions and for the purposes of this Act shall be subject to the "Public Bodies Debts Act, 1867.

Council to
keep separate
accounts.

17. The Council shall keep or cause to be kept a separate and distinct account of all moneys borrowed under this Act and of the expenditure of such moneys and of all revenues arising from the water-works contemplated by this Act. And the said Council shall yearly and every year, so long as any part of the debt contracted under the authority of this Act shall be in existence, prepare and deposit in the office of the Municipality an account showing the particulars aforesaid and giving any other information which the said Council may deem necessary or expedient

to impart: Provided that every such account shall be made up to the 31st December in each and every year. No. 25—1902.

18. In order to provide a fund for the payment of moneys borrowed under the provisions of this Act and for the gradual extinction of any debt incurred under the authority of this Act, there shall be set apart an annual sum equal to the interest of the whole amount of such debentures or loans as shall be issued under authority of this Act, and a further sum of not less than one-quarter of a pound per centum on the total amount of the principal or capital sum which shall be raised under the authority of this Act, and such last mentioned sum, as well as all moneys that may be realized from the sale or letting of properties as provided in Section 3 of this Act, shall be annually invested as and by way of a sinking fund and applied towards the redemption of the said debt so long as any portion of the same or any interest thereon shall remain unpaid or unextinguished. Sinking Fund for re-payment of moneys borrowed.

19. All the powers to frame bye-laws and to make and publish a tariff of charges conferred upon the said Council by the said Act No. 27 of 1897 are in like manner hereby granted to the said Council in connection with the works authorised by this Act, and all existing bye-laws relating to the supply of water and all charges at present in force shall be of like force regarding the works to be constructed by virtue of this Act, and the supply of water by the proposed works as though the same were framed and published by authority of this Act. Tariff of charges and bye-laws.

20. Any person who shall wilfully injure, damage, disturb, obstruct or interrupt any building, or line of telegraph or telephone erection, conduit, reservoir, dam, watercourse, drain, ditch, pipe or pipes or other work or works authorised by this Act, or shall obstruct hinder or prevent the forming, constructing, completing or maintaining the same shall upon conviction forfeit for the use of the said Council a sum not exceeding one hundred pounds, or be imprisoned with or without hard labour for any period not exceeding six calendar months, or to both fine and imprisonment: Provided that nothing in this section contained shall be held or taken to exempt such person from any civil or criminal liability for any of the aforesaid Acts to which he would have been subject if this Act had not been passed. Penalty for injuring buildings, &c., or other works.

21. Any person who shall bathe or wash himself in any dam or reservoir belonging to the said Town Council or any stream flowing into such dam or reservoir, or shall wash, throw or cause to enter therein any dog or other animal, or who shall place or throw any rubbish, dirt, filth or other noisome thing in any such dam, reservoir or stream, or wash or cleanse therein any wool, leather or skin of any animal, or any clothes or any other thing shall for every offence on being convicted thereof, forfeit for the use of the said Council a sum not exceeding five pounds, and Penalty for polluting water.

4444 PORT ELIZABETH SUPPLEMENTARY WATER SUPPLY
ACT.

No. 25—1902. on failure of the payment of such fine, the party convicted shall be liable to be imprisoned with or without hard labour for any period not exceeding twenty-one days.

Council to supply water to Native Locations.

22. Notwithstanding anything in the preceding sections of this Act or in any other Act contained, the Council shall, if and when required so to do after the promulgation of this Act forthwith supply to any Government Native Location or Locations established or which shall hereafter be established at "Cradock Place" or "Deal Party" in the Fiscal Division of Port Elizabeth, such quantity of water as may be required at a cost not exceeding 2/6 per 1,000 gallons until the completion of the works contemplated under this Act and thereafter the Council shall supply as aforesaid to the said Locations or to any other Locations established with their concurrence such quantity of water as may be required at actual cost price per 1,000 gallons. The said water shall be supplied to each such Location through a Meter or by any other method of registration which shall be agreed upon and the Council shall place such Meter or other Machine or work for the registration of water agreed upon as aforesaid at such place in or near the Location as may be required: Provided that water so supplied shall be utilised for domestic purposes only. The Council shall, further, if so required, undertake and carry out at cost price all works necessary in connection with the conveyance of water from the Municipal Mains to such points as may be required within the area of any Location falling under the provisions of this Act: Provided that nothing in this or any other Act contained shall empower the Council to charge for the supply of water to any Government Location any rate or charge other than the charges in this section set forth or shall empower the Council to charge the occupiers of any land or buildings within any such Location any rate or charge for the supply of water to such occupiers.

Council liable to be rated by Divisional Council of Uitenhage

23. Notwithstanding anything to the contrary contained in the Divisional Council Act, 1889, the Council shall be liable to be rated by the Divisional Council of Uitenhage in respect of all immovable property, if any, acquired under the last proviso of section 3 of this Act: Provided always that in making any valuation thereof for rating purposes no additional value shall be attached to such immovable property in respect of the water taken and acquired under the provisions of this Act or by reason of the construction of reservoirs or dams and the existence thereon of waterpipes, telegraph poles, telephone poles or anything else connected with the water supply of Port Elizabeth.

Expenses of Act, Surveys, &c.

24. The necessary costs, charges and expenses of surveys and of obtaining this Act may be paid by the Council out of the moneys borrowed under section 12 of this Act.

Short Title.

25. This Act may be cited for all purposes as "The Port Elizabeth Supplementary Water Supply Act, 1902."

No. 26—1902.]

[Dec. 16, 1902.

ACT

To Amend the "Corrupt Practices at Elections Prevention Act, 1859," and the "Parliamentary Elections Act, 1883."

[Assented to 14th November, 1902.]

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

Preamble.

1. So much of any law as may be repugnant to or inconsistent with the provisions of this Act shall be and the same is hereby repealed.

Repeal of repugnant laws.

2. In the interpretation of this Act the following terms shall, unless inconsistent with the context, have the several meanings following, that is to say—

Interpretation clause.

"Election," "Corrupt Practices," "Candidate" shall have the meaning given to them in Act No. 9 of 1883.

"Court" shall mean the Supreme Court, the Court of the Eastern Districts, the High Court of Griqualand, or any Court presided over by not less than two Judges of the Supreme Court for the trial of such matters in respect of which jurisdiction has been conferred upon them; Provided that all trials under the provisions of this Act shall take place without a jury.

"Field-cornet" shall include any portion of an Electoral Division in which a registering officer is lawfully appointed under any law.

The expression "voter" means any person whose name is for the time being on the Register of Parliamentary Voters for an Electoral Division.

The expression "person" includes an association or body of persons, corporate or unincorporate, and when any act is done by any such association or body the members or servants of such association or body who have authorised or taken part in the commission of such act or with whose knowledge such act has been committed, shall each be liable to any fine or punishment imposed for the same by this Act.

The expression "Committee Room" shall not include any house or room occupied by a Candidate at an election as a dwelling by reason only of the candidate there transacting business with his agents in relation to such election; nor shall any room or building be deemed to be a Committee Room for the purposes of this Act

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No. 26—1902.

by reason only of the candidate or any agent of the candidate addressing therein electors, committee men or others.

The expression "judicial office" includes the office of Justice of the Peace.

The expression "public office" shall mean any office under the Crown or under any Municipal or Divisional Council.

The expression "personal expenses" as used with respect to the expenditure of any candidate in relation to any election includes the reasonable travelling expenses of such candidate and his Chief Election Agent, and the reasonable expenses of their living at hotels or elsewhere for the purposes of and in relation to such election.

The expression "costs" includes costs, charges and expenses.

The expression "payment" includes any pecuniary or other reward; and the expressions "pecuniary reward" and "money" shall be deemed to include any office, place, or employment and any valuable security or other equivalent for money, and any valuable consideration, and any forbearance to demand any money or money's worth or valuable thing, and expressions referring to money shall be construed accordingly.

"Public notice" shall mean a notice published in the *Gazette* and any newspaper circulating in the division, district, or field-cornetcy interested, and posted at the place where notices by a Civil Commissioner are usually posted.

Penalty for
Illegal Prac-
tice.

3. Subject to such special provision as to penalties, as are made elsewhere in this Act, a person guilty of an illegal practice, shall, on conviction, be liable to a fine not exceeding One Hundred Pounds, and in default of payment, to imprisonment with or without hard labour, for any term not exceeding six months provided no person who shall, in giving evidence in connection with any election petition, make relevant admission of having committed an illegal practice, shall thereafter be liable to prosecution for that illegal practice, if the court hearing such petition shall certify that he should be privileged from such prosecution; and in no event shall the admission in evidence so made or given by such person, be capable of being used against him in any subsequent prosecution.

ILLEGAL PRACTICES.

Illegal pay-
ments

4. (1) No payment or contract for payment shall in connection with, and either before, at or during any election, be made

(a) On account of the conveyance of electors to or from the poll, for railway or other fares; or

(b) On account of any committee room in excess of the number allowed by the First Schedule of this Act.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during, or after an election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment, or being a party to any such contract, knowing the same to be in contravention of this Act, shall also be guilty of an illegal practice.

5. (1) Subject to such exception as may be allowed in pursuance of this Act, no sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent, or by any other person, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, in excess of any maximum amount in that behalf specified in the First Schedule to this Act.

No expenses allowed in excess of maximum fixed by First Schedule.

(2) Any candidate or election agent or any other person who knowingly acts in contravention of this section shall be guilty of an illegal practice.

6. Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of any maximum amount allowed by this Act, or for replacing any money expended in any such payment or expenses except where the same may be allowed in pursuance of this Act to be an exception, such person shall be guilty of an illegal practice, and shall be liable upon conviction to a fine not exceeding five hundred pounds or to imprisonment without hard labour for a term not exceeding six months or to both such fine and imprisonment.

Knowingly providing money for a payment contrary to this Act is an illegal practice

7. (1) No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for any purposes or capacities mentioned in the first or second parts of the First Schedule to this Act, or except so far as payment is authorised by the first or second parts of the First Schedule to this Act.

No persons shall be employed for payment save as authorised in First Schedule of this Act.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of an illegal practice, and the person so engaged or employed shall also be guilty of an illegal practice, if he knew that he was engaged or employed contrary to law.

8. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise, shall be guilty of illegal practice, and any person withdrawing, in pursuance of such inducement or procurement, shall also be guilty of illegal practice.

Corrupt inducement of Candidate to withdraw.

No. 26—1932.

Exemption
of payments
made in ignor-
ance.

9. The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense in excess of a certain maximum, shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Act.

Bills, pos-
ters, & c. to
bear name
and address of
printer and
publisher.

10. Every bill, placard, or poster having reference to an election shall bear upon the face thereof the name and address of the printer and publisher thereof; and any person printing, publishing or posting, or causing to be printed, published or posted, any such bill, placard or poster as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall be guilty of an illegal practice, unless he shall prove that he acted in ignorance of the requirements of the law.

Committee
room.

11. (a) Any premises on which the sale by wholesale or retail of any intoxicating liquor is authorised by a licence (whether the licence be for consumption on or off the premises), or
- (b) Any premises where any intoxicating liquor is sold or is supplied to members of a club, society, or association, other than a permanent political club, or
- (c) Any premises whereon refreshment of any kind, whether food or drink, is ordinarily sold for consumption on the premises,

shall not be used as a committee room for the purpose of supporting, promoting or advancing the election of a candidate at or in connection with arrangements made by any person or party in reference to an election, and any agreement or contract in contravention of this section shall be bad in law and void, and if any person hires or uses any such premises, or any part thereof, for a committee room he shall be guilty of an illegal practice, and the person letting such premises or part thereof shall also be guilty of an illegal practice, unless he shall prove that in letting the same he acted in ignorance of the fact that it was intended to make use thereof as a committee room, and that immediately upon ascertaining such intention or such use he terminated and did not any longer permit any such use thereof: provided that nothing in this section shall apply to any part of such premises which is ordinarily let separately from the rest of such premises for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no internal doorway, passage, window, or other means of communication connecting it with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

12. (1) If any person votes or induces or procures any person to vote at any election, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he shall be guilty of an illegal practice. No. 26—1902.
Illegal practice.

(2) Any person who before or during an election knowingly publishes a false statement of the withdrawal of a nominated candidate at such election for the purpose of promoting or procuring the election of another nominated candidate, shall be guilty of an illegal practice.

(3) Provided that a nominated candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed by his agent other than his election agent.

FURTHER CONSEQUENCES OF CORRUPT OR ILLEGAL PRACTICES AND EXEMPTIONS FROM SUCH CONSEQUENCES.

13. If upon trial of an election petition it is proved that any corrupt or illegal practice has been committed in reference to such election by or with the knowledge and consent or approval of any candidate at such election, or by or with the knowledge and consent or approval of any of his agents, the election of such candidate, if he has been elected, shall be void, and a fresh election shall thereupon be held, and any person, whether the candidate or agent of such candidate, who shall be found at the trial to have committed any such corrupt or illegal practice, shall not be capable of being elected to or of sitting in either House of Parliament during the five years next after the date of the decision upon such election petition. Consequences of corrupt or illegal practices to the candidate and his agents.

14. When by the judgment of any competent court it is proved that any corrupt or illegal practice has been committed in reference to an election, by or with the knowledge and consent or approval of any candidate at such election, or by or with the knowledge and consent or approval of any of his agents, the election of such candidate, if he has been elected, shall be void, and a fresh election shall thereupon be held, and any candidate or agent of such candidate who shall be found by such court to have committed any such corrupt or illegal practice shall, in addition to any other punishment to which he may be liable, be by law incapable of being elected to or of sitting in either House of Parliament during the five years next after the date of conviction: provided that any person convicted of any offence under the provisions of this Section shall have the right to appeal from such conviction to the Supreme Court. Competent Court, jurisdiction applicable.

15. Any candidate at any election or any agent of any candidate who shall, under the foregoing provisions of this Act, be incapacitated from being elected to or sitting in either House of Parliament shall also by law, be for the same period Disabilities of candidates and agents incapacitated under this Act from

No. 26—1902.

being elected
to or sitting
in either
House of Par-
liament.

incapable of being appointed to or continuing to hold any public or judicial office, under Government, of being registered or voting as a voter in any election of members of Parliament or of any municipality, divisional council, or board of village management, and of holding or continuing to hold a seat on any such council or board.

ELECTION EXPENSES.

Election
agent.

16. (1) On or before the day of nomination at an election, a person shall be named by, or on behalf of each candidate as his agent for such election, in this Act referred to as the election agent.

(2) A candidate may name himself as election agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of this Act both as a candidate and an election agent, and any reference in this Act to an election agent shall be construed to refer likewise to the candidate acting in his capacity of election agent.

(3) On or before the day of nomination the full name and address of the election agent of each candidate shall be declared, in writing, by the candidate or some other person on his behalf to the returning officer, and the returning officer shall forthwith give public notice of the name and address of every election agent so declared, and if no such declaration, in writing, shall be so made on or before the day of nomination, the candidate shall be deemed and taken to be his own election agent, and may make no other appointment of an election agent for the purposes of this Act.

(4) One election agent only shall be appointed for each candidate, but the appointment may be revoked, and in the event of such revocation the candidate shall be deemed and taken to be his own election agent, unless such revocation takes place on or before the day of nomination, or not less than three clear days before the day appointed for the taking of a poll, in which case the candidate may forthwith upon such revocation declare, in writing, to be delivered in no case less than three clear days before the said day, to the returning officer that he appoints another election agent, whose name and address shall forthwith be notified by the returning officer by public notice.

Election
agent may
appoint sub-
agents.

17. (1) An election agent of a candidate may appoint the number of sub-agents mentioned in the First Schedule to this Act to act within the electoral division.

(2) The election agent may act by the sub-agent, and anything done for the purposes of the election by or to the sub-agent shall be deemed to be done by or to the election agent, and any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence

shall be an illegal practice and offence committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly; and the candidate shall incur the same consequences as if the said act or default had been the act or default of the election agent.

(3) Not less than three clear days before the polling, the election agent shall declare in writing the name and address of every sub-agent to the returning officer, and the returning officer shall forthwith give public notice of the full name and address of every sub-agent so declared.

(4) The appointment of a sub-agent shall not be vacated by the election agent who appointed him ceasing to be election agent, but may be revoked by the election agent for the time being of the candidate, and in the event of such revocation or of the death of a sub-agent another sub-agent may be appointed and the revocation of the appointment of any sub-agent and the appointment in his place of any other shall, together with his full name and address, be forthwith declared in writing to the returning officer, who shall forthwith give public notice of the same in manner aforesaid.

18. (1) The election agent of a candidate by himself or by his sub-agent shall appoint every polling agent, clerk, and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.

Election agent to appoint polling agent, &c.

(2) A contract whereby any expenses are incurred on account of or in respect of the conduct or management of an election shall not be enforceable against a candidate at such election unless made by the candidate himself or by his election agent, either by himself or by his sub-agent; provided that the inability under this section to enforce such contract against the candidate shall not relieve the candidate from the consequences of any corrupt or illegal practice having been committed by his agent.

19. (1) Except as permitted by or in pursuance of this Act, no payment and no advance or deposit shall be made or promised by a candidate at an election or by any agent on behalf of the candidate or by any other person at any time, whether before, during or after such election, in respect of any expenses incurred or to be incurred in and about supporting, promoting, or advancing his candidature, or on account of or in respect of the conduct or management of such election, otherwise than by or through the election agent of the candidate, whether acting in person or by a sub-agent; and all money provided or promised by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as gift, loan, advance or deposit, shall be paid

All payments to be by election agent.

No. 23—1902. or promised to the candidate or his election agent and not otherwise, and shall be fully disclosed whether paid or promised in the declaration made by the election agent under the provisions of this Act; provided that this section shall not be deemed to apply to a tender of security to or any payment by the returning officer.

(2) A person who makes or promises any payment, advance, or deposit in contravention of this section or for any other than a lawful and authorised purpose, or who pays in contravention of this section or for other than lawful and authorised purposes any money so provided as aforesaid, shall be guilty of an illegal practice.

Penalty for illegal practice.

(3) Every person guilty of an illegal practice mentioned in the preceding sub-section, shall on conviction be liable to a fine not exceeding One Hundred pounds, or to imprisonment without hard labour, for any term not exceeding six months or to both such fine and imprisonment.

Sending in and payment of claims for election expenses.

20. (1) Every payment made by an election agent, whether by himself or a sub-agent, in respect of any expenses incurred on account of or in respect of the conduct or management of an election, shall, except where less than forty shillings in all in any one account be vouched for by a bill stating the particulars and by a receipt.

(2) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such election which is not sent in to the election agent within the time limited by this Act shall be barred and shall not be paid; and, subject to such exception as may have been allowed in pursuance of this Act, an election agent who pays a claim in contravention of this enactment shall be guilty of an illegal practice.

(3) Except as by this Act permitted, the time limited by this Act for sending in claims shall be thirty-five days after the day on which the candidates returned are declared elected.

(4) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of such election, shall be paid within the time limited by this Act and not otherwise; and, subject to such exception as may be allowed in pursuance of this Act, an election agent who makes a payment in contravention of this provision shall be guilty of an illegal practice.

(5) Except as by this Act permitted, the time limited by this Act for the payment of such expenses as aforesaid shall be forty-two days after the day on which the candidates returned are declared elected.

(6) If the election agent in the case of any claim sent in to him within the time limited by this Act disputes it, or refuses or

fails to pay it within the said period of forty-two days, such claim shall be deemed to be a disputed claim. No. 26—1902.

(7) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and any sum paid by the candidate or his agent in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by this Act, and to be an exception from the provisions from this Act requiring claims to be paid by the election agent: Provided that for the purposes of this subsection "competent Court" shall include "Magistrates' Court."

(8) On cause shown to the satisfaction of the court, such court on application by the claimant or by the candidate or his election agent may, by order, give leave for the payment by a candidate or his election agent of a disputed claim, or of a claim for any such expenses as aforesaid, although sent in after the time in this section mentioned for sending in claims, or although the same was sent in to the candidate and not to the election agent.

(9) Any sum specified in the order of leave may be paid by the candidate or his election agent, and when paid in pursuance of such leave shall be deemed to be paid within the time limited by this Act.

(10) Where the election court reports that it has been proved to such court by a candidate that any payment made by an election agent in contravention of this section was made without the sanction or connivance of such candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this Act by reason only of such payment having been made in contravention of this section.

21. If any action is brought in any competent court to recover a disputed claim against a candidate at an election, or his election agent, in respect of any expenses incurred on account or in respect of the conduct or management of such election, and the defendant admits his liability, but disputes the amount of the claim, the said amount shall, unless the court, on the application of the plaintiff in the action, otherwise directs, be forthwith referred for taxation to the master, official referee, registrar, or other proper officer of the court, and the amount found due on such taxation shall be the amount to be recovered in such action in respect of such claim. Taxation of amount of disputed claim.

22. (1) The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to such election to an amount not exceeding one hundred and fifty pounds, but any further personal expenses so incurred by him shall be paid by his election agent. Candidate's personal expenses.

(2) The candidate shall send to the election agent within the time limited by this Act for sending in claims a written statement of the amount of personal expenses paid as aforesaid by such candidate, giving the principal details of the expenditure.

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(3) Any person may, if so authorised in writing by the election agent of the candidate, pay any necessary expenses for stationery, postage, telegrams, and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(4) A statement of the particulars of payments made by any person so authorised shall be sent to the election agent within the time limited by this Act for the sending in of claims, and shall be vouched for by a bill containing the receipt of that person.

Election agent's remuneration.

23. This Act shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of such claim the claim shall be a disputed claim within the meaning of this Act, and be dealt with accordingly.

Return respecting election expenses.

24. (1) Within fifty days after the day on which the candidates returned at an election are declared elected, the election agent of every candidate at that election shall transmit to the returning officer a true return (in this Act referred to as a return respecting election expenses), in the form set forth in the Second Schedule to this Act or to the like effect, containing, as respects that candidate :—

- (a) A statement of all payments made by the election agent, together with all the bills and receipts (which bills and receipts are in this Act included in the expression "return respecting election expenses");
- (b) A statement of the amount of personal expenses, if any, paid by the candidate, together with the candidate's own written statement;
- (c) A statement of the sums paid to the returning officer for his charges, or, if the amount is in dispute, of the sum claimed and the amount disputed;
- (d) A statement of all other disputed claims of which the election agent is aware;
- (e) A statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the Court;
- (f) A statement of all money, securities and equivalent of money received by the election agent from the candidate or any other person for the purpose of expenses incurred or to be incurred on account of or in respect of the conduct or management of the election, with a statement of the name of every person from whom the same may have been received.

(2) The return so transmitted to the returning officer shall be accompanied by a declaration made by the election agent before

a justice of the peace in the form in the Second Schedule to this Act (which declaration is in this Act referred to as a declaration respecting election expenses). No. 26—1902.

(3) Where the candidate has named himself as his election agent, a statement of all money, securities, and equivalent of money paid by the candidate shall be substituted in the return required by this section to be transmitted by the election agent for the like statement of money, securities, and equivalent of money received by the election agent from the candidate, and the declaration by an election agent respecting election expenses need not be made, and the declaration by the candidate respecting election expenses shall be modified as specified in the Second Schedule to this Act.

(4) At the same time that the agent transmits the said return, or within seven days afterwards, the candidate shall transmit or cause to be transmitted to the returning officer a declaration made by him before a justice of the peace, in the form in the first part of the Second Schedule to this Act (which declaration is in this Act referred to as a declaration respecting election expenses).

(5) If in the case of an election, the said return and declarations are not transmitted before the expiration of the time limited for the purpose, the candidate shall not, after the expiration of such time, sit or vote in either House of Parliament as the case may be until either such return and declarations have been transmitted, or until the date of the allowance of such an authorised excuse for the failure to transmit the same, as in this Act mentioned, and if he sits or votes in contravention of this enactment he shall forfeit one hundred pounds for every day on which he so sits or votes to any person who sues for the same.

(6) If without such authorised excuse as in this Act mentioned, a candidate or an election agent fails to comply with the requirements of this section he shall be guilty of an illegal practice.

(7) If any candidate or election agent knowingly makes the declaration required by this section falsely, he shall be guilty of an offence, and on conviction thereof or indictment shall be liable to the punishment for wilful and corrupt perjury: such offence shall also be deemed to be an illegal practice within the meaning of this Act.

(8) Where the candidate is out of the Colony at the time when the return is so transmitted to the returning officer, the declaration required by this section may be made by him within fourteen days after his return to the Colony, and in that case shall be forthwith transmitted to the returning officer, but the delay hereby authorised in making such declaration shall not

No. 26—1902. exonerate the election agent from complying with the provisions of this Act as to the return and declaration respecting election expenses.

(9) Where, after the date at which the return respecting election expenses is transmitted, leave is given by the court for any claims to be paid, the candidate or his election agent shall, within seven days after the payment thereof, transmit to the returning officer a return of the sums paid in pursuance of such leave, accompanied by a copy of the order of the court giving the leave, and in default he shall be deemed to have failed to comply with the requirements of this section without such authorised excuse as in this Act mentioned.

Provision
in case of non-
transmission
of return, &c.

25. (1.) Where the return and declarations respecting election expenses of a candidate at an election have not been transmitted as required by this Act, or being transmitted contain some error or false statement, then :

- (a) if the candidate applies to the Court and shows that the failure to transmit such return and declarations, or any of them, or any part thereof, or any error or false statement therein, has arisen by reason of his illness, or of the absence, death, illness, or misconduct of his election agent or sub-agent or of any clerk or officer of such agent, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant, or
- (b) if the election agent of the candidate applies to the Court and shows that the failure to transmit the return and declarations which he was required to transmit, or any part thereof, or any error or false statement therein, arose by reason of his illness or of the death or illness of any prior election agent of the candidate, or of the absence, death, illness or misconduct of any sub-agent, clerk, or officer of an election agent of the candidate, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant, the court may, after such notice of the application and on production of such evidence of the grounds stated in the application, and of good faith of the application, and otherwise, as to the court seems fit, make such order for allowing an unauthorised excuse for the failure to transmit such return and declaration, or for an error or false statement in such return and declaration, as to the court seems just.

(2.) Where it appears to the court that any person being or having been selected agent or sub agent has refused or failed

to make such return or to supply such particulars as will enable the candidate and his election agent respectively to comply with the provisions of this Act as to the return and declaration respecting election expenses, the court before making an order allowing the excuse as in this section mentioned shall order such person to attend before the court, and on his attendance, shall, unless he shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the return, as to the court seems just, and to make or deliver the same within such time and to such person and in such manner as the court may direct, or may order him to be examined with respect to such particulars, and may in default of compliance with any such order, order him to pay a fine not exceeding five hundred pounds, or to be imprisoned without hard labour for any term not exceeding six months or to both such fine and such imprisonment.

(3.) The order may make the allowance conditional upon the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Act; and an order allowing an authorised excuse shall relieve the applicant for the order from any liability or consequences under this Act in respect of the matter excused by the order; and where it is proved by the candidate to the court that any Act or omission of the election agent in relation to the return and declaration respecting election expenses was without the sanction or connivance of the candidate, and that the candidate took all reasonable means for preventing such Act or omission, the court shall relieve the candidate from the consequences of such Act or omission on the part of his election agent.

(4.) The date of the order, or if conditions and terms are to be complied with the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.

26. (1) The returning officer at an election shall, within fourteen days after he receives from the election agent of a candidate a return respecting election expenses, publish a summary of the return in an English or Dutch newspaper circulating in the electoral division for which the election was held, accompanied by a notice of the time and place at which the return and declarations (including the accompanying) documents can be inspected, and may charge the candidate in respect of such publication an amount not exceeding ten pounds.

Return of election expenses, summary of, to be published.

(2) The return and declarations (including the accompanying documents) sent to the returning officer by an election agent shall be kept at the office of the returning officer, or some

No. 25—1902. convenient place appointed by him, and shall at all reasonable times during two years next after they are received by the returning officer be open to inspection by any person on payment of a fee of one shilling, and the returning officer shall on demand furnish copies thereof or of any part thereof at the price of twopence for every seventy-two words. After the expiration of the said two years the returning officer for the time being may cause the said returns and declarations (including the accompanying documents) to be destroyed, or, if the candidate or his election agent so require, shall return the same to the candidate.

Application of Section 83, Act 9 of 1892. 27. Notwithstanding anything contained in this Act to the contrary the provisions of section 83 of Act No. 9 of 1892 with regard to personation, and of sub-section 8 of section 8 of Act No. 9 of 1883 with regard to corrupt practices shall extend to every illegal practice mentioned in this Act.

Threats and coercion. 28. Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, make use of, or threaten to make use of, any force, violence or restraint, or inflict or threaten to inflict by himself, or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel such person to vote, or refrain from voting, or on account of such person having voted, or refrained from voting, at any election or who shall by abduction, duress or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce or prevail upon any elector either to give, or to refrain from giving, his vote at any election shall be guilty of an illegal practice and shall be liable to a fine not exceeding £200 and in default of payment to imprisonment without hard labour for any term not exceeding twelve months.

Jurisdiction. 29. Not less than two judges of the Supreme Court shall have jurisdiction to try and determine all charges of illegal practice or contravention of any provision of this Act.

Mala fides of informant. 30. Should, in the opinion of the Court trying any of the offences under the provisions of this Act, the person upon whose information proceedings were instituted have acted vexatiously or in bad faith, the Court may, should it appear right and fitting so to do, order such person to pay the costs incurred in defence or opposition, such costs to be taxed and recovered by civil process.

Provisions of section 12, Act 21 of 1859, to apply. 31. The provisions of the twelfth section of Act No. 21 of 1859 shall apply to all penalties or forfeitures imposed under the provisions of this Act.

Short Title. 32. This Act may be cited as "The Illegal Practices Prevention Act, 1902."

SCHEDULES.
FIRST SCHEDULE.

No. 26—1902.

First Schedule.

PART I.

Part I.

Persons legally employed for payment.

Persons legally employed for payment.

- (1) One election agent and no more.
- (2) Four sub-agents and no more within each electoral division as defined for elections for the House of Assembly.
- (3) One polling agent in each polling station and no more.
- (4) A number of clerks and messengers for conducting business in the Committee rooms not exceeding one clerk and one messenger for each polling-place in an electoral district.

PART II.

Part II

Legal expenses in addition to expenses under Part I.

- (1) Sums paid to the returning officer for his remuneration and detailed personal expenses.
- (2) The personal expenses of the candidate.
- (3) The expenses of printing, the expenses of advertising, and the expenses of publishing, issuing, and distributing addresses and notices.
- (4) The expenses of stationery, messages, postage and telegrams.
- (5) The expenses of holding public meetings.
- (6) The expense of one committee room for each polling place.

Legal expenses in addition to expenses under Part I.

PART III.

Part III.

Maximum for miscellaneous matters.

Expenses in respect of miscellaneous matters other than those mentioned in Part I and Part II of this schedule not exceeding in the whole the maximum amount of one hundred pounds, so nevertheless that such expenses are not incurred in respect of any matter or in any manner constituting an offence under this or any other Act, or in respect of any matter or thing, payment for which is expressly prohibited by this or any other Act.

Maximum for miscellaneous matters.

PART IV.

Part IV.

Maximum Scale.

In an electoral division the expenses mentioned above in Parts I, II and III of this schedule, other than personal expenses paid by the candidate himself, and sums paid to the returning

Maximum Scale.

No. 26—1902. — officer for his charges, shall not exceed in the whole the maximum amount in the scale following :—

If the number of electors on the register does not exceed 1,000	... The maximum amount shall be £150
Exceeds 1,000	... £175 and an additional £25 for every complete 500 electors over 1,000, provided that in no case shall the total expenditure exceed £500.

Provided that in the elections for the Legislative Council the candidates may expend a sum not exceeding £500 (regardless of the number of electors in the Circle) over and above the personal expenses.

Part V

PART V.

General.

General.

(1) For the purposes of this schedule the number of voters shall be taken according to the enumeration of the voters in the Register of Voters.

(2) When there are two joint candidates at an election the maximum amount of expenses mentioned in Parts III. and IV. of this schedule shall, for each of such joint candidates, be reduced by one fourth, or if there are more than two joint candidates by one third.

(3) Where the same election agent is appointed by or on behalf of two or more candidates at an election, or where two or more candidates, by themselves or any agent or agents, hire or use the same committee room for such election, or employ or use the services of the same sub-agents, clerks, messengers, or polling agents at such election, or publish a joint address or joint circular or notice at such election, those candidates shall be deemed for the purposes of this enactment to be joint candidates at such election. Provided that :—

- (a) The employment and use of the same committee room, sub-agent, clerk messenger, or polling agent, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute personal joint candidates.
- (b) Nothing in this enactment shall prevent candidates from ceasing to be joint candidates.
- (c) Where any excess of expenses above the maximum allowed for one of two or more joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun to conduct his election as a separate candidate, and such ceasing or beginning was in good

faith, and such excess is not more than under the circumstances is reasonable, and the total expenses of such candidate do not exceed the maximum amount allowed for a separate candidate, such excess shall be deemed to have arisen from a reasonable cause within the meaning of the provisions respecting the allowance by the Court of an exception from the provisions of this Act which would otherwise make an act an illegal practice, and the candidate and his election agent may be relieved accordingly from the consequences of having incurred such excess of expenses.

No. 23—1902.

SECOND SCHEDULE.

Second Schedule.

PART I.

Part I.

FORMS OF DECLARATION AS TO EXPENSES.

Form for Candidate.

I, _____, having been a candidate at the election for the electoral division of _____ on the _____ day of _____, do hereby solemnly and sincerely declare that I have examined the return of election expenses (about to be) transmitted by my election agent (or if the candidate is his own election agent, "by me") to the returning officer at the said election, a copy of which is now shown to me and marked _____ and to the best of my knowledge and belief that return is correct.

Forms of declaration as to expenses.

And I further solemnly and sincerely declare that, except as appears from that return, I have not, and to the best of my knowledge and belief no person, nor any club, society or association has, on my behalf, made, promised or offered any payment, or given, promised or offered any reward, office, employment or valuable consideration or incurred any liability for the support, promotion or advancement of my candidature, or on account of or in respect of the conduct or management of the said election :

And I further solemnly and sincerely declare that I have paid to my election agent (if the candidate is also his own election agent leave out "to my election agent") the sum of _____ pounds and no more for the purpose of the said election, and that, except as specified in the said return, no money, security or equivalent for money has to my knowledge or belief been paid, promised, advanced, given, or deposited by anyone to or in the hands of my election agent (or if the candidate is his own election agent, "myself") or any other person for the purpose

No. 26—1902.

of defraying any expenses incurred for the support, promotion or advancement of my candidature, or on account of or in respect of the conduct or management of the said election :

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time, make or be party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, security, or equivalent for money, for the purpose of defraying any such expenses.

Signature of Declarant,

C. D.

Signed and declared by the above-mentioned declarant on the
day of before me.

(Signed) E. F.,

Justice of the Peace for

Form for Election Agent.

I, being election agent to candidate at the election for the electoral division of on the day of do hereby solemnly and sincerely declare that I have examined the return of election expenses about to be transmitted by me to the returning officer at the said election, and now shown to me and marked ; and to the best of my knowledge and belief that return is correct :

And I hereby further solemnly and sincerely declare that, except as appears from that return, I have not, and to the best of my knowledge and belief no other person, nor any club, society or association has on behalf of the said candidate made, promised or offered any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability for the support, promotion or advancement of his candidature, or on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that I have received from the said candidate pounds and no more (or nothing) for the purpose of the said election, and that, except as specified in the said return sent by me, no money, security, or equivalent for money has been paid, promised, advanced, given, or deposited by any one to me or in my hands, or, to the best of my knowledge and belief, to or in the hands of any other person for the purpose of defraying any expenses

incurred on behalf of the said candidate for the support, promotion or advancement of his candidature, or on account of or in respect of the conduct or management of the said election. No. 26—1922.

Signature of Declarant,
A. B.

Signed and declared by the above named declarant on the day of before me.

(Signed) E. F.,
Justice of the Peace for

FORM OF RETURN OF ELECTION EXPENSES.

I, A.B., being election agent to C.D., candidate at the election for the electoral division of , on the day of , make the following return respecting election expenses of the said candidate at the said election (or where the candidate has named himself as election agent, "I, C.D., candidate at the election for the electoral division of , on the day of acting as my own election agent, make the following return respecting my election expenses at the said election.")

Receipts.

Received of (the above named candidate) or where the candidate is his own election agent,

"Paid by me"	...	...	...	...	...	£
Received of J.K.	...	...	...	...	...	£

(Here set out the name and description of every person, club, society, or association, whether the candidate or not, from whom any money, securities, or equivalent of money was received in respect of expenses incurred on account of or in connection with or incidental to the above election, and that the amount received from each person, club, society or association separately.)

Expenditure.

Paid to E.F., the Returning Officer for the said electoral division, for his charges at the said election £
 Personal expenses of the said C.D., paid by himself (or if the candidate is his own election agent, "Paid by me as candidate") £
 Personal expenses paid by me (or if the candidate is his own election agent, add, "acting as election agent") £

No. 26—1902.

Received by me for my services as election agent at the said election (or if the candidate is his own election agent, leave out this item) £

Paid to G.H., as sub-agent of the Field-cometcey of ... £

(The name and description of each sub-agent and the sum paid to him must be set out separately.)

Paid to as polling agent £

Paid to as clerk for days' services ... £

Paid to as messenger for days' services ... £

(The names and descriptions of every polling agent, clerk and messenger, and the sum paid to each, must be set out separately either in the account or in a separate list annexed to and referred to in the account thus: "Paid to a polling agent (or as the case may be) as per annexed list, £")

Paid to the following persons in respect of goods supplied or work and labour done;

To P.Q. (printing) £

To M.N (advertising) £

To R.S. (stationery) £

(The name and description of each person, and the nature of the goods supplied, or the work and labour done by each, must be set out separately either in the account or in a separate list annexed to and referred to in the account.)

Paid for postage £

Paid for telegrams £

Paid for the hire of rooms as follows:—

For holding public meetings £

For committee rooms £

(A room hired for a public meeting or for a committee room must be named or described so as to identify it, and the name and description of every person to whom any payment was made for each such room, together with the amount paid, must be set out separately either in the account or in a separate list annexed to and referred to in the account.)

Paid for miscellaneous matters namely: £

(The name and description of each person to whom any sum is paid, and the reason for which it was paid to him must be set out separately either in the account or in a separate list annexed to and referred to in the account.)

In addition to the above, I am aware, as election agent for C.D. (or, if the candidate is his own election agent, leave out, "as election agent for C.D.") of the following disputed and unpaid claims, namely :—

Disputed Claims :—

By T.U. for £

(Here set out the name and description of each person whose claim is disputed, the amount of the claim, and the goods, work, or other matter on the ground of which the claim is based.)

Unpaid claims allowed by the court to be paid after the proper time or in respect of which application has been made or is about to be made to the Court.

By M.O. £

(Here state the name and description of each person to whom any such claim is due, and the amount of the claim, and the goods, work, and labour or other matter on account of which the claim is due.)

(Signed) A.B.

PART II.

Part II.

FORM OF DECLARATION AS TO EXPENSES.

Form for Candidate who has declared a Candidate, or nominated in his absence and taking no part in the Election.

Form of declaration for candidate taking no part in the election.

I, having been nominated (or having been declared by others) in my absence (to be) a candidate at the election for the electoral division of held on the day of

, do hereby solemnly and sincerely declare that I have taken no part whatever in the said Election.

And I further solemnly and sincerely declare that (or with the exception of) I have not, and no person, club, society, or association at my expense has made any payment, or given, promised, or offered, any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that (or with the exception of) I have not paid any money or given any security or equivalent for money to the person acting as my election agent at the said election, or to any other person, club, society, or association on account of or in respect of the conduct or management of the said election, and that (or

No. 27—1902. with the exception of _____) I am entirely ignorant of any money, security, or equivalent for money having been paid, advanced, given, or deposited by any one for the purpose of defraying any expenses incurred on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time, make or be party to the making or giving of any payment, reward, office, employment or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, security or equivalent of money for the purpose of defraying any such expenses.

Signature of Declarant C.D.

Signed and delivered by the above-named declarant on the day of _____ before me.

(Signed) E.F.
Justice of the Peace for

No. 27—1902]

[Nov. 18, 1902.

ACT

To Validate certain marriages solemnised within this Colony by certain officials of the late Orange Free State and the late South African Republic, and to provide for their registration and the mode of proof thereof.

[Assented to 14th November, 1902.]

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

Certain Marriages celebrated by officers of the late Republics legalised.

1. All marriages which at any time since the outbreak of hostilities between Her Late Majesty Queen Victoria and the late South African Republic and Orange Free State, have within the Colony been solemnised by any marriage officer of either of the late Republics of the Orange Free State and the South African Republic, by whom or any other person holding a similar office any such marriage could have been validly solemnised within the territorial limits of either of the said Republics, shall be, and the same are hereby declared to be, and to have been, from the time of the solemnization thereof respec-

tively, good and valid and effectual to all intents and purposes No. 27—1902.
 whatsoever, any law or usage to the contrary notwithstanding,
 and all pains, penalties, forfeitures, and proceedings of what-
 soever kind or description which any such official may have
 incurred or become liable to by reason of his having
 solemnized any such marriage are hereby remitted, released,
 repealed, and made void.

2. All such marriages may be proved in the same manner as Proof of Mar-
riage.
 that wherein they would have been provable, had they been
 solemnized within the territorial limits of either of the said
 Republics, as the case may be, saving, however, the special mode
 of proof provided in the next three succeeding sections.

3. On the application of both or either of the parties to any Registration
in Colony.
 such marriage, or of any descendant, next of kin, executor, or
 other or any person interested, and production by the applicant or
 applicants before the resident Magistrate of the District within
 which the marriage was celebrated, of the original register,
 duplicate register, or any duly certified copy of the entry in the
 original or duplicate register, made in accordance with the Law
 of the Republic under which the marriage was solemnized, as
 the case may be, it shall be lawful for the said Magistrate
 to register the marriage in his marriage register, and himself
 to fill in and enter, so far as may be, the particulars required
 to be inserted in such register, and the names of the parties,
 marriage officer, and of the witnesses: provided that, and it is
 hereby further enacted that:

(a) The Magistrate shall add a certificate to the effect that
 the said entry is a true copy of the register, original or
 duplicate, or of the certified copy as aforesaid, as the
 case may be.

(b) In the case of a certified copy being produced, such
 certified copy shall be attached to the marriage register,
 facing, so far as may be, the page on which the entry is
 made by the Magistrate; and the said copy and the said
 entry shall respectively have cross references thereon
 made, referring respectively the one to the other.

(c) The Magistrate making the entry as aforesaid shall
 as soon as may be transmit a duly certified copy of the
 entry made by him as aforesaid to the person who in
 this Colony is properly charged with the custody of the
 duplicate marriage registers, who shall thereupon
 deal with, file, and safely preserve the same, in con-
 formity, so far as may be, with the law of this Colony,
 as though it were a duplicate register.

(d) Any such marriage as aforesaid on being registered as Proof after
Registration
in Colony.
 aforesaid may be proved and the fact of its solemniza-
 tion be received in evidence in all courts or before

No. 28—1902.

all Judges and Magistrates by the production of a certified copy of the entry made by the Magistrate as aforesaid in his register or of the duly certified copy transmitted in terms of the last preceding section.

Proof where
no document-
ary evidence.

4. In the case of the loss of the original or duplicate register and the loss of the certified copy or copies made of the entries in the said register or registers, then it shall be lawful for any such marriage, the said documentary evidence of which is lost, to be proved in any judicial proceedings by such oral evidence as would have sufficed to prove such marriage in the State under the laws of which the marriage was solemnized, as the case may be.

Legal suc-
cessor—who
deemed to be.

5. For the purposes of this Act, the legal successor of a marriage officer, wherever and whenever mentioned in either of the aforesaid foreign laws, shall mean the Secretary to the Government of the Transvaal Colony or the Orange River Colony, as the case may be, or the officer now there competent to certify as to any of the registers or copies referred to in this Act, and purporting to have been entered or registered by or before, or certified by, any of the marriage officers of the late Republics hereinbefore referred to.

When copy
deemed to be
duly certified.

6. Any copy shall be deemed or taken to be duly certified within the meaning and for the purposes of sub-section (d) of the 3rd section of this Act when the same has been certified by any Resident Magistrate or Notary of this Colony, or any such officer as is mentioned in the last preceding section hereof, of the Transvaal, or the Orange River Colony.

Short title.

7. This Act may be cited for all purposes as the "Marriages Legalisation Act 1902."

No. 28—1902.]

[November 18, 1902.

ACT

To Add to and Amend Acts No. 35 of 1887, No. 26 of 1893, No. 15 of 1894, and No. 25 of 1897, and to provide further for the Government of the City of Cape Town.

[Assented to 14th November, 1902.]

Preamble.

WHEREAS it is expedient to add to and amend the existing Laws regulating the Municipal Corporation and Government of the City of Cape Town; to grant further powers and privileges to the Corporation; and to remove certain inconveniences which have been found to exist in the Acts relating to the same;

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

1. So much of Act No. 35 of 1887 entitled the "Capetown Municipality Additional Water Supply Act," Act No. 26 of 1893, entitled the "Capetown Municipal Act of 1893," Act No. 15 of 1894, entitled the "Capetown Streets Act, 1894," Act No. 25 of 1897, entitled the "Capetown Municipal Act Amendment Act, 1897" and of any other Acts or laws as may be inconsistent with this Act, is hereby repealed." No. 28—19C2.
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Repeal of
inconsistent
laws.
2. Section 18 of Act 26 of 1893 is hereby amended by inserting after the words "alphabetical order" the words "of streets." Voters' list
3. Section 29 of Act No. 26 of 1893 is hereby amended by inserting after the words "Town Clerk" in line five the words "not later than the hour of 4 o'clock p.m." Hour of sending in nomination.
4. Section 35 of Act No. 26 of 1893 is hereby amended so that, in the case of any person entitled to vote in a representative capacity under Section 15 of the said Act, the second question that may be put to him may be: "Have you already voted at this election in the capacity in which you now seek to record your vote?" Votes given in representative capacity.
5. Section 30 of Act No. 26 of 1893 is hereby amended by omitting the word "six" in the last line and substituting the word "seven." Section 30 of Act 26 of 1893 amended.
6. Section 42 of Act No. 26 of 1893 is amended by expunging the words "by the Council" in the eighth line. Amendment of previous Act.
7. Section 44 of Act No. 26 of 1893 is amended by inserting after the words "each candidate," in lines 5 and 6 the words "and in such counting of the votes the Returning Officer shall have regard to the number of votes the voter is entitled to give as shown by the number inserted at the right hand top corner of the voting ticket or ballot paper, and shall count and record the votes given on each ticket or paper accordingly, the same number of votes being recorded for each candidate for whom the voter votes, whatever be the number of crosses placed opposite the name or names of the candidate or candidates for whom the voter desires to vote." Counting of Votes.
8. Section 47 of Act 26 of 1893 is amended by inserting the word "other" before the word "sealed" in the sixth line, and by adding at the end of the clause the words "and a copy of the certificate stating the names of the Councillors declared to be elected, duly signed by the Returning Officer shall be laid before the Council at the meeting immediately following such election of Councillors for the purpose of recording the Minutes of Proceedings and shall be recorded in such Minutes of Proceedings accordingly." Return of Councillors elected.
9. At the end of Section 52 of Act No. 26 of 1893 shall be added the words "In the event of the office of Deputy Mayor becoming vacant by reason of death or resignation, or by his ceasing to be a member of the Council the Council shall, Filling of vacancy in office of Deputy Mayor.

No. 28—1902. at the next ordinary meeting following the meeting at which such vacancy is reported, fill the vacancy.”

Deputy Mayor to represent Council in absence of Mayor.

10. Where by any public or private Act of Parliament the Mayor is, *ex officio*, a member of any Board, Council or other body, or otherwise represents the Council in his capacity of Mayor, the Deputy Mayor or the person acting as such, in the event of the illness, absence or incapacity of the Mayor to act, shall occupy the place of the Mayor at or on such Board Council or other body, and shall otherwise represent the Council and the Citizens of Capetown with all the rights, powers and privileges of the Mayor, and a certificate, signed by two members of the Council, and by the Town Clerk, certifying to the illness, absence or incapacity to act of the Mayor, and to the appointment of the Deputy Mayor or to the authority of any member of the Council to act as Deputy Mayor, shall be sufficient proof of the facts therein set forth.

Provision for temporary absence, &c. of Deputy Mayor.

11. In the event of the temporary absence, illness or incapacity to act of the Deputy Mayor, the Council may from time to time, at any ordinary or special meeting, appoint a Councillor to act as Deputy Mayor during such period as the Council may think necessary.

Convening of special meetings.

12. Section 54 of Act 26 of 1893 is hereby amended by expunging the words “for any day other than the ordinary day of meeting of the Council,” and by substituting the words “and if convened for the day upon which an Ordinary Meeting of the Council is held, such special meeting may be held either before or after the hour at which the ordinary meeting is held.”

Amendment of previous Act.

13. Section 55 of Act No. 26 of 1893 is hereby amended by inserting after the word “writing” in the second line the words “or print, or partly in writing and partly in print.”

When committee meetings not open to public.

14. Section 57 of Act No. 26 of 1893 is hereby amended by adding at the end the words “provided that this section shall not apply to any Committee meeting either of the Council or of any Committee thereof if a resolution to exclude the public be carried: provided that not less than six Councillors shall vote for such resolution.”

Date of monthly return by Treasurer.

15. Section 70 of Act No. 26 of 1893 is hereby amended by expunging the words “within one week from” and substituting the words “before the close of.”

Date of depositing annual account.

16. Section 75 of Act No. 26 of 1893 is hereby amended by inserting after the word “Council” in the sixth line the words “on or before the 31st day of the said month of January.”

Amending provisions as to annual estimates.

17. Section 76 of Act No. 26 of 1893 is hereby amended by making the following alterations: In the first line the word “January” shall be expunged and the word “December” substituted therefor; the word “current” in the third line shall be expunged, and after the word “year” in the same line the words

“next ensuing” shall be inserted; in the eighth line the word “said” shall be expunged; in the same line the word “every” shall be expunged, and in lieu thereof the word “the” shall be substituted; and after the word “year” in the same line the words “next ensuing” shall be inserted. No. 28—1902.

18. Section 108 of Act No. 26 of 1893 is hereby amended as follows:—The word “signed” in the eleventh line shall be expunged and in lieu thereof shall be inserted the words “sealed with the Common Seal of the Council and the affixing of such Seal shall be duly witnessed”; after the word “Council” in the twelfth line shall be inserted the words “who shall attest such documents accordingly”; after the word “Council” in the 25th line the following clause shall be inserted: “Provided, however, that the foregoing conditions shall not apply to any agreement with regard to any advertisements published by the Council or to any matter of such urgency that it would be against the interests of the Council to delay, or to any purchases or orders which the Council may consider it necessary or expedient to make or place outside the Colony.” Execution of Contracts.

For what Contracts tenders need not be called.

19. The Council is hereby empowered, with the consent of the Local Authority, to supply electricity, electric energy or power for the purpose of lighting or supplying motive or other power to any person, corporation or public body in the Cape Peninsula, and may enter into contracts for that purpose, subject however, to provisions of Act 42 of 1895. Council may supply electricity, &c.

20. From and after the promulgation of this Act, no person, corporation or public body may supply within the Municipal limits, either for sale or otherwise, any electricity, electric energy or power for the purpose mentioned in the preceding section without the permission of the Council given in writing under the Corporate Seal, subject to such conditions as the Council may see fit to impose, which permission the Council shall not be obliged to grant; Provided, however, that this clause shall not apply Prohibition against other persons supplying electricity, &c., within Municipality.

- (a) To any existing undertaking or works constructed or in course of construction before the passing of this Act, by virtue of any rights previously acquired; Exceptions.
- (b) To any undertaking or works which may be constructed or employed by any owner or occupier of property for supplying electricity, electric energy or power upon the property of such owner or occupier only: provided however that nothing in this sub-section shall be held to empower any such owner or occupier to place any wires, standards or the like on, over or under any street, road or other place the title to which is vested in the Council or to which the inhabitants of the Municipality have or may acquire any common right;

No. 28—1932.

- (c) To any undertakings or works now constructed or to be hereafter constructed by any railway or tramway company or to any rights which the Metropolitan Tramway Company, Limited, may have acquired under Act 22 of 1895 or under any agreement with the Corporation.
- (d) To any undertakings or works now constructed or to be hereafter constructed by or on behalf of the Colonial Government, the Imperial Government or the Table Bay Harbour Board for the use of the said Governments or Board with power to Contract as between themselves.

Amendment
of provisions
at charges for
fees.

21. Section 162 of Act No. 26 of 1893 is hereby amended by inserting, after the word "fire" in the third and also in the twelfth line, the words "or which shall only have been prevented from taking fire by the efforts of the Brigade"; and by expunging from the sixth and fifteenth lines of the same section the words "supplied from the Municipal Water Works."

Special powers to frame
bye-laws.

22. The Council is hereby empowered to make regulations under Section 170 and to impose penalties for breach thereof under Section 171 of Act No. 26 of 1893 :

- (a) To empower the Council to make regulations regarding the licensing and supervision of traction engines, street locomotives, motor cars, trailer wagons and other vehicles drawn or propelled by steam, electricity, air, or oil, or other mechanical power other than railway locomotives, and to regulate and control their use in public streets, and to impose and recover licence fees from bodies, companies or persons owning, keeping, or using the same ;
- (b) To compel the owners or occupiers of vacant or unoccupied land within the Municipality, abutting on or adjacent to any public street, road or thoroughfare, to enclose or fence in the same ;
- (c) To empower the Council to make regulations as to the landing and killing of sea birds and for the prevention of wanton cruelty to the same, and to prosecute any person for breach of such regulations ;
- (d) Dealing with and regulating the size of stacks of timber, coal and inflammable substances and the manner of stacking or storing the same, so as to protect persons and property in the neighbourhood from danger from fire or otherwise.
- (e) To empower the Council to regulate or prevent the exhibition of public advertisements.

23. Section 171 of Act No. 26 of 1893 is hereby amended by striking out the word "and" after the word "penalty" in the fifth line and by substituting the word "any."

No. 23—1902.
Amendment of previous Act.
Conversion of loans.

24. The Council may from time to time, as occasion may require, convert or re-issue, at a different rate or upon other conditions, loans which become due or redeemable, and such conversion or re-issue shall not be deemed to be a new or additional exercise of the borrowing powers of the Council, provided, however, that nothing in this section contained shall be taken to sanction the borrowing by the Council of any sum which it has not authority to borrow, and provided also that such converted or reissued loan shall be applied only to the purposes for which the Council may be authorized to apply the money originally borrowed.

25. Section 148 of Act No. 26 of 1893 is hereby amended by omitting the words "two hundred and fifty" and by substituting instead the words "five hundred," and by omitting the word "New" before the word "Somerset."

Council may contribute £500 to Somerset Hospital.

26. The Council is hereby empowered to expropriate, purchase, and acquire buildings and land within the limits of the Municipality, other than the property of the Imperial Government, the Colonial Government or the Table Bay Harbour Board, to rebuild, alter, or remove such buildings, and on the said land, or on other land belonging to the Council to build and erect dwellings for artisans and other members of the poorer classes, provided that the ratepayers shall sanction the expenditure required for the purposes of this section.

Power to acquire buildings or land for artisans' dwellings.

27. In calculating the amount of compensation which any person may be entitled to receive for buildings or land expropriated under the last preceding section any arbitrator or umpire shall take into consideration the fact that such buildings or land, on account of their condition, construction or situation, or on account of any other sufficient reason, may be, or may be likely to become liable to be pulled down, or closed against use and occupation under any Municipal Act or Bye-Law or under any Act relating to the public health.

How compensation for same may be calculated.

28. Notwithstanding anything in Section 4 of Act No. 25 of 1897, or in any other section of the said Act, the Council shall be entitled to pave and sewer, or to contribute to the cost of paving and sewerage, any private street in existence at the promulgation of Act No. 25 of 1897, with the consent of three-fourths, or any other proportion, of the owners of property abutting on such street; providing that nothing in this section shall apply to any road or street within the Dock area.

Council may pave and sewer any streets and contribute funds for purpose.

29. The Council is hereby empowered to enter into any agreement with any person, syndicate, company, corporation or public body, for the purpose of purchasing, hiring or acquiring

Council may take water and land for

No. 29—1902. any property, lands, water rights, servitudes or privileges either within or outside the limits of the Cape Division necessary, convenient or suitable for increasing the water supply of the City of Capetown, and the Council may borrow or expend for the said purpose any funds which it is authorised to borrow or expend under the provisions of the "Capetown Municipality Additional Water Supply Act, 1887," or under any other Act or authority.

waterworks outside Cape Division.

Governor may authorise omitted acts.

30. Whenever any act or thing, prescribed by this Act or by Act No. 26 of 1893 to be done or performed at or before a certain date or time, shall by inadvertence or error not have been so done or performed, it shall be lawful for the Governor, if he shall see fit, to authorise the doing or performing of such act or thing at some subsequent time, and the said act or thing, when so done, shall be of the same force and validity as if done at the time prescribed as aforesaid.

Conformity with existing Acts and short title.

31. This Act shall be read together with Act No. 35 of 1887, Act No. 26 of 1893, Act No. 9 of 1894, Act No. 15 of 1894, and Act No. 25 of 1897, and may be cited as "The Cape Town Municipal Amendment Act, 1902."

No. 29—1902.]

[Nov. 18, 1902.]

ACT

To Amend "The Census Act, 1900."

[Assented to 17th November, 1902.]

Preamble.

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

New section in lieu of section 1 of Act 11 of 1900.

1. The first section of "The Census Act, 1900" shall be and is hereby repealed, and in lieu thereof the following shall be and is hereby enacted, to wit:

An account or census shall be taken, in manner directed by sections two to fourteen inclusive of "The Census Act, 1900," of the number of persons and the number of each kind of live stock, within the Colony of the Cape of Good Hope, including any territory annexed thereto on such day and month in the year one thousand nine hundred and three as the Governor may proclaim.

Act 11 of 1900 amended.

2. Wherever in the said Act the words "first section" occur, the said words shall be taken to refer to the matters and things enacted in the first section of this Act, and the aforesaid Act of 1900 shall be construed as so amended, and shall so amended and construed have the force of law.

3. This Act shall be read as one with "The Census Act, No. 30—1902, 1900," save in so far as any of the provisions of the said last-named Act are repealed by this Act or are repugnant to any of the provisions of this Act.

Act to be read as one with Act 11 of 1900. Short Title.

4. This Act may be cited as "The Census Act (1900) Amendment Act, 1902."

No. 30—1902.]

[Nov. 18, 1902.]

ACT

To Facilitate the Investment of Trust and Other Funds in the United Kingdom in Cape of Good Hope Government Securities.

[Assented to 17th November, 1902.]

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

Preamble.

1. This Act shall apply to all Colonial Stock, Consolidated Stock, bonds, debentures, and other Government securities heretofore or hereafter created or issued, or to be created or issued on behalf of the Government of the Colony of the Cape of Good Hope, and secured by or charged upon the public revenues, or forming part of the public debt of the said Colony, in respect of money borrowed under the authority of any Act heretofore passed or to be hereafter passed by the Parliament of this Colony, each and all of which securities as aforesaid are hereafter referred to as "Cape Government Securities."

This Act to apply to Colonial Stock, Securities, etc. Meaning of "Cape Government Securities."

2. (1) The Governor may from time to time direct that the whole or any portion of the said Cape Government Securities be inscribed and transferred into a register kept in the United Kingdom, at such place and by such Bank, Colonial Officer, or person as he may from time to time appoint.

Governor's power to give directions as to inscribing, etc., the above Stock.

(2) Such Bank, Colonial Officer, or person shall be deemed to be, and be, the Registrar for all purposes of this Act and any regulations made thereunder, and of the Imperial Acts known as the Colonial Stock Acts, 1877-1900.

Securities, etc., in Register. The Registrar.

3. The Governor is hereby authorised to make any declaration, and to take any steps necessary to record such Cape Government Securities, or any portion thereof, under and in accordance with the provisions of the said Imperial "Colonial Stock Acts, 1877-1900."

Governor authorised to take steps necessary to the recording of Securities.

4. The Treasurer may out of the Revenue of this Colony pay, satisfy, and discharge any judgment, decree, rule, or order of the Court in England, which under the provisions of section twenty of the Imperial Colonial Stock Act, 1877, is to be complied with by the Registrar of the Cape Government Securities in England.

Treasurer empowered to satisfy judgments of Court in England.

No. 31—1902. 5. The Governor may from time to time make, alter, amend, or repeal any regulations which may be deemed necessary for the better giving effect to the provisions of this Act and all such regulations so made, altered, amended or repealed, shall be published in the *Gazette* and have force of law from the date thereof :

Governor may make etc., Regulations.

Provided that such regulations, if published at a time when Parliament is not sitting, shall be laid on the table of the Legislative Council and House of Assembly thereof within seven days after the assembling thereof, and if published during the sitting, shall be laid on the table as soon as may be after their publication as aforesaid.

Repugnant enactments. 6. Anything heretofore enacted which is repugnant to any of the provisions of this Act shall be deemed to be repealed for the purposes of this Act and to the extent of such repugnancy.

Short Title. 7. This Act may be cited as the "Cape Government Securities Investment Act, 1902."

No. 31—1902.] [November 18, 1902.

ACT

To Provide for the Raising of a Loan for the Construction of certain Public Works and other Services.

[Assented to 17th November, 1902.]

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

Authority to raise a sum of £278,000.

1. For the purposes of constructing the works set forth in the Schedules "A" and "B" to this Act, it shall be lawful for the Governor to raise a sum of Two Hundred and Seventy Eight Thousand Pounds Sterling.

Short Title. 2. This Act may be cited as "The Public Works Loan Act, 1902."

SCHEDULE "A."

PUBLIC WORKS DEPARTMENT.

1. Additional Accommodation for Country Post Offices, Erection of Quarters and Acquisition of Sites	... ..	£27,500
2. Purchase of Store from Harbour Board, Port Elizabeth, for King's Warehouse	... ..	10,000
3. King's Warehouse, East London	... ..	10,000
Total	... ..	<u>£47,500</u>

Schedule "A."

SCHEDULE "B."

No. 31—1902.

Schedule
"B."

POSTS AND TELEGRAPHS.

1. Wellington to Porterville Road, additional wire (copper)	£380
2. Cape Town to Mafeking, additional wire (copper)	13,880
3. Malmesbury to Clanwilliam, additional wire (iron)	850
4. De Aar to Britstown, wire (iron)	300
5. Queenstown to Cala, additional wire (iron)	520
6. Cookhouse to King William's Town, wire (copper)	1,400
7. Port Elizabeth to King William's Town, <i>via</i> Graham's Town, additional wire (copper)	3,100
8. Umtata to Umzinkulu, additional wire (iron)	1,200
9. Cape Town to Beaufort West, 4 additional wires (copper)	20,350
10. Beaufort West to Nelspoort, 3 additional wires (copper)	1,420
11. Nelspoort to Cookhouse, 2 additional wires (copper)	5,100
12. Cookhouse to Port Elizabeth, 2 additional wires (copper)	3,920
13. Umtata to Clarkebury, new line (iron)	2,580
14. Substituting underground cable for open lines :—	
Cape Town to Salt River	}
Worcester Station to Post Office	
Beaufort West Station to Post Office	
Queenstown Station to Post Office	
Port Elizabeth Post Office to 2¼ miles	
15. Rebuilding main lines :—	
Wellington to Porterville Road (to complete)	}
Ceres Road to Worcester	
Alicedale to Cradock	
Blaney to Kei Road	
Queenstown to Lesseyton Halt	
Worcester to Pieter Meintjes Bank	
16. Matjesfontein to Beaufort West, extending arms	500
17. Port Elizabeth to Gedultz River, deviation of line	2,200
18. Mount Frere to Mount Ayliff	4,250
19. Tarkastad to Cradock	2,050
Carried forward	£101,850

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	Brought forward	£101,850
20.	Private Wires and Telephone Exchanges:—			
	Cape Town and Suburbs (including exchanges at Sea Point, Woodstock, Rondebosch, Claremont and Wynberg)	£43,250		
	Port Elizabeth	19,750		
	Kimberley	11,800		
	East London	12,200		
	Queen's Town	3,000		
	Graham's Town	4,000		
	King William's Town	1,000		
	Cradock	1,000		
	New Exchanges and Private Wires	10,000		
				<hr/>
				106,300
21.	Blockhouse Wires, Purchase of			4,400
22.	Somerset Strand to Gordon's Bay, Extension			250
23.	Purchase of Telegraph Line, Mafeking to British Bechuanaland Protectorate Border			1,050
24.	Additional Fast Speed Apparatus			3,250
25.	Pneumatic Tube Service, Cape Town			5,000
26.	Port Elizabeth to Cradock, 1 additional wire (copper)			2,950
27.	Port Elizabeth to Rosmead, 1 additional wire (copper)			3,900
28.	Somerset West to Somerset Strand, 1 additional wire (iron)			100
29.	Cape Town to Durban Road, 1 additional wire (copper)			200
30.	Cape Town to Sir Lowry's Pass 1 additional wire (copper)			550
31.	Cape Town to Wellington, 1 additional wire (copper)			700
	Total	...	...	<hr/><u>£230,500</u>

No. 32—1902.]

[November 18, 1902.

ACT

To Provide for the Exemption of Local Authorities from Contributions towards Police Expenditure, and to indemnify the Governor in respect of the payment into the Public Revenue of certain fines.

[Assented to 17th November, 1902.]

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

1. The Laws mentioned in the Schedule to the extent therein set forth and so much of any other Law as is repugnant to or inconsistent with the provisions of this Act, are hereby repealed. Repugnant laws repealed.

2. For the purposes of this Act the following terms shall have the meanings hereby respectively assigned to them, namely: Interpretation Clause.

“ Person ” shall include any body of persons, corporate or incorporate.

“ Local Authority ” shall mean—

(a) The Council or Board of Commissioners of any Municipality, Borough, or Corporate Town.

(b) The Board of Management of any community or place in which the “ Villages Management Act, 1881,” is in operation.

(c) The Divisional Council of any Division.

3. From and after the taking effect of this Act, no local authority shall be liable to contribute to the expenses incurred for the maintenance of the police required for the prevention of crime and the preservation of peace and order within the limits of the area under the control of such local authority. Local authority exempted from police contribution.

4. From and after the taking effect of this Act all monies arising from fines, penalties, or forfeitures judicially imposed, and hitherto by Law appropriated to the use of any local authority, shall be paid into the Public Revenue. Disposal of fines, &c.

5. Notwithstanding anything in any law contained it shall be lawful for any member of a police force to prosecute any offence in a competent Court against any bye law or regulation duly made and promulgated by a local authority. Power of police to prosecute.

6. Notwithstanding anything to the contrary in any law contained, all fines, penalties, and forfeitures which have, from and after the 1st day of January, 1902, been paid into the Public Revenue, and which should have been appropriated to the use of any local authority, shall be deemed to have been legally so The Governor and others indemnified in respect of the appropriation of certain fines.

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EXEMPTION ACT.

No. 32—1902. — paid, and the Governor and all persons whatsoever in any way concerned in the payment as aforesaid of any such fines, penalties or forfeitures, or in the advising or consenting to any such payment, or acting under any direction relating thereto, shall be and are hereby declared to be freed, discharged and indemnified against His Majesty the King, his heirs and successors and all persons whatsoever in respect thereof; and all actions, indictments, and legal proceedings whatsoever which may have been brought or instituted in any of the Courts of this Colony for or on account of or in respect of any such payment, are hereby discharged and declared to be null and void.

Short Title. 7. This Act may be cited for all purposes as "The Local Authorities Police Contribution Exemption Act, 1902."

SCHEDULE.

LAWS REPEALED.

Schedule.

Number and Year.	Title.	Extent of Repeal.
Act 15 of 1857 ...	"An Act for enabling Municipalities to obtain additional Police by contributing to the expense thereof."	The whole.
Ordinance 9 of 1864 of British Kaffraria	"The King William's Town Borough Ordinance 1864."	Sections 79, 80, and 81.
Act 8 of 1873 ...	"The Divisional Police Act, 1873."	The whole.
Act 23 of 1880 ...	"The East London Municipality Act, 1880."	Section 37.
Act 27 of 1882 ...	"The Police Offences Act, 1882."	So much of Section 21 as is inconsistent with the provisions of this Act.
Act 28 of 1882 ...	"The Villages Management Amendment Act, 1882."	Sections 3, 4, and 5.
Act 45 of 1882 ...	"The Municipal Act, 1882."	Section 176.
Act 51 of 1883 ...	"The Police Regulation Act, 1883."	Sections 4 and 5 and second Schedule.
Act 23 of 1885 ...	"The Police Acts Amendment Act, 1885."	The whole.
Act 26 of 1893 ...	"The Cape Town Municipal Act, 1893"	Sections 115, 116 and 117.

No. 33—1902.]

[November 18, 1902.]

ACT

To Provide for the raising of a loan of One Million Three Hundred and Ninety-Six Thousand Three Hundred Pounds Sterling for the purpose of prosecuting and improving the Harbour Works of Table Bay, Port Elizabeth, East London and Mossel Bay, and for providing greater facilities for the conduct of the business of those ports.

[Assented to 17th November, 1902.]

BE it enacted by the Governor of the Cape of Good Hope, Pream¹.
with the advice and consent of the Legislative Council and
House of Assembly thereof, as follows:—

1. It shall be lawful for the Governor to raise by public loan a sum not exceeding £600,000 for the purpose of prosecuting and improving the Harbour Works of Table Bay and of effecting improvements at the Docks in respect of the storage of goods and the landing and shipment of cargo, provided that the sum so raised shall be expended for the purposes already authorised by Parliament and set forth in the Schedule A hereunto annexed. Power to raise £1,365,900 for improving the Harbour Works as set forth in Schedules A, B, and C.

It shall be lawful for the Governor to raise by public loan the sum of £368,700 for the purpose of prosecuting and improving the Harbour Works of Port Elizabeth and for the landing and shipment of cargo, such sum to be expended in accordance with Schedule B hereunto annexed.

It shall be lawful for the Governor to raise by public loan the sum of £397,200 for the purpose of prosecuting and improving the Harbour Works of East London and effecting improvements in the landing and shipment of cargo, such sum to be expended in accordance with Schedule C hereunto annexed.

2. It shall be lawful for the Governor to raise the sum of thirty thousand four hundred pounds sterling for the purpose of completing the Harbour Works of Mossel Bay. Power to raise £30,400 for completing the Harbour Works of Mossel Bay.

3. The application of the moneys to be raised as aforesaid for the above purposes shall be entrusted to the Harbour Boards of Table Bay, Port Elizabeth, East London and Mossel Bay, respectively, and the said Harbour Boards shall in respect of such application have and exercise all the powers conferred upon such Boards by any law. Application of moneys by Harbour Boards.

No. 33—1902.

Capital and
Interest upon
loans to be
chargeable
upon the Re-
venues of the
said Boards.

4. The Capital and Interest upon loans raised under the authority of this Act for the purpose of prosecuting and improving the said Harbour Works of Table Bay, Port Elizabeth, East London and Mossel Bay shall in the first instance be chargeable upon the revenues of the said Boards and the said Boards shall, out of such revenues, indemnify the Governor for all moneys paid out of the General Revenue of the Colony on account of the Capital or Interest on such Loans.

Short Title. 5. This Act may be cited as "The Harbour Boards Loans Act, 1902."

SCHEDULE A.—TABLE BAY HARBOUR AND
DOCKS.

	£
Schedule A, Roads and Railways	19,500
Plant required in connection with Landing and Delivery of Cargo	334,700
New and Additional Buildings and Sheds and conversion of Barge Jetty into Wharf ...	74,700
Additional Tugs, Launches and Lighters ...	22,300
Quay Wall and Reclamation	525,000
Breakwater Extension	325,000
	£1,301,200

SCHEDULE B.—PORT ELIZABETH HARBOUR.

	£
Schedule B, Additional Rolling Stock and Landing and Shipping Plant and new Tug	93,500
Widening Humewood Road	3,000
New Warehouses, Wool Stores, Work Shops, and Workmen's Dwellings	94,500
New Approach South Jetty	7,000
Don Pedro Extension	130,700
Reclamation	10,000
Removing portion of Strutt's Reef	5,000
New Harbour Board Offices	15,000
Contingencies	10,000
	£368,700

SCHEDULE C.—EAST LONDON HARBOUR.

No. 34—1902.

Dredger	£76,160	
Steam Tug	21,770	
Launch	7,770	
Two Hopper Barges	16,500	
		£122,200
Extension of No. 2, Produce Wharf	15,000	
Quay Wall, &c., West Bank	142,000	
New Sidings, East Bank	1,400	
Hydraulic Cranes for New Quay Wall, East Bank	14,000	
New Wharf at Sand Crane, including three Steam Cranes and Cart Road	11,600	
1,000 feet of Wharf on East Bank north of First Creek with Sheds, Sidings, Cranes, Lighting and Connection with Existing Jetty Railway Line	71,000	
Transporters on East and West Banks... ..	15,000	
Extension of Ballasting and Coal Wharf and one Crane on West Bank	5,000	
		£397,200

Schedule C.

No. 34—1902.]

[Nov. 18, 1902.

ACT

To Further Amend the Post Office Act, 1882.

[Assented to 17th November, 1902.]

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

Preamble.

1. In addition to the purposes mentioned in Section four of the "Post Office Act, 1882," it shall be lawful for the Governor from time to time, and whenever he shall deem it expedient so to do, to make, alter, and repeal regulations for the insurance of and for the granting of compensation for the loss of or damage to letters, parcels and packets forwarded through the post from any place in the Colony of the Cape of Good Hope to any other place within the same.

Governor empowered to make regulations regarding the insurance of and compensation for postal letters, &c.

2. Such regulations may *inter alia* deal with the following matters :—

Scope of such regulations.

- (1) The conditions under which such letters, parcels and packets as aforesaid may be posted, conveyed and delivered.

No. 34—1902.

- (2) The declaration or declarations necessary to be made as to the contents of letters, parcels and packets desired to be insured.
- (3) The maximum amount for which any letter, parcel or packet may be insured, or which may be granted as compensation in respect of the loss of or damage to such letter, parcel or packet.
- (4) The fees chargeable for the insurance of such letters, parcels and packets.
- (5) The articles which may or may not be contained in such letters, parcels and packets.
- (6) The Conditions under which the amount assured shall be paid, and under which claims for loss or damage shall be entertained.
- (7) The period within which claims for compensation for letters, parcels and packets and insured letters, parcels and packets may be entertained.

Non - liability of Colonial Government or Postmaster General in respect of letters, &c.

3. Nothing contained in or done under, or in pursuance of this Act, shall render the Postmaster-General either in his personal or in his official capacity, or the Colonial Government, liable to any action or other legal proceeding whatsoever in respect or in consequence of any loss of or damage to any letter, parcel or packet posted or received for transmission by post whether such loss or damage be occasioned by or arise from any act of neglect of any officer of the Post Office, or any other person, and the decision of the Postmaster-General on all questions arising between him and any person claiming payment in respect of the loss of or damage to any article enclosed in or forming part of any such letter, parcel or packet shall be final and conclusive.

Governor empowered to enter into conventions extending system of Insurance, &c.

4. It shall be lawful for the Governor, if he shall deem it expedient so to do, to make arrangements or conventions for extending to the United Kingdom, or any British possession or Foreign Country, the system of insurance and compensation provided by this Act.

How conventions to be promulgated.

5. So soon as any such arrangement or postal convention shall have been made under the authority of this Act, the Governor may from time to time issue a Proclamation defining a time for such arrangement or convention to come into operation, and from and after such time the provisions therein as to any payments, insurance, or compensation thereunder, and the regulations therein set forth shall be observed and have force of law.

Conventions so made to be laid before Parliament.

6. Copies of all arrangement or conventions made between the Government of this Colony and the Postmaster-General of the United Kingdom, or the proper authorities of any British possession or foreign country, and copies of all regulations or orders made by the Governor under the provisions of this Act, shall from time to time be laid before both Houses of Parlia-

ment within thirty days after the making thereof, respectively, if Parliament be in Session, and if Parliament be not then in Session within thirty days after the commencement of the next Session. No. 35—1902.

7. Nothing in this Act contained shall be taken or deemed in any way to affect, impair or weaken the provisions of Section forty-nine of the "Post Office Act 1882." Section 49, Act No. 4 of 1882 not affected.

8. This Act may be cited for all purposes as the "Post Office Act Amendment Act, 1902." Short title.

No. 35—1902]

[Nov. 18, 1902.

ACT

To Further extend the operation of the "Customs Duty Indemnity and Suspension Act, 1900."

[Assented to 17th November, 1902.]

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

1. Section I. of The Customs Duty Indemnity and Suspension Act, 1900, shall be read as if the words "or until the first day of July, 1901, whichever date shall soonest arrive" were not inserted therein; and for the purposes of the interpretation of the said section the session following the present session of Parliament shall be deemed to be "the next session of Parliament" within the meaning of the said section; and it is hereby further enacted that the provisions of the said Act as so amended and all the other provisions of the said Act shall apply to all such notices and instructions as may have been issued by His Excellency the Governor, or by his authority, between the 19th October, 1900, and the date of the taking effect of this Act, and to all acts or omissions done or made under and by virtue of such notices and instructions. Act No. 21, 1900, amended and extended.

2. This Act may be cited as the "Customs Duty Indemnity and Suspension Act, 1902." Short title

No. 36—1902.]

[Dec. 1, 1902.]

ACT

To Provide for the suppression of Gaming Houses, Betting Houses, Brothels and Immorality, to declare and amend the law relating to betting and gambling, and to amend “The Police Offences Act, 1882,” and “The Police Offences Act Amendment Act, 1898.”

[Assented to 17th November, 1902.]

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

PART I.

Division of Act. 1. This Act is divided into parts as follows:—

Part I.—Repeal and Interpretation.

Part II.—Gaming, Wagering, and Gaming Houses.

Part III.—Betting Houses.

Part IV.—Brothels and Immorality.

Part V.—General Provisions.

Repeal. 2. Sections three, four, five and six of the Police Offences Act, 1898, are hereby repealed. All laws, in so far as they may be inconsistent with or repugnant to the provisions of this Act, are hereby repealed.

Interpretation. 3. In the interpretation of this Act, unless the context or subject matter otherwise indicates or requires, the following terms shall have the meaning hereby attached to them:—

“House or place” shall be deemed to include any dwelling-house, building, room, office, premises, outhouse, shed, tent, field, enclosure, space, vehicle, ship, boat or any other place within the Colony or the territorial waters thereof.

“Owner or keeper” shall be deemed to mean and include any “owner” who is cognisant of the purposes for which or uses to which his property is being used or put, and also a tenant, occupier, lodger, manager, banker, dealer, croupier, secretary, clerk, messenger or any person employed in any house or place in any capacity other than a menial or domestic capacity.

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SUPPRESSION ACT.

- "Police Officer" shall mean any member of any police force, or any special constable, or any officer or member of the "Colonial Forces," as defined in the "Colonial Forces Act, 1892," whilst co-operating with, or assisting, under lawful authority, any such member. No. 36—1902.
- "Valuable thing" shall include any promise, verbal or in writing, conditional or absolute, to pay or give any valuable thing.

PART II.

GAMING, WAGERING AND GAMING HOUSES.

Powers to Enter and Search Gaming Houses.

4. It shall be unlawful to keep or frequent any gaming house within the Colony, or the territorial waters thereof. Gaming House Prohibited.

5. (1) Any Resident Magistrate or Assistant Resident Magistrate, upon complaint made on oath that there is reason to suspect that any house or place is being kept or frequented or used as a gaming house and that it is commonly reported and believed so to be, may, by special warrant under his hand, authorise any police officer to enter at any hour during the day or night within forty-two days from the date thereof into such house or place, and to arrest, search and bring before the Resident Magistrate all persons found therein, and to seize all tables, instruments of gaming, money, coins, notes, cheques, I.O.U.'s, good fors and other securities or tokens for the payment of money found therein. Power to enter under Special Warrant.

(2) Every police officer so authorised may, if necessary, obtain assistance and use force (whether by breaking open doors, windows, or otherwise, for making such entry, and may search all parts of such house or place wherever he suspects that tables, instruments of gaming, moneys or securities for money are concealed.

(3) Every special warrant shall be in the form contained in the Schedule hereto, or to the like effect.

OFFENCES.

6. (1) Any person convicted of being the owner or keeper of a gaming house shall, for the first offence, be liable to a fine not exceeding Two Hundred pounds, or, in default of payment, or until such fine shall have been paid, to imprisonment with or without hard labour for a period not exceeding six months; and for a second, or any subsequent offence, to a fine not exceeding Five Hundred pounds, or to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to both such fine and imprisonment. Penalty for keeping and frequenting Gaming house, and forfeiture of moneys, etc., seized.

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(2) Every person, other than the owner or keeper thereof, or any person employed therein in any menial or domestic capacity, found in such house without lawful excuse shall be deemed to be a frequenter thereof, and shall be liable to a penalty not exceeding, for the first offence, a fine of Five pounds sterling, or, in default of payment, to imprisonment for a period not exceeding one week; and for a second or subsequent offence, to a fine not exceeding Twenty pounds sterling, or to imprisonment without the option of a fine, for not exceeding three months.

(3) Upon the conviction of any such offender all tables, instruments of gaming, and moneys and securities for money seized as aforesaid shall be forfeited to the use of His Majesty the King in his Colonial Government, and the Resident Magistrate before whom any person is convicted, may, subject to the provisions in the 41st section of this Act contained, direct all tables and instruments of gaming seized as hereinbefore provided to be forthwith destroyed.

Evidence.

7. (1) On any charge brought against any person for keeping or frequenting a gaming house it shall be sufficient to prove:—

- (a) That the house or place is opened, maintained or kept, or is allowed to be used or frequented for the purposes of playing therein at any game of chance, and for the profit, advantage or gain of the owner or keeper thereof; or
- (b) That the house or place is opened, maintained or kept or is allowed to be used or frequented for the purpose of playing therein at any game of chance, or any mixed game of chance or skill, in which a bank is kept by one or more players exclusively of the others; or in which any game is played the chances of which are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the other players stake, play or bet.

(2) Every such house or place shall, even if open for the use of subscribers only, or not open to all persons desirous of using the same, be deemed to be a gaming house, within the meaning of this Act.

Passing of money need not be proved.

8. It shall not be necessary, in support of any charge for keeping or frequenting a gaming house, to prove that any person found playing at any game was playing for any money, wager, or stake, or that any money was actually received by or on behalf of the owner or keeper.

Effect of obstruction of police, attempted destruction of

9. Whenever any such house or place suspected to be kept or used as a gaming house, is entered under a warrant under the provisions of this Act, obstruction of the police in making an entry, attempted destruction, detention, removal or secretion of

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SUPPRESSION ACT.

any thing therein, or the discovery therein or about the person of any of those found therein, of any cards, dice, balls, counters, tables, or other instruments of gaming used in playing any game, shall be evidence. No. 36—1902.
—
property,
and discovery
of gaming in-
struments.

- (c) That such house or other place as aforesaid is a gaming house ;
- (b) That the persons found therein were playing therein, though no play was actually going on in the presence of the police officer entering under such warrant, or his assistants.

10. Whosoever by fraud, unlawful device or ill practice

- (a) In playing at or with cards, dice, tables or other games, or
- (b) In bearing a part in the stakes, wagers, adventures, or in betting on the sides or hands of those playing, or
- (c) In wagering on the event of any game, sport, pastime or exercise,

Cheating at
Cards.

wins from any person to himself or others any sum of money or valuable thing, shall be deemed guilty of theft of such money or thing by means of false pretences, and shall be punishable accordingly.

11. All contracts, agreements, whether verbal or in writing, by way of gaming or wagering, shall be null and void, and no suit shall be brought or maintained in any court of law for recovering any sum of money or valuable thing alleged to be won upon any wager, or which has been deposited in the hands of any person to abide the event on which any wager has been made : Avoidance
of Contracts.

Provided always that nothing in this section shall be deemed to apply to any subscription or contribution or agreement to subscribe or contribute for or towards any plate, prize, or sum of money to be awarded to the winner of any lawful game, sport pastime or exercise. Saving as
to horse rac-
ing, etc.

PART III.

BETTING HOUSES.

12. It shall be unlawful to keep or frequent as hereinafter provided any house or place for betting, within the Colony, or the territorial waters thereof. Betting hou-
ses prohibited

13. (1) Any Resident Magistrate or Assistant Resident Magistrate, upon complaint made upon oath that any house or place is being kept or used or frequented as a betting house contrary to this part of this Act, may, by special warrant under his hand, authorise any police officer to enter at any hour during the day or night within such period as may be limited therein into such room or place, and arrest, search, and bring before Powers to
enter and
search bet-
ting houses.

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No. 36—1902. the Resident Magistrate all persons found therein, and seize all money, coin, notes, cheques, I.O.U.'s, good-fors, or other writing, for securing the payment of money or tokens therefor, and all lists, cards, or other documents relating to racing or betting found in such house or place.

(2) Every police officer so authorised may, if necessary, obtain assistance, and use force by breaking in doors, windows, or otherwise for making such entry.

(3) Every special warrant shall be in the form *mutatis mutandis* contained in the Schedule hereto or to the like effect.

OFFENCES.

Purposes for which house may not be kept. 14. No house or place shall be opened, kept or used at any time for the purpose of betting or of any money or valuable thing being received by or on behalf of the keeper or owner thereof or any person whomsoever as or for the consideration for

(a) Any assurance, undertaking, promise or agreement, express or implied to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse-race or other race, fight, game, sport or exercise.

(b) Securing the paying or giving by some other person of any money or valuable thing on any such event or contingency.

What deemed to be a betting-house. 15. Every house or place opened, kept, or used for any of the purposes mentioned in the preceding section shall be deemed and taken to be a betting-house.

Penalties. 16. (1) Whosoever opens, keeps, or uses any house or place for any of the purposes mentioned in the fifteenth section of this Act, or knowingly and wilfully, being the owner, tenant, occupier, or lodger, permits the same to be opened, kept, or used by any other person for any of such purposes, or has the care or management of, or in any manner assists in the conducting the business of any such house or place opened, kept, or used for any of such purposes, shall be liable to a penalty not exceeding, for the first offence, a fine of Two hundred pounds sterling, or, in default of payment, to imprisonment with or without hard labour for not exceeding six months; and for a second offence, or any subsequent offence, to a fine not exceeding Five hundred pounds sterling, or imprisonment with or without hard labour, for a period not exceeding twelve months, or to both such fine and imprisonment.

(2) All coins, moneys, bills, cheques, notes, IOU's, good for's or other writings for securing the payment of money, and all lists, cards or other documents relating to racing or betting found in such house or place may on conviction of any offence

BETTING HOUSES, GAMING HOUSES AND BROTHELS 4491
SUPPRESSION ACT.

under the provisions of this Act be adjudged to be forfeited to the use of His Majesty the King in his Colonial Government. No. 36—1902.

17. Whosoever being the owner or occupier of any betting house, or any person acting for such owner or occupier, or on his behalf, or as his manager or assistant Penalty for receiving deposits on bets.

- (a) receives directly or indirectly any money or valuable thing
 - (i.) as a deposit on any bet on condition of paying any sum of money or valuable thing on the happening of any event or contingency of or relating to a horse race or other race or fight, game, sport or exercise ;
 - (ii.) as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give thereafter any money or valuable thing on any such event or contingency : or
- (b) gives any acknowledgement, note, security or draft, on the receipt of any money or valuable thing paid or given as aforesaid, purporting or entitling the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency :

shall be liable for a first offence to a penalty not exceeding Fifty pounds sterling, or in default of payment to imprisonment with or without hard labour for a term not exceeding three months and for a second or subsequent offence to a fine not exceeding One hundred pounds sterling or to imprisonment with or without hard labour without the option of a fine for not exceeding six months or to both such fine and imprisonment.

18. Whosoever (a) Exhibits or publishes or causes to be exhibited or published any placard, handbill, card, writing, sign or advertisement, Penalty for exhibiting placards &c., as to betting.

- (i) Whereby it shall be made to appear that any house or place is opened, kept or used for the purpose of making bets or wagers in manner aforesaid, or exhibiting lists for betting, or
 - (ii) With intent to induce any person to resort to, or in any manner to communicate with any person in such house or place, for the purpose of making bets or wagers in manner aforesaid :
- (b) On behalf of the owner or occupier of any such house, or place, invites other persons to resort thereto, or in any manner to communicate therewith for the purpose of making bets or wagers in manner aforesaid, shall, upon conviction thereof, be liable for a first offence to a fine not exceeding Fifty pounds sterling, or in default of payment thereof to imprisonment

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not exceeding three months, and for a second or any subsequent offence to a fine not exceeding One hundred pounds sterling, or to imprisonment with or without hard labour and without the option of a fine, for not exceeding six months, or to both such fine and such imprisonment.

Penalty for advertising.

19. Whosoever sends, exhibits, or publishes, or causes to be sent, exhibited, or published any letter, circular, telegram, placard, handbill or advertisement :

- (a) Whereby it is made to appear that any person, either in this colony or elsewhere, will on application give information or advice for the purpose of, or with respect to any such bet or wager, or any such event or contingency as is hereinbefore mentioned, or will make, on behalf of any other person, any such bet or wager as is hereinbefore mentioned, or :
- (b) With intent to induce any person to apply to any house or place, or to any person with the view of obtaining information or advice for the purpose of any such bet or wager, or with respect to any such event or contingency as is hereinbefore mentioned, or :
- (c) Inviting any person to make or to take any share in, or in connection with any such bet or wager,

shall be subject to the penalties provided in the last preceding section of this Act with respect to offences under that section.

Avoidance of Contracts and recovery of money deposited.

20. (1) Any money of valuable thing received by any person mentioned in the eighteenth section of this Act, as a deposit on any bet, or as or for the consideration for any such assurance, undertaking, promise or agreement as is in the said section referred to, shall be deemed to have been received to the use of the person from whom it was received.

(2) Such money or valuable thing, or the value thereof, may be recovered accordingly with costs in any court of competent jurisdiction.

Act not to extend to stakes payable to winners of races &c.

21. Nothing in this Part contained shall extend to any person receiving or holding any money or valuable thing by way of stakes or deposit to be paid to the winner of any race or lawful sport, game or exercise, or to the owner of any horse engaged in any race, or to any owner or occupier, or person duly authorised to act for him, of any race course or other ground used for horse racing, keeping or using, on any day on which any race is being held under and in accordance with the rules and regulations for the time being in force of the Jockey Club of South Africa, any buildings, sheds, structures, or any enclosed spaces on or within such course or ground, for the purpose of betting, between persons there assembled, on races there and on that day to be so held.

PART IV.

No. 36—1902.

BROTHELS AND IMMORALITY.

22. Any person convicted of keeping a brothel shall be liable to be sentenced for the first offence, to imprisonment with or without hard labour and without the option of a fine for a period not exceeding three months, or to a fine not exceeding One hundred pounds sterling, and in default of payment, to imprisonment, with or without hard labour for not exceeding three months, and for the second offence, to imprisonment with or without hard labour, and without the option of a fine, for a period not exceeding six months, or to a fine not exceeding Three hundred pounds, or to both such fine and imprisonment.

Penalties for keeping brothels.

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

Husband and wife may be jointly prosecuted.

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

Who deemed to be keepers of brothels

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

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

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

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

On refusal to disclose keepers, women to be deemed to be the keepers, and presumption as to male residents.

26. The onus of proving, for the purposes of prosecutions under this Act, that a house, room, or premises is being used or kept as a brothel to the knowledge of the owner, landlord, lessor,

Onus of proving knowledge on part of owner or landlord.

No. 36—1902.

or the agent of either of them, shall be on the prosecution: Provided that if it is established to the satisfaction of the Court that the rent agreed upon, having regard to the rents of other houses, rooms, or premises in the same street or locality, or of similar size, description, desirability, or position, is excessive or exorbitant, the onus shall be on the defendant to prove that he was ignorant that the house, room, or premises was, or were, or became a brothel.

Householder may lodge complaint with magistrate: procedure thereon.

27. It shall be lawful for any householder to give notice to the Resident Magistrate that any house, room, or premises in the street in which such householder resides, or in the vicinity thereof, is being kept or used as a brothel; and on receipt of such notice from any two or more reputable householders relating to one and the same house, room, or premises, the Resident Magistrate on being satisfied as to the householders' reputability shall require such two or more householders to appear before him in his office and there on oath to declare that the contents of their notices respectively are true, and to enter into recognizances in such penal sum as the Resident Magistrate may consider reasonable, having regard to the pecuniary circumstances of the complainants, to produce material evidence against the person to be accused of keeping or using such house, room, or premises as a brothel; and on such notices being received, oaths made, and recognizances entered into, it shall be lawful for the Resident Magistrate to issue his warrant for the arrest of the accused, and on arrest to bind him or them over to appear before him on such day as he may fix upon to answer the charge to be made against him or them for the contravention of any provision of this Act.

Right of entry and search conferred to discover names and identity of keepers.

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

arrested and detained and without any warrant, and shall be deemed to be guilty of contravening this Act, and shall on conviction be liable to a fine not exceeding £100 or in the alternative to imprisonment with or without hard labour for a period not exceeding two months, provided that no prosecution under this section shall bar any criminal proceedings under any of the preceding provisions of this Act, or be pleadable either as a previous conviction or previous acquittal.

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

Contracts to let houses to be used as brothels illegal.

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

Use of house as brothel to avoid contract of letting.

31. Any person who

Procuration.

- (1) Procures or attempts to procure any girl or woman under twenty one years of age, not being a common prostitute, or of known immoral character, to have unlawful carnal knowledge, either within or without the Colony, with any other person or persons ; or
- (2) Procures or attempts to procure any woman or girl to become, either within or without the Colony, a common prostitute ; or
- (3) Procures or attempts to procure any woman or girl to leave the Colony with intent that she may become a prostitute elsewhere ; or
- (4) Procures or attempts to procure any woman or girl to leave her usual place of abode in the Colony, such place not being a brothel, with intent that she may, for the purposes of prostitution, become an inmate of a brothel within or without the Colony shall, on conviction, be deemed to be guilty of contravening this section of the Act, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

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

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Procuring
defilement by
threats,
fraud, or ad-
ministering
drugs.

32. Any person who

- (1) By threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection either within or without the Colony; or
- (2) By false pretences or false representations procures any woman or girl, not being a common prostitute or of known immoral character, to have any unlawful carnal connection either within or without the Colony; or
- (3) Applies, administers to, or causes to be taken by any woman or girl any drug, matter, or thing with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal knowledge with such woman or girl, shall be, on being convicted thereof deemed to be guilty of contravening this section and shall be liable to imprisonment, with or without hard labour, for the period of five years, and, in the case of a male, with lashes not exceeding twenty-five.

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

Persons
trading in
prostitution.

33. (1) Every male person who

- (a) Knowingly lives wholly or in part on the earnings of prostitution, or
- (b) In any public place persistently solicits or importunes for immoral purposes, shall, on conviction therefor, be deemed to be guilty of contravening this section, and shall be liable to be imprisoned for any term not exceeding two years with or without hard labour, and, in case of conviction under subsection (a), to lashes, not to exceed twenty-five, in addition to hard labour.

(2) If it is made to appear to a Resident Magistrate, by information on oath, that there is reason to suspect that any house or place is used by a female for purposes of prostitution, and that any male person residing or frequenting the house is living wholly or in part on the earnings of the prostitute, such Magistrate may issue a warrant authorising any constable to enter and search the house and to arrest that male person.

(3) Where a male person is proved to live with or to be habitually in the company of a prostitute, and has no visible and honest means of subsistence, he shall, unless he can satisfy the Court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

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34. It shall be unlawful for any white woman to voluntarily have illicit sexual intercourse for the purposes of gain with any aboriginal native; and any white woman contravening the provisions of this section shall be liable, on conviction, to be imprisoned with hard labour for a period not exceeding two years.

No. 36—1902.
Sexual intercourse between white women and aboriginal natives.

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

Procurement of white women for natives.

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

Intercourse in brothels between white women and natives.

PART V.

GENERAL PROVISIONS.

37. Sub-section 13 of section 7 of the Police Offences Act, 1882, is hereby repealed, and the sub-section following shall be substituted therefor, that is to say:—

Repeal of Act 27, 1882, Sec. 7 (13).

(13). Betting in any street or open place, or playing therein at any game for a wager or stake, or playing at or with any table or instrument of gaming.

38. It shall be lawful for any police officer or any person duly authorised by the Attorney General, Solicitor General or Crown Prosecutor to conduct prosecutions in respect of any contravention of the provisions of this Act.

Procedure where complainant does not appear.

39. Upon its being made to appear by any sworn information, to the satisfaction of any Resident Magistrate, Assistant Resident Magistrate or Justice of the Peace, that any person charged with the commission of any offence under this Act, is about to depart immediately from this Colony and will probably evade punishment, it shall be lawful for such Magistrate or Justice of the Peace to issue his warrant for the apprehension of the person so charged for the purpose of his being brought before the Resident Magistrate to be dealt with according to law.

Arresting Absconding Offender.

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No. 36—1902.

Limitation
of actions.

40. No action, suit, injunction, prosecution or other proceeding shall be brought against any person in respect of anything done or omitted in execution of this Act, or in execution of the authorities thereunder, unless

- (a) One week's previous notice of his intention to bring such action, or prosecution shall have been given by the plaintiff or complainant to the defendant.
- (b) The action, suit, injunction, or prosecution is brought or commenced within three months of the date of the act or omission complained of, or of the cessation of damage continuously resulting therefrom.

Appropriation
of goods
forfeited.

41. It shall be lawful for Magistrates adjudicating to give directions as to the appropriation or disposal in accordance with such instructions as the Attorney-General may from time to time direct of any property other than money, coin, notes or negotiable instruments forfeited under the provisions of this Act, and for the destruction subject to such directions if any of such property as may be of no use or value.

Resident
Magistrate to
have jurisdiction.

42. All offences against this Act shall be cognizable before the Resident Magistrate or Assistant Resident Magistrate within whose jurisdiction such offence shall have been committed, and such Magistrate shall impose the penalties respectively by this Act provided. Provided that, anything to the contrary in the Resident Magistrates' Courts Act, 1882, or any other law notwithstanding, no Assistant Resident Magistrate shall be competent to hear and determine prosecutions under this Act unless such Assistant Resident Magistrate shall have been employed as a Civil Servant, in the Civil Service of this Colony for a period of not less than ten years, or shall have been acting in the capacity of a Resident Magistrate or Assistant Resident Magistrate for a period, not necessarily continuous, of not less than five years.

Short title.

43. This Act may be cited as the "Betting Houses, Gaming Houses and Brothels Suppression Act, 1902."

SCHEDULE.

SPECIMEN FORM OF WARRANT.

To any Police Officer.

Schedule.

Whereas, it appears to me Resident Magistrate
(or Assistant Resident Magistrate, or Acting Resident
Magistrate, or Acting Assistant Resident Magistrate) at
by the information on oath of A. B. of
in the of that the
(here insert a description of the house or place

by which it may be readily known and found) is kept and used as a [gaming or betting house or place for gaming or betting], within the meaning of the Betting Houses, Gaming Houses and Brothels Suppression Act, 1902, this is therefore, in the name of our Lord the King, to require you, with such assistants as you may find necessary, to enter, at any hour of the day or night within _____ days of the date hereof, into the said house or place, and if necessary to use force for making such entry by breaking open doors and windows or otherwise, and there diligently to search for all instruments of gaming, or as the case may be, which may be therein, and to arrest, search, and bring before me or the Resident Magistrate or Assistant Resident Magistrate, as well the keepers of the same, as also all persons there resorting, and playing, to be dealt with by law, and for so doing this shall be your warrant.

Given under my hand at _____ this _____ of the reign of _____ in the _____

No. 37—1902.]

[November 18, 1902.

ACT

To Apply a Sum of Money for the Service of the Year ending the 30th June, 1903.

[Assented to 17th November, 1902.]

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

Preamble.

1. The Public Revenue of the Colony is hereby charged towards the service of the year ending the 30th June, 1903, with a sum of five millions six hundred and seven thousand one hundred and seventy-six pounds sterling, in addition to the sum of three million pounds sterling, provided for by Act No. 1 of 1902.

Public Revenue to be charged with £5,607,176.

2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto, and more particularly specified and set forth in the Estimates and Supplementary Estimates of the Expenditure for the year ending 30th June, 1903, with the notes of such Estimates, submitted to and approved by Parliament.

How to be applied.

3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act, and the aforesaid Schedule, Estimates and Supplementary Estimates.

Not to be applied - except as granted.

4. This Act may be cited for all purposes as the " Appropriation Act, 1902."

Short Title.

SCHEDULE.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Ministerial Department of Prime Minister ...	320,701	464,647	785,348	780,098
II. Ministerial Department of Colonial Secretary ...	253,356	718,874	972,230	965,375
III. Ministerial Department of Treasurer ...	593,259	2,218,695	2,811,944	1,251,463
IV. Ministerial Department of Attorney-General...	845,079	265,723	1,108,802	1,089,802
V. Ministerial Department of Commissioner of Public Works ...	383,484	3,840,381	4,223,865	4,222,365
VI Ministerial Department of Secretary for Agriculture ...	131,260	168,304	299,573	298,073
Grand Totals ...	£2,527,148	7,674,614	10,201,762	8,607,176
Less amount provided for by Act No. 1 of 1902 ...	...	...	...	3,000,000
Total required to be voted ...	...	...	...	£5,607,176

No. 38—1902.]

[Nov. 18, 1902.

ACT.

To Provide for the Construction, Equipment, Maintenance, and Working of certain lines of Railway, and to confer upon the Governor certain powers with regard to the line of Railway hitherto known as the Cape Colliceries Railway purchased by the Governor in terms of section 3, part one, of Act No. 19 of 1900, entitled "Railways Acquisition and Extension Act, 1900."

[Assented to 17th November, 1902.]

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

1. The Agreement for the purchase of the said Cape Collieries Railway, dated October 3rd, 1901, and set forth in Schedule "A" to this Act, which purchase was authorised by Act No. 19 of 1900, is hereby confirmed, and the said Agreement shall have the same force and effect as if it were fully set forth in the body of this Act, and it shall be lawful for the Governor to equip, maintain, and work the said Railway so purchased, provided that the said Railway so purchased is taken over subject to all lawful servitudes, rights, and obligations duly registered in the Deeds Office, with the title deeds of the land over and through which the said line of Railway runs; and provided further that the Colonial Government shall have, notwithstanding anything contained in the said Agreement constituting the said Schedule, or in any other Agreement, full, free, and undisturbed ownership of the portion or strip of land over which the said line of railway runs, in the same manner and to the same extent as if the same had been expropriated in pursuance of the Railway Acts relating to the lines of Railway constructed by the said Government.

No. 38—1902.
 Agreement of purchase of Cape Collieries Line approved.

2. It shall be lawful for the Governor, so soon after the taking effect of this Act as to him may seem expedient, to cause to be constructed, equipped, maintained and worked, the respective lines of railway set forth in Schedules B, C, D, E, F, H, I, J and K to this Act: provided that the sum expended upon the construction and equipment of each such line of railway shall not exceed the amount set opposite it in the Schedule relating to it.

Construction of Lines in Schedules B, C, D, E, F, H, I, J and K.

3. It shall be lawful for the Governor, so soon after the taking effect of this Act as to him may seem expedient, to pay over such sums of money, by way of subsidy not exceeding an amount of £2,000 per mile of railway, to any person or company obtaining Legislative authority to construct the line of railway set forth in Schedule G to this Act on a 3 ft. 6 in. gauge.

Construction of Line in Schedule G.

4. It shall be lawful for the Governor to raise by loan from time to time, as he shall deem expedient, for the purposes of this Act, the sum of £2,266,897 less such unexpended balance as may remain upon completion of the railway works described in Schedules D and E of Act No. 19 of 1900, and authorised by the said Act, and the said unexpended balance shall be applied for the purposes of the lines of railway set forth in the Schedules to this Act, and in reduction of the said sum of £2,266,897.

Raising of Loan.

5. The lines of railway set forth in Schedules C, I, J, and K, shall be constructed upon a gauge of two feet; the lines B, D, E, F, G and H, shall be constructed upon the Standard Colonial gauge of three feet six inches as Developing Railways.

Gauges of Railways.

No. 38—1902.

Power of entry upon land.

6. For the purpose of setting out the lines of railway set forth in Schedules B, C, D, E, F, G, H, I, J, and K, to this Act, the Governor may by persons duly authorised thereto enter upon any land for the purpose of surveying the same and of probing and boring, in order to ascertain the nature and formation of the soil, making full compensation to the occupier of such land for the damage, if any, thereby sustained.

Certain Provisions of Act 19 of 1861 to apply.

7. The several provisions of Act No. 19 of 1861, entitled an "Act for the Regulation of Railways in this Colony"—save and except the twenty-ninth and thirtieth sections thereof—and the provisions of any law amending the said Act shall, *mutatis mutandis*, apply to the railways referred to in Schedules A, B, C, D, E, F, H, I, J, and K, to this Act precisely as if the said Railways belonged to a Company and there were a Board of Directors, the functions of the said Board being performed by the Governor.

Governor to have powers of Divisional Councils under Sections 146 and 147 of Act No. 40 of 1889.

8. The Governor shall, for the purpose of the construction and maintenance of the lines of railway referred to in Schedules B, C, D, E, F, H, I, J, and K, to this Act, and for the purpose of the maintenance of the line of Railway referred to in Schedule A thereto, have and exercise all the rights and powers and be subject to all the duties and obligations which a Divisional Council by law has and exercises or is subject to under Sections one hundred and forty-six and one hundred and forty-seven of Act No. 40 of 1889, entitled the "Divisional Councils Act, 1889;" provided that:

Proviso.

- (a) The extent of the land taken for the said lines of Railway shall not exceed fifty feet for the formation line, together with such additional land as may be required for the slopes, drainage, stations, approach roads, and other works, measures and things which may be requisite or necessary for the efficient construction and maintenance, or for the maintenance, as the case may be, of the respective lines of Railway.
- (b) Publication of notice in the *Gazette* shall be deemed to be sufficient notice to any proprietor who shall be absent from the Colony or whose place of residence shall not be known.
- (c) The settlement of questions as to recompense in consequence of any exercise of the rights and powers aforesaid shall not delay such exercise, and such questions shall, as soon as may be, be determined under the "Lands and Arbitration Clauses Act, 1882."

Method to be adopted in crossing road or street.

9. At all places where the lines of the several Railways in this Act referred to shall intersect or cross the line of any street or road, it shall be lawful for the Governor to cause the said lines of railway to be made and carried across such road or street, either

by a level crossing or by means of a sufficient and convenient bridge; and at all places where the lines of the said Railways shall run in the same direction as the line of any street or road, it shall be lawful for the Governor, with the consent of the Municipal or Divisional Council in which any such street or road may be vested, to cause the said Railway to be made and carried along such street or road for such distance, subject to such conditions and with such safeguards as may be agreed upon between the Governor and the said Municipal or Divisional Council.

10. This Act may be cited for all purposes as "The Railways Extension Act, 1902."

No. 38—1902.

Short Title

Copy.]

SCHEDULE "A."

MEMORANDUM OF AGREEMENT entered into between Thomas Rees Price, in his capacity as General Manager of the Cape Government Railways, and as such acting for and on behalf of the Colonial Government of the one part, and Carl Jeppe, Managing Director of the New Cape Collieries Company, Limited, duly authorised thereto by the said Company (hereinafter styled the Company), of the other part.

Schedule A.

Whereas, the Colonial Government has decided to exercise its right of purchasing the Railway of the New Cape Collieries, Limited, in terms of section 3 of Schedule "F" of Act 19 of 1900, upon certain conditions and stipulations.

Now, therefore, it is agreed between the said parties hereto, that the Colonial Government shall purchase and the said Company shall sell, the Railway line from Bamboo Junction to the terminus at Zeekoegat, including all servitude rights connected therewith, upon the following terms and conditions:—

1. The purchase price of the said line and rights, including all surplus permanent way material now on the property of the said Company and adjacent sidings, to be £50,000, subject to the terms laid down in a memorandum of agreement, dated 24th August, 1900, between the Colonial Government and the Cape Collieries, Limited, and embodied in Act 19 of 1900, less any payments already made by way of subsidy.

2. The said Company shall acquire and cede to the Colonial Government perpetual Railway servitudes for Railway purposes on the land over which the Railway at present passes, in every case where such land is only held by lease and where such perpetual servitudes have not yet been obtained. The sum of £2,000 to be held over from the purchase price until the aforesaid perpetual servitudes are legally registered against the properties which they affect and are ceded to the Colonial Government, the said Company undertaking to use every endeavour to expedite this matter.

No. 38—1902.

3. The Company shall construct a Branch Line to their Deep Kloof Mine of such a character as to be approved of by the General Manager of the Cape Government Railways. The second-hand permanent way material, viz :—Rails, sleepers, points, fastenings and culvert heads for the construction of this siding to be supplied by the Railway Department free of cost ; the said Company to bear all other costs of construction. The cost of maintaining this line shall be borne equally by the Colonial Government and the said Company.

The material aforesaid will remain the property of the Cape Colonial Government, and in the event of the Company ceasing to work this mine or other mines adjacent thereto served by the Branch Line, the General Manager shall be at liberty to remove such material or any portion thereof.

4. The said Company shall construct a Branch Line to Hind's Mine of such a character as to be approved of by the General Manager of the Cape Government Railways. All second-hand permanent way material, viz :—Rails, sleepers, points and fastenings which may be necessary for this purpose will be furnished by the Railway Department, the Company to bear all other costs of construction.

In view of the Railway Department providing the necessary materials for building this Branch Line, it is to be understood that if during the period of five years from the date of completion of the siding, the earnings of the additional traffic carried by the railway to and from the Branch Line (other than coal for the Cape Government Railway Locomotive Department, but including the traffic of the said Company and of any other firms or Companies using the said Line on the basis of a 10 per cent. deduction of Railway Revenue on such traffic) amount to the cost of the materials so supplied, then the Company will be relieved of its liability ; but if the 10 per cent. of Railway Revenue to and from such Branch Line does not amount thereto the Company will, at the expiration of the five years, pay any difference.

5. The Company hereby agrees to maintain the Hind's Branch Line until such time as traffic from other coal mines than those owned and worked by the Company passes over the siding, when the Cape Government Railway Department will bear one-half the cost of maintenance.

6. The Government hereby agrees to convey stone for the building of Branch Lines to the Deep Kloof and Hind's Mines free of charge over any portion of the line of the said Company now being purchased by the Government.

7. The Branch Lines to the Deep Kloof and Hind's Mines will be constructed by the Company under the supervision and to the satisfaction of Mr. McConaghy, or such other Engineer as the

General Manager shall appoint on behalf of the Government (who is also to survey the same), in such manner as to be safe and suitable for Government rolling-stock, including engines, to travel over them. No. 38—1902

8. The Company shall allow to the Colonial Government free of charge, rights of entrance upon their property, both at Deep Kloof and Hind's Mine, as well as along the routes of the Branch Lines, for the conveyance of and dealing with traffic of all descriptions to be received and delivered, if considered necessary by the Government, and perpetual rights to the use of the ground for loading and unloading and dealing with such traffic as and where required along such lines of Railway; and also the right of constructing sidings over the land of the said Company, free of charge, to be connected with the Deep Kloof Branch and Hind's Mine Branch Lines at the discretion of the General Manager of the Cape Government Railways; the Colonial Government to have the rights of running over the said Deep Kloof and Hind's Mine Branch Lines free of cost, and to charge and retain for the conveyance of traffic, other than coal for the Cape Government Locomotive Department, both on the said Branch Lines and on the Railway Line from Bamboo and Zeekoegat acquired by the Colonial Government under this Agreement at the same rates as those sanctioned to be charged by the Company as per Schedule attached marked A, until 4 per cent. is paid on the capital expenditure incurred, over and above working expenses and maintenance, after which the rates may be modified at the discretion of the General Manager to the intent that the interest on Capital Expenditure may be maintained as nearly as practicable at 4 per cent.

In consideration of the said purchase, the Company agrees to deliver (after the completion of the Line to the Deep Kloof Mine, which the said Company undertakes to complete with all reasonable despatch) and the Government agrees to purchase for two years and, at the option of the Government, for a period not exceeding three years more, the following proportions of the output of coal by the said Company, the conditions of delivery to be those as set forth in the special Coal Contract entered into this day between the said parties hereto.

- (a) For the first year 80 per cent. with a minimum output of 3,000 tons per month.
- (b) For the second year as well as the third, fourth and or fifth years, 70 per cent with a minimum output of 4,000 tons per month.
- (c) The maximum output for the purposes of this Agreement for the five years to be 6,000 tons per month.

No. 38—1902.

If the Government wishes to exercise its right of purchasing the 70 per cent. output during either the third, fourth^{and} or fifth^{or} years aforesaid, notice of its intention to do so shall be given at least 6 months before the commencement of each year, the year being reckoned for the purposes of this Agreement as commencing on January 1st of each year. It is to be understood that the supply of coal from the Deep Kloof, Hind's or any other mines which the said Company may work and acquire in the area served by the railway about to be purchased, and which the General Manager of the Cape Government Railways may require, is to be of a quality suitable for locomotive purposes, to the satisfaction of the General Manager, and of a quality not inferior to that hitherto supplied by the Company to the Colonial Government for use on the Railways.

10. The price to be paid for such coal delivered into trucks at the sidings about to be constructed to the Deep Kloof Mine and^{or} to the Hind's Mine shall be 15s. 3d. per ton of 2,000 pounds.

11. Until the completion of the construction of the Lines to the Deep Kloof and Hind's Mines the said Company agrees to deliver to the Railway Department not less than 90 per cent. of their output of coal, subject to the usual conditions, at 18s. per ton of 2,000 pounds, delivered into trucks at the sidings on the Line about to be purchased.

12. In consideration of the purchase it is further agreed that should the Colonial Government wish to extend the line or siding to the vicinity of the farm "Romansfontein" from the terminus of the line of the said Company at "Zeekoegat" or from any other part of the line over the ground of the said Company in the direction of "Romansfontein," a right of way for such railway and all such rights in connection therewith as the Company possesses, including the right of water for railway purposes, shall be granted by the Company, free of charge.

Thus done and agreed at Cape Town this 3rd day of October, 1901, in the presence of the subscribed witnesses.

(Sgd.) T. R. PRICE.
CARL JEPPE.

As Witnesses:

(Sgd.) Alex. Robb.
R. E. Ball.

ANNEXURE "A."

Passengers.

Passengers travelling in the van shall be charged at the rate of 2d. per head per mile in each direction, and passengers travelling in trucks shall be charged at the rate of 1d. per head per

mile in each direction ; it being understood that if the passenger traffic justifies the running of passenger carriages the fares in force on the Cape Government Railways shall apply. No. 38—1902.

General Goods.

1 to 10 miles	...	...	5s. 0d. per ton.
11 to 15 miles	...	...	8s. 4d. per ton.
16 and 17 miles	...	...	11s. 8d. per ton.

Goods. Chiefly South African and South African Agricultural Produce.

1 to 10 miles	...	...	5s. 0d. per ton.
11 to 15 miles	...	...	6s. 8d. per ton.
16 and 17 miles	...	...	8s. 4d. per ton.

Coal.

1d. per ton per mile, plus 10d. per ton terminal. Subject to a minimum of 1s. 3d. per ton (including terminal).

Live Stock and Vehicles, Smalls, and any other Description of Traffic not hereinbefore referred to.

The rates in force on the Cape Central Railways, as set forth in page 222 of the issue of April, 1901, of the Official Tariff Book of the Cape Government Railways, shall apply.

SCHEDULE "B."

<i>Line.</i>	<i>Mileage.</i>	<i>Cost.</i>	Schedule B.
From a Point in the Cape Collieries Line to Romansfontein	8	...	£30,000

SCHEDULE "C."

<i>Line.</i>	<i>Mileage.</i>	<i>Cost.</i>	Schedule C.
Hopefield towards Vredenburg	14	...	£25,000

SCHEDULE "D."

<i>Line.</i>	<i>Mileage.</i>	<i>Cost.</i>	Schedule D.
From a Point at or near Paarl or Klapmuts Station via Simondium to at or near Frenchhoek	17
		...	£76,670

No. 38—1902.

SCHEDULE "E."

Schedule E.	Line.	Mileage.	Cost.
	From a Point at or near Amabele Loop to Butterworth towards Umtata	78	£619,045

SCHEDULE "F."

Schedule F.	Line.	Mileage.	Cost.
	Indwe to Maclear towards Kokstad	107	£596,901

SCHEDULE "G."

Schedule G.	Line.	Mileage.	Cost.
	Riversdale to Mossel Bay	57	£114,000
	Subsidy at £2,000 per mile.		

SCHEDULE "H."

Schedule H.	Line.	Mileage.	Cost.
	De Aar <i>via</i> Britstown to Prieska	111	£427,350

SCHEDULE "I."

Schedule I.	Line.	Mileage.	Cost.
	Victoria West Road Station to Carnarvon	77½	£184,915

SCHEDULE "J."

Schedule J.	Line.	Mileage.	Cost.
	Aliwal North to Gairtney towards Barkly East	47	£148,849

SCHEDULE "K."

Schedule K.	Line.	Mileage.	Cost.
	Ceres Road Station to Ceres	10¼	£44,167

No. 39--1902.]

[November 18, 1902.

ACT

To Amend the Law relating to the Control and
Cure of Inebriates.

[Assented to 17th November, 1902.]

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

Preamble.

PRELIMINARY.

1. In this Act, unless the context otherwise requires,

Definitions.

The expression "patient" shall mean a person who has been admitted into a retreat, and whose term of detention has not expired or been concluded by his discharge :

The term "Principal Act" shall mean "The Inebriates' Act, 1896."

AMENDMENT OF ACT 32 OF 1896.

2. The period for which a licence may be granted under Section 3 of the Principal Act shall be a period not exceeding two years instead of a period not exceeding twelve months. Period of Licence of a Retreat.
3. In Section 7 of the Principal Act a term not exceeding two years shall be substituted for a term not exceeding twelve months. Amendment of section 7 of principal Act.
4. If a patient escape from a Retreat, the time between his escape and his return to the Retreat shall not be treated as part of his term of detention in the Retreat. Escape of patient.
5. (1) In case of the death of a patient absent from a Retreat under licence a statement of the cause of his death, with the name of any person present at his death, shall be drawn up and signed by a duly qualified medical practitioner, and copies thereof, duly certified in writing by the person in whose charge the patient had been placed, shall by him be transmitted to the Resident Magistrate of the District and to the Deputy-Registrar of Deaths of the District. Death of patient absent under licence.
- (2) If the person in charge of the patient fail to comply with the requirements of this section he shall be guilty of an offence against the Principal Act.
6. (1) The Minister may make regulations with respect to : Regulations
- (a) The procedure on application for admission or re-admission into a retreat.

G

No. 39—1902

- (b) The medical or other curative treatment of patients in retreats, including the enforcement of such work as may be necessary for their health ;
- (c) The inspection of retreats ;
- (d) Any other measure necessary or proper for carrying into effect the provisions of this Act or the Principal Act.
- (2) The regulations made under this section may prescribe forms to be used in substitution of any of the forms prescribed by the Principal Act, and shall, upon confirmation by the Governor and publication in the *Gazette* have the force of law, and any person contravening any such regulation so made, confirmed and published, shall be guilty of an offence against the Principal Act.

CRIMINAL INEBRIATES.

Detention of
inebriates
guilty of
crime.

7. (1) Upon conviction by a Jury or a Court of Resident Magistrate, of any person, of an offence punishable with imprisonment, if the Judge or Magistrate before whom the case is tried is satisfied from the evidence that the offence was committed under the influence of drink, or that drunkenness was a contributory cause of the offence, and the offender admits that he is, or is found by the Jury or Court as the case may be, to be a habitual drunkard, such Judge or Magistrate may, in addition to or in substitution for any other sentence, order that he be detained for a term not exceeding three years in any Inebriate State Reformatory which may be established.
- (2) In any indictment charge or information under this section, it shall be sufficient, after charging the offence, to state that the offender is a habitual drunkard. In the proceedings on such indictment charge or information, the offender shall, in the first instance, be arraigned on so much only as sets forth or charges the said offence, and if on arraignment he pleads guilty, or is found guilty by the Jury or the Court of Resident Magistrate as the case may be, the Jury or Court shall, unless the offender admits that he is a habitual drunkard, inquire whether he is a habitual drunkard, or not, and, in the case of a trial by Jury it shall not be necessary to swear the Jury again.

Provided that unless the offender has been committed for trial, and evidence that he is a habitual drunkard has been given before such committal, not less than seven days' notice shall be given to the Registrar, or the Clerk of the Court by which the offender is to be tried, that it is intended to charge habitual drunkenness in the indictment charge or information.

8. If it shall be proved to the satisfaction of any Resident Magistrate that any person charged before him and found guilty of contravening Section 9 of the "Police Offences Act, 1882," has been during the twelve months preceding the date of such finding, four times convicted of drunkenness by a competent court, it shall be lawful for such magistrate, in lieu of the sentence prescribed by Section 28 of the "Liquor Act, 1891," to sentence such person to be detained for a term not exceeding three years in any State Inebriate Reformatory.

No. 40—1902.
Detention of person four times convicted of drunkenness.

INEBRIATES REFORMATORIES.

9. (1) The Governor may make regulations for the rule and management of any State Inebriate Reformatory that may be established, and for the classification, treatment, employment and control of persons sent to it, and for their absence under licence.

Regulations for State Inebriate Reformatories.

(2) So much of "The Convict Stations and Prisons Management Act, 1888," including the penal provisions thereof, as the Governor may, from time to time, decide to apply, shall apply, *mutatis mutandis*, in the case of any such reformatory as if it were a prison.

10. This Act shall be read as one with the principal Act, and may be cited for all purposes as "The Inebriates Act Amendment Act, 1902."

Short Title

No. 40—1902]

[Nov. 18, 1902.

ACT

To Make provision for the establishment of Native Reserve Locations in or near urban areas.

[Assented to 7th November, 1902.]

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

Preamble.

1. In the interpretation of this Act the following terms shall have the meanings hereinafter assigned to them, that is to say:—

Interpretation.

Native Reserve Location shall mean and include any area in or near any city, borough, town, village, or any area proclaimed under section thirteen of the "Public Health Amendment Act, 1897," set apart under the provisions of this Act for the occupation or residence of Natives employed in any such city, town, village or proclaimed area.

No. 40—1902.

“Native” or “Natives” shall mean and include any Kafir, Fingo, Zulu, Mosuto, Damara, Hottentot, Bushman, Bechuana, Koranna, or any other aboriginal native of South or Central Africa, but shall not include any Native while serving in any of His Majesty’s Ships and while in uniform.

“Inspector” shall mean the officer appointed to the post of inspector in a Native Reserve Location.

“Intoxicating Liquor” or “Liquor” shall mean and include any spirits, wine, beer (including “Kafir beer,” as defined and interpreted in the first proviso of the seventh section of “The Liquor Law Amendment Act, 1898,”) or other fermented, distilled, spirituous or malt liquors of an intoxicating nature, or any other intoxicating brew or mixture.

Governor may establish Native Locations for the purposes of this Act.

2. It shall be lawful for the Governor, by Proclamation, to establish, prescribe and define the areas and limits of any Native Reserve Location, in terms and under the provisions of this Act whenever the establishment of such Location shall by him be deemed expedient: Provided that notice shall be duly given by the Minister in the *Gazette* of the Governor’s intention to issue such Proclamation not less than three months before the intended date of such issue.

3. It shall be lawful for the Governor in and by such Proclamation to fix and appoint a day after which it shall not be lawful for any Native to reside within the Municipal area, within, or near, which he may labour or reside, save and except within the area of the Native Reserve Location established and delimited in and by such Proclamation; and any Native who shall be residing without the limits of such Native Reserve Location in any such Municipal area or any portion thereof shall remove therefrom not later than the day so fixed and appointed in and by such Proclamation, and any Native who shall be found residing in such Municipal area or portion thereof as aforesaid after the day so fixed, whether he shall have so taken up his residence prior or subsequent to the issue of the said Proclamation, may be summarily removed therefrom to the said Native Reserve Location by any police constable or by any person authorised by the Minister, and shall furthermore on conviction for each and every wilful contravention of the provisions of this section of this Act and the said Proclamation be liable to a fine not exceeding ten pounds and in default of payment of such fine to imprisonment with or without hard labour for a period not exceeding three months, unless such fine be sooner paid.

4. The provisions of the last preceding section shall not apply to any Native whilst in *bona-fide* employment as a domestic or other servant who may reside with his or her employer, nor to such Natives as may work within the Municipal limits as may be granted permission in writing to reside outside such Native Reserve Location by any person whom the Minister may depute for that purpose; nor to such Natives as are by the "Native Registered Voters Relief Act, 1887," exempted from the operation of certain disqualifying Acts of Parliament. Provided however, that any Native exempt as provided for in this Section who shall elect to reside within the limits of any Native Reserve Location shall *ipso facto* become liable to the provisions of this Act.

No. 40—1902.
Certain classes of natives
excepted

5. The Native Location commonly known as the Uityvlugt Location, heretofore proclaimed and established on Crown land near Maitland, in the Cape District, by Government Notice, No. 237, of 1901, shall be deemed to be from the date of the taking effect of this Act a Native Reserve Location duly established, set apart and delimited under and subject to the provisions of this Act and of any rules and regulations framed thereunder, and shall from and after the taking effect of this Act be called the Ndabeni Location, and shall be deemed to have been duly proclaimed under the provisions of the second and third sections of this Act, and thereupon all the provisions of the said sections shall apply and be operative in respect of the said Native Reserve Locations and the several Municipal areas within the Cape Division, each of which Municipal areas shall be deemed to be a Municipal area in or near which the said Location is established within the meaning of Section 3 of this Act.

The Uityvlugt Location to be deemed a Native Reserve Location.

6. Every Native adult occupier of a house or dwelling provided by the Government in any Native Reserve Location shall within seven days after his arrival in the said Native Reserve Location, and thereafter within seven days after the conclusion of every calendar month, pay to the Inspector thereof or any other officer duly appointed to receive the same such sum of money as occupation rent in respect of such house or dwelling as the minister shall fix; and no Native adult shall occupy any house or dwelling not provided by the Government save with the consent of the Inspector and subject to terms approved of by the Minister.

Dwellings in Locations; condition of occupation; rent to be paid.

7. Any Native adult occupier neglecting or refusing to pay rent as provided in the last preceding section within forty-eight hours from the date upon which it becomes due and payable shall be liable to be summarily ejected from such Native Reserve Location by the Inspector or by any person authorised by him.

No. 40—1902.

8. Any Native adult who, having prior to the taking effect of this Act resided within the limits of the Uitvlugt Location and having occupied therein any house or dwelling provided by the Government, shall have failed to pay any charges in respect of such occupation provided and imposed by any regulations made and proclaimed under and by virtue of the fifteenth section of the "Public Health Amendment Act, 1897," shall be and is hereby required to pay such charges; and any such Native who shall neglect or refuse to pay such charges within seven days after receiving notice in writing to pay from the Inspector may be tried for such neglect or refusal in any Magisterial District in which he may be found or in the Magisterial District in which the said Location is situate and shall on conviction be liable to a fine not exceeding five pounds, and in default of such fine to imprisonment, with or without hard labour, for a period not exceeding one month, unless such fine be sooner paid: Provided that no fine paid or period of imprisonment undergone shall in any way affect, impair, or curtail any legal remedy for the recovery of the charges aforesaid.

9. Any person, not being entitled to reside within any Native Reserve Location, may be directed to remove therefrom by the Inspector, or any other duly authorised officer, and any such person on being so directed who shall not forthwith remove from such location may be summarily removed for the nonpayment of rent or otherwise by the Inspector or by any person authorised by him, and any such person who shall neglect or refuse so to remove, or shall resist such Inspector or authorised person in the execution of his duty under this section, shall be liable on conviction to a fine not exceeding five pounds, and in default of payment of such fine to imprisonment, with or without hard labour, for a period not exceeding three months, unless such fine be sooner paid, and any person who shall assist, aid or abet any such person aforesaid in resisting the Inspector, or any person authorised by him in the execution of his duty under this section, shall be liable to the penalties hereinbefore provided in this section.

10. It shall be lawful for the Governor to appoint in any Native Reserve Location established under the provisions of this Act such officers as may be deemed necessary for the control and management of such location.

11. It shall be lawful for the Governor from time to time to make, add to, alter or repeal rules and regulations for all or any of the following purposes:—

- (1) Providing for the appointment of officers and headmen of a Native Reserve Location, and regulating their duties and authority and preventing the obstruction of such officers or headmen in the discharge of their duties.

- (2) Prescribing the manner of registering the inhabitants, of regulating the conditions of residence within such location of any wives or children of Natives residing in any location, and of providing houses or dwellings for their occupation.
- (3) Regulating the erection and use of private dwellings, buildings, and other structures in the location, and the ventilation, lighting, materials, and manner of construction of all such dwellings, buildings, and other structures.
- (4) Providing for the conditions under which Natives, not being resident therein, shall be permitted to enter, temporarily sojourn at, and depart from any location, and for preventing the harbouring of such Natives by any resident of such location in contravention of the provisions of this Act or of any regulations made thereunder.
- (5) Providing for the manner of collecting rents, railway fares, and other revenue lawfully due.
- (6) Providing for the control and management of hospitals, schools, and other institutions, and for the payment of fees by persons using such institutions.
- (7) Providing for the protection and care of Government property.
- (8) Suppressing nuisances and preserving public decency.
- (9) Providing for the maintenance of the healthiness, cleanliness, and good order of all houses, tenements or buildings, whether belonging to the Government or to private owners, and of sanitary accommodation, and for maintaining cleanliness and sanitation generally.
- (10) Providing for the keeping of live-stock and other animals within the limits of the location, and the registration thereof.
- (11) Providing for the conveyance and removal of residents to and from the location, and for fixing and from time to time altering or amending tariffs of fares and charges therefor, and for recovering the same.
- (12) Fixing hours within which it shall not be lawful for natives residing in a Native Reserve Location to be without the limits of such location without a written pass or certificate from their employer, or the inspector, superintendent, or any sergeant of police, or the inspector of the said location, or other duly authorised officer.
- (13) Providing for the issue to Natives residing in a Native Reserve Location and prescribing the carrying by such Natives of identification cards; and further, for pro-

No. 40—1902.

hibiting the employment by any person of any such Natives not being provided with such identification cards.

- (14) Regulating, permitting, or prohibiting of shops, trading stations, and trading within such locations.
- (15) Prescribing and regulating the issue of passes to Natives entering or leaving any Native Reserve Location and providing for the registration of all such Natives.
- (16) Providing for and maintaining generally the safety, convenience, and good order of the residents of the location.

Any rule or regulation made under the provisions of this Act may impose penalties for any contravention thereof, but no such penalty shall provide for any greater punishment than a fine of five pounds for the first and ten pounds for any subsequent contravention, and, in default of payment, in every such case of a first or a subsequent contravention, as the case may be, to imprisonment with or without hard labour for a period not exceeding six weeks for the first and three months for any subsequent contravention, unless such fine be sooner paid.

In case of conflict with Regulation of Municipalities, Boroughs, etc., Regulations under the Act to be observed and enforced

12. Where a Native Reserve Location is situated within the limits of any Municipality, Borough or any area within which the "Villages Management Act, 1881," is in force, the rules and regulations in force in such Municipality, Borough, or area respectively, shall, in so far as, and to the extent that, they are or may be repugnant to any rules or regulations duly made under the provisions of this Act and declared to be in force in such Location, be considered to be of no force and effect.

Sites—allotment for religious and educational purposes.

13. It shall be lawful for the Governor to allot sites in any Native Reserve Location to religious societies for Church and School purposes on such conditions and with such powers of resumption (if any) as the Governor may think fit.

No licence to sell liquor to be issued.

14. No licence shall be issued for the sale of intoxicating liquor within the limits of any Native Reserve Location established under the provisions of this Act, and any such licence issued shall be void, anything to the contrary contained in any existing law notwithstanding.

Sale or purchase of liquor for other than medicinal purposes prohibited—penalty.

15. (1) Every holder of a licence to sell liquor who shall within any Native Reserve Location sell or permit to be sold or deliver or supply, or permit to be delivered or supplied, any liquor to any native, or

(2) Any person who shall, as the Agent, or on behalf of any such native, as aforesaid, buy or receive any liquor from any licence-holder for consumption within the said Native Reserve Location

shall on conviction be liable to the penalties imposed by the seventy-fifth section of the "Liquor Licensing Act, 1883."

Provided always that liquor may be supplied upon the certificate of a duly registered medical practitioner, which shall be in accordance with the form set out in the Schedule to this Act, that such liquor is required by the person named therein for medicinal purposes, which certificate must clearly state the description and quantity of the liquor to be supplied; and in such cases the burden of proving that such liquor was supplied upon such form of certificate shall be upon the person supplying the same.

16. No intoxicating liquor shall be brought into any Native Reserve Location without the permission in writing of the Inspector of such location, or other duly authorised officer, authorising the bearer to bring into it such intoxicating liquor, the quantity and description of which shall be specified in such permission, and any person bringing into a Native Reserve Location intoxicating liquor, or being found in possession of intoxicating liquor within any such location without being provided with a permit for such liquor, shall on conviction be liable (a), for a first offence, to a fine not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding three months unless such fine be sooner paid; (b) for a second or any subsequent offence, to a fine not exceeding ten pounds, and in default of payment, to imprisonment, with or without hard labour, for a period not exceeding six months unless such fine be sooner paid, or to imprisonment with or without hard labour, for a period not exceeding six months, or to both such fine and such imprisonment.

No liquor to be brought into location without permit—penalty—liquor for medicinal purposes excepted.

The provisions of this section shall not apply to intoxicating liquor brought into such location for medicinal purposes by or on the written order of the duly appointed Medical Officer or such other Officer of such location as the Minister may authorise.

17. Any Native found in possession of intoxicating liquor, in any Native Reserve Location shall be liable to be summarily arrested, and upon conviction, (a) for a first offence, to a fine not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour for a period not exceeding three months, unless such fine be sooner paid; and (b) for a second or any subsequent offence to a fine not exceeding ten pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding six months, unless such fine be sooner paid or to imprisonment with or without hard labour for a period not exceeding six months, or to both such fine and such imprisonment; Provided that the provisions of this section shall not apply to any Native being the holder of the certificate of a duly registered medical practitioner hereinbefore in this Act referred to.

Possession of liquor illegal—penalty.

No. 41—1902. 18. This Act may be cited as “The Native Reserve Locations Act, 1902.”
Short Title.

SCHEDULE.

Schedule. Certificate of Registered Medical Practitioner under the fifteenth section of the “Native Reserve Locations Act, 1902,” to be of force and effect only within two days after the date thereof.

I, ^(a) , of ^(b) ,
being a duly registered medical practitioner of the Colony of the Cape of Good Hope do hereby certify that

^(c) of ^(d) ^(e)
is under my medical care and treatment and requires for own consumption and for purely medicinal purposes ^(f)

Signature of.....
(Registered Medical Practitioner).

Date at
This day of , 19

- (a) Here insert Name of Registered Medical Practitioner signing certificate.
(b) " " Address " " " "
(c) " " Name of Native to whom certificate is issued.
(d) " " Residence " " " "
(e) " " his or her as the case may be. " "
(f) " " the description and quantity of liquor to be supplied.

No. 41—1902.]

[Nov. 18, 1902.]

ACT

To Amend the Law relating to Public Outspans.

[Assented to 17th November, 1902.]

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

1. So much of the “Divisional Council’s Act, 1889,” or of any other Law as repugnant to or inconsistent with the provisions of this Act is hereby repealed.

2. From and after the taking effect of this Act it shall be lawful for the Governor to sell the whole or any portion of any Outspan being Crown Land, subject to the following conditions:—

- (1) That notice of the intention of the Government to sell such Outspan or portion thereof shall have been

published in the *Gazette* and in one or more newspapers published or circulating in the Division in which such Outspan is situated. No. 41—1902.

- (2) That the consent of the Divisional Council of the Division in which such Outspan is situated has been obtained.
- (3) That any such sale shall be held under the provisions of Act No. 15 of 1887, as amended by Section 6 of Act No. 40 of 1895, which provisions shall apply to any such sale, save that the purchase price shall be paid in cash.
- (4) That it shall be lawful for the Minister to carry the proceeds of any such sale to a separate account for the purpose of defraying the cost of improvements, such as water supply, fencing or the like, on other outspans in such division, or of purchasing other land that may be deemed by the Divisional Council to be more suitable for Outspan purposes, and that, if sufficient grounds be not shown, such proceeds shall be dealt with in the same manner as the proceeds of sales of other Crown Lands.

3. From and after the taking effect of this Act, it shall be lawful for the Governor :

- (1) To resume such Outspan ground being Crown Land as is no longer used and required for Outspan purposes, and to cancel the Outspan servitudes therein, and to dispose of such land under the laws for the time being regulating the disposal of Crown Lands.
- (2) To cancel Outspan servitudes on lands, other than Crown Land, which the public no longer require or avail themselves of, provided that a fair and reasonable amount—to be fixed, in case of difference, by arbitration in accordance with the provisions of the Lands and Arbitration Clauses Act, 1882—shall be paid by the owner of the land on which such Outspan is established, for the release of his farm from such servitude, and that all amounts so paid shall be dealt with in the same manner as the proceeds of sales of outspans under the last preceding section: provided that in no case shall any improvements made upon such outspan be taken into consideration in arriving at such amount.
- (3) To define and limit to a particular area any undefined or general Outspan Servitudes over farms, as may from time to time to him seem advisable, with the consent of the owner thereof, provided always that Notice of the intention of the Governor to take action under this section shall be published in the *Gazette* and in one

Resumption
of unused
Outspans, and
cancellation
and delimita-
tion of Out-
span Serv-
tutes.

No. 42—1902.

or more newspapers published or circulating in the division in which such Outspan is situated; and provided further that the Governor shall be satisfied that no sufficient reason has, within two months of the first publication of such intention, been adduced against such action either by the Divisional Council of the Division in which such Outspan is situated, or by the general public in such Division.

Regulations

4. It shall be lawful for the Governor to appoint such person or persons as he may deem fit, to inquire into and report upon the desirability of the purchase, sale or resumption, under the provisions of this Act, of any Outspans, or portions of Outspans, or upon the cancellation of servitudes or delimitation of boundaries of any such Outspans, and, by publication in the *Gazette*, to make rules and regulations for the guidance of such person or persons, and for the publication of such notices as may be necessary, and such changes as may be contemplated in respect of such sale or resumption of Outspans, and furthermore to make and publish regulations providing for the amendment or alteration of such rules of the Deeds Registry as may be necessitated by such changes.

Short Title. 5. This Act may be cited as "The Outspans Act, 1902."

No. 42—1902]

[November 18, 1902.

ACT

To authorise the raising of a Loan of £1,995,900 sterling for the purpose of certain New and Additional Railway Works.

[Assented to 17th November, 1902.]

Preamble.

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

Loan of £1,995,900 authorized.

1. For the purpose of constructing the Works set forth in the Schedule to this Act, it shall be lawful for the Governor to raise, by Loan, the sum of £1,995,900.

To be redeemed from railway revenue in four years.

2. That provision for raising the sums of £885,000 and £125,000 for additional rolling stock and locomotive workshops, etc., respectively, shall be made by temporary loan to be a charge against railway earnings, to be redeemed in four equal instalments, the first within the present financial year and the balance in the next three succeeding financial years.

Short Title

3. This Act may be cited for all purposes as the "New and Additional Railway Works Act, 1902."

SCHEDULE.

No. 43—1902.
Schedule.

Additional Rolling Stock	£885,000
Cape Town Station Extension	140,000
Doubling Portions of Lines at Junctions, etc. ...	50,000
Additional Railway Accommodation at Cape Town, including Jetty, Approaches, and Reclamation...	140,000
Locomotive Workshops, Steam Sheds, etc.	125,000
Additional Accommodation for Railway Employees	120,000
Additions to Stations and Buildings, etc.	110,000
New and additional Water Supply	105,000
Additional Siding Accommodation, and Crossing Loops	30,000
New Sheds, Warehouses, etc.... ..	20,000
Additional Fencing	5,000
Buffalo Bridge—Half Estimated Cost—Approaches, Sidings, and Junction Station	144,500
Surveys	20,000
Doubling Line, Wynberg to Plumstead	10,000
Lengthening and Widening Platforms, Woodstock to Simon's Town	11,400
Stock and Fittings for Railway Refreshment Rooms and Cars	80,000
	<u>£1,995,900</u>

No. 43—1902.]

[Nov. 18, 1902.

ACT

To Abolish the Simon's Town Harbour Board and to vest the Property thereof in the Municipality, and to confer certain powers on the Municipal Council.

[Assented to 10th November, 1902.]

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

Preamble.

PART I.

REPEAL AND INTERPRETATION.

1. All laws contrary to or inconsistent with the provisions of this Act shall be and are, in so far as they apply to the Harbour of Simon's Town, hereby repealed except as to acts done, rights acquired, liabilities incurred, under and by virtue of the same; Repeal of repugnant Laws.

No. 43—1902.

provided that nothing in this Act contained shall be deemed in any way to repeal, alter, amend, or in any way affect the provisions of or limit the operation of the Simon's Town Naval Defence Act, 1898, or to apply to property vested in the Admiralty whether acquired under the said Act or otherwise.

Interpretation Clause.

2. In this Act unless the context shall otherwise indicate or require the following expressions shall have the meanings hereby respectively assigned to them :—

“ The Council ” shall mean the Municipal Council of Simon's Town.

“ The Board ” shall mean the Simon's Town Harbour Board.

PART II.

ABOLITION OF SIMON'S TOWN HARBOUR BOARD AND VESTING CERTAIN POWERS IN THE MUNICIPAL COUNCIL.

Simon's Town Harbour Board abolished.

3. The Board of Commissioners, commonly known and described as the Simon's Town Harbour Board, nominated and appointed by the Governor under and by virtue of the provisions in the Ordinance No. 21 of 1847, entitled an “ Ordinance for Improving the Ports, Harbours and Roadsteads of this Colony,” contained, shall, on and from the date of the taking effect of this Act be abolished; and after such date no Board of Commissioners, under and for the purposes of the said Ordinance or other law, shall be nominated and appointed by the Governor for the Port of Simon's Town.

Harbour Board's property and rights vested in Municipal Council.

4. On and after the date of the taking effect of this Act, all property, movable and immovable, and all rights, not inconsistent with the provisions of this Act, which shall have been at the date aforesaid vested in the Simon's Town Harbour Board, shall become the property of and be vested in the Municipality of Simon's Town.

Powers conferred by the Act vested in Council.

5. On and after the date of the taking effect of this Act the powers conferred herein, shall, subject to the provisions of this Act, and to the provisions of the Simon's Town Naval Defence Act, 1898, be vested in the Municipal Council of Simon's Town.

Local limits of jurisdiction conferred on Council

6. It shall be lawful for the Governor by Proclamation from time to time to declare, define, and alter the local limits within which the powers conferred by this Act may be exercisable by the Council.

PART III.

POWERS.

Powers conferred on Council.

7. For the purpose of the exercise of the provisions of this Act the Council shall have power to do all or any of the following things :—

- (1) To acquire, take, hire, purchase and hold and sell, lease, deliver, transfer or otherwise lawfully dispose of all property, movable or immovable. No. 43—1902.
- (2) To make and enter into powers of attorney, contracts, deeds and other written documents or instruments.
- (3) To raise such loans as may be necessary for the execution of any works undertaken for the purposes of this Act.
- (4) To take and use any land, and to dig out and carry away any materials belonging to or being found in or upon the land of any person or persons whatsoever, and which land shall adjoin or lie convenient to any work to be performed or carried on; and the Council is hereby invested for the purpose of so doing with all and singular the legal rights, if any, belonging to the Government of this Colony in respect to the taking of any such land adjacent to the sea, and in respect to the raising and carrying away such materials for making and repairing roads, and whether such rights shall have been preserved to the said Government by the Proclamation of His Excellency Sir John Francis Cradock, bearing date 6th day of August, 1813, permitting the conversion of lands on loan into places on perpetual quitrent, or shall have been created by express stipulation or condition in any grant of freehold property, or shall exist in any other way or manner whatsoever. Provided that nothing in this section shall apply to any land vested in or under the control of the Admiralty, or any materials so vested or under such control.
- (5) In case the Council shall require to take or use any land, or to dig out or carry away any materials belonging to any person, who shall not be bound by law to allow the Council to do so without requiring any recompense or payment by reason of the powers and authorities in the last preceding section delegated to or bestowed upon the Council, and which person shall think proper to require compensation from the Council, the amount of purchase, hire or compensation, shall be determined in accordance with the provisions of "The Lands and Arbitrations Clauses Act (1), 1882."
- (6) To demand and receive such wharfage or crantage dues, charges and duties on all cargo, goods and materials landed, shipped or transhipped, to be calculated upon tonnage or *ad valorem*, and such pilot dues as may from time to time be fixed, by regulations to be approved of by the Governor, and published in the *Gazette*. Provided: that the dues, charges or duties in force at

present shall remain in force, and the Council shall collect the same until a fresh scale of charges shall be promulgated under the provisions of this section, and provided that the following goods shall be exempt from all such dues, that is to say, all Government stores, bullion and coin, passengers' baggage not liable to Customs dues, ships' stores, outwards or coastwise, and goods shipped on which wharfage dues have already been paid at the Port of Simon's Town.

- (7). To impose and issue licences for tugs, steam launches, hulks, ferry boats, and boatmen.
- (8). To make all such reasonable regulations as they may deem necessary for any of the purposes following, that is to say :—
 - (a) To preserve good order on the beach, and on the landing places, and the approaches to the same, within the limits of the jurisdiction assigned to the Council by this Act.
 - (b) To regulate the traffic at and along such landing places.
 - (c) To regulate the landing, shipping, transshipping and warehousing of goods at the port of Simon's Town.
 - (d) To ascertain the tonnage or value of goods imported or exported, and to regulate the statements or solemn declarations and the measurements or valuations to be made for that purpose.
 - (e) To provide for the registration, licensing, inspection, control and working of tugs, steam launches, and ferry boats, and to provide for the number of passengers to be carried on tugs, steam launches and ferry boats.
 - (f) Generally for giving effect to the powers conferred by this Act.
- (9). Subject to the approval of the Governor, to impose reasonable penalties for the contravention of any regulation framed under the provisions of this Act, provided that no fine shall exceed one hundred pounds, and no term of imprisonment shall exceed the period of six months, and provided that if no such penalty be specially prescribed, a fine not exceeding twenty pounds, or in default of payment of such fine imprisonment with or without hard labour for any term not exceeding one month may be imposed, and provided, further, that as often as the breach of any such regulation shall cause damage to any property of the Municipality or to property under its management or control, the person causing such damage shall be liable to make good such

damage to the Municipality in addition to any penalty which may be imposed under such regulation: that any person who shall wilfully make any false declaration in writing under such regulations shall be liable upon conviction to the penalties for the crime of perjury: and provided, further, that no regulations made by the Council under this Act shall come into operation or be of any effect until the same, as well as any special penalty assigned for the contravention thereof, shall have been approved by the Governor and shall have been published twice, during one month, in the *Gazette* and in some paper published at Simon's Town: and no resolution of the Council by which preference is granted in regard to the landing, shipping or transhipping of goods to any vessels or steamers or lines of vessels or steamers, other than His Majesty's ships, over others shall be of effect, unless and until such resolution has received the sanction of the Governor.

- (10). To employ for the purposes of this Act, such officers, and to pay them such salaries, and impose upon them such conditions, as may be deemed expedient: Provided that no salary shall be assigned to any person engaged for an indefinite period, or for any period longer than six months until the same shall have been approved by the Governor; and provided further that no officer employed under the authority of this Act, shall, under pain of immediate dismissal, be directly or indirectly connected with or concerned in any business or trade whatsoever, nor accept any fees or emoluments other than his salary or allowance paid by the Council, without the previous sanction of the Council, and the approval of the Governor.
- (11). To pay and discharge all costs, charges, and expenses lawfully incurred in carrying out the provisions of this Act.
- (12). To collect all revenues due to the Municipality under the provisions of this Act.

Provided that the powers hereby conferred shall not be exercised in such manner as may conflict with, obstruct, impede, or in any way prejudice the free exercise of the powers conferred on the Governor, the Admiralty, or any person upon whom powers and authorities are vested, by the Simon's Town Naval Defence Act, 1898, or the administration thereof, and provided that in case of conflict between the interests of the Council and the Admiralty the interests of the Admiralty shall prevail and be regarded,

No. 43—1902.

Existing
Harbour
Board regula-
tions to re-
main in force
pending the
making of
new regula-
tions.

8. Notwithstanding the repeal by this Act of any law, all existing bye-laws or regulations for the control and management of the shipping in the ports or harbour of Simon's Town and for the landing, shipping and transshipping of goods, or for the management and control of such harbour, shall remain in force, and the Council shall have power to enforce the same until new regulations shall have been made by the Council in accordance with the provisions of this Act.

THE COUNCIL.

Works vested
in Council.

9. All works constructed, altered, repaired, or improved by any Board shall vest in the Council, subject to the provisions of this Act.

Fines.

10. All fines imposed under this Act may be recovered in the Court of the Resident Magistrate of Simon's Town, and shall be paid over to and become the property of the Municipality of Simon's Town.

Loans.

11. All loans authorised to be raised by this Act shall be raised in accordance with the provisions of the law relating to municipalities for the time being in force: provided that the sums raised for the purposes of this Act shall not be deemed to constitute a portion of the same.

PORT REGULATIONS.

Regulations
regarding the
supply of li-
quor.

12. No owner of any wharf-dingy, boat, steam launch, or steam tug in the Port of Harbour, or any boatman or other person employed by such owner, shall supply, convey or deliver, or attempt to supply, convey or deliver any intoxicating liquor to any of the crew, or to any other person on board of any vessel lying at anchor in the Port or Harbour, except such liquors as are purchased, with the consent of the master of the vessel, and any persons contravening any of the provisions of this section shall on conviction be liable to a fine of not exceeding £100, and in default of payment thereof to imprisonment with or without hard labour for a period not exceeding six months, and in addition any licence held by such person under this Act shall be forfeited.

Duties of
Master of a
Merchant
Vessel.

13. The master of every merchant vessel other than any of His Majesty's ships arriving in Simon's Bay, shall, upon demand, produce and show the ship's register and ship's papers to the Port Officer for his inspection, and shall deliver a list of his passengers, with a description of their rank, sex, and occupation, together with a list of any deaths or removals that may have occurred during the voyage, and shall report, in writing, if any person or persons should have stowed themselves away or concealed themselves on board of any such vessel without his

knowledge or consent; and any master not duly accounting for every individual aforesaid, or falsely accounting for any of them, or refusing to deliver the list when thereunto required as aforesaid, shall forfeit for every such offence the sum of fifty pounds.

No. 43—1902.

14. The Port Officer shall, between sunrise and sunset, board any private ship or vessel arriving in Port, as soon as practicable after her arrival, and, if possible, previously to her coming to an anchor, in order that he may point out to the master of the vessel a proper berth; and in case he should be prevented from so boarding, in consequence of the quarantine regulations, he shall point out a proper berth for such vessel arriving under such circumstances, and may, if it shall appear to him necessary, order any vessel to shift or change her berth to any other berth to be pointed out.

Duties of Port Officer—

(1) On arrival of any private ship.

15. Upon the arrival in port of any of His Majesty's ships, or of any public vessel belonging to any foreign state, the Port Officer shall without delay either board or go alongside of such vessel, and offer to the commander thereof every assistance or service in his power; and he shall point out a proper berth for such vessel.

(2) On arrival of any of His Majesty's ships.

16. Upon the Port Officer boarding or going alongside of any ship or vessel arriving at the port, he shall cause to be delivered to the commander or Master a copy of this Act and of such port and quarantine regulations as may be in force in such port.

(3) After boarding such ship or vessel.

17. The Port Officer shall immediately upon coming on shore, after having boarded or communicated with any vessel arriving in port, make out and transmit a report of such arrival to the Collector and Sub-Collector of Customs in the Port of Simon's Town.

(4) After coming on shore.

18. The master of every private ship arriving in the port shall within twenty-four hours after anchoring, unless prevented by sickness or stress of weather from coming on shore, give bond at the Port Office, with one approved surety, in the sum of one hundred pounds, for the due fulfilment of the provisions of this Act and of all Port and Quarantine regulations, and if he omit or refuse to give such bond as is hereby required, he shall forfeit the sum of one hundred pounds to be recovered on complaint of the Port Officer; provided, always, that if, no suit be commenced in respect of the said bond within one calendar month after the departure of the master of the vessel entering into such security, the said bond shall be null and void, so far as regards the surety mentioned therein, but shall remain in full force and effect as against the master.

Duty of Master of a private ship as to giving bond.

19. If any stones, gravel or ballast be cast into the water or on the foreshore within the harbour from any ship or vessel, or from any boat hired or employed by or on behalf of the owner

Stones, ballast, &c., not to be thrown overboard

No. 44—1902. or master of such ship or vessel, unless with the permission of the Council, then the master of such ship or vessel shall, for every such offence, forfeit a sum not exceeding fifty pounds.

20. The commander or master of any ship or vessel, other than any of His Majesty's ships, shifting or changing the berth for his ship or vessel appointed for her by direction of the Port Officer, without obtaining his previous sanction, shall, excepting in case of emergency, when he shall report his action as early as possible to the Port Officer, be liable to a penalty not exceeding ten pounds.

21. It shall not be lawful for the Port Officer or for any of the crew of his boat, or for any person whatsoever belonging to his department to supply, by way of sale or for profit, any anchor or cable, or to keep any boat or launch for the purpose of sending off anchors or cables to vessels, or to employ the boats or crews provided by the Government or the Council for that purpose, or to own and use any private boat or launch for the purpose of conveying water or ballast to ships, or for any purpose of trade, profit, or emolument whatsoever: Provided always that nothing herein contained shall be construed to extend to preclude or prevent the procuring, taking or sending off in the Government or other boat, of any anchor or cable to any vessel in distress, or the rendering of any other assistance in such cases, or the payment of due and proper remuneration for such services in accordance with the regulations of the port or with the approval of the Governor.

Short title

22. This Act may be cited as "The Simon's Town Harbour Board Abolition Act, 1902."

No. 44—1902.]

[Nov. 18, 1902.

ACT

To Enable the Commissioner of Public Works to provide for the supply of food and liquor to railway travellers and others.

[Assented to 17th November, 1902.]

Preamble.

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

1. (1) In this Act, if not inconsistent with the context:

"Liquor" shall mean any such intoxicating liquor as is commonly sold in licensed premises.

"Refreshments" shall include all articles of food, beverages, and mineral waters commonly sold in restaurants and refreshment bars, dinners, suppers, teas, breakfasts, lunches, etc., tobacco, cigars, pipes, etc.

Repeal and Interpretation.

(2) All laws repugnant to or inconsistent with the provisions of this Act are, to the extent of such repugnancy or inconsistency, hereby repealed. No. 44—1902.

2. Subject to the provisions of this Act, it shall be lawful for the Commissioner of Public Works to undertake and provide for the supply and sale of liquors and refreshments, at any time during the day or night, in refreshment rooms at such railway stations as may be approved of by him, and in refreshment cars, subject, however, to such rules and regulations as may hereafter be approved and promulgated. Commissioner of Public Works empowered to supply liquor and refreshments in railway cars and refreshment rooms.

3. There shall be annually paid to the public Treasury by the Commissioner of Public Works, in consideration of the privileges conferred by this Act, the following sums:— Annual payment to be made by the Commissioner

- (a) In respect of each refreshment room in which liquor and refreshments are supplied under the provisions of this Act, the sum of £30 (thirty pounds).
- (b) In respect of all refreshment cars, one total sum of £30 (thirty pounds).
- (c) In respect of each refreshment room in which refreshments alone are supplied, the sum of £3 (three pounds).
- (d) Interest on the capital invested.

4. Nothing in this Act shall be construed as exempting the Commissioner of Public Works from paying customs duties on any liquors or goods imported by him, nor from paying the ordinary traffic charges for the conveyance of any liquor or goods whatever, carried on the Cape Government Railways, for the purposes of this Act. Customs dues to be paid on goods imported.

5. For the purpose of this Act it shall be lawful for the Commissioner of Public Works aforesaid to do any or all of the following things:— Powers conferred on Commissioner for purposes of Act.

- (a) To engage and appoint a clerical staff, and all such officials as may be necessary for the formation of a catering department.
- (b) To employ all such persons as may be necessary for the purposes of the supply and distribution of food and liquor.
- (c) To do all things necessary for the procuring and preparation of refreshments.
- (d) To construct, purchase or hire buildings, rooms, bars, cellars, and premises for the purpose of storing and supplying refreshments and liquor, and of the preparation of refreshments.
- (e) To open refreshment rooms and bars, and to provide and run refreshment cars attached to any passenger train, general or special.

6. This Act may be cited as "The Railway Refreshment Catering Act, 1902." Short Title.

HIGHER EDUCATION ~~AMENDMENTS~~ TRANSFER
DUTY EXEMPTION ACT.

No. 45—1902.]

[Nov. 18, 1902.]

ACT

To Alter and Amend the Local Works Loans Act,
1882.

[Assented to 17th November, 1902.]

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

Extended meaning of "Local Authority" for purposes of "Local Works Loans Act, 1882." 1. From and after the passing of this Act the term "Local Authority" shall for the purposes of the "Local Works Loans Act, 1882," be deemed and taken to include the Managing Body of any Institution being the recipient of any sum of money, or portion thereof, granted by Parliament for the purposes of higher and professional education, and administered in accordance with the provisions of the "Higher Education Act, 1874."

Amendment of Section 2, Sub-section 6 of "Local Works Loans Act, 1882." 2. The following shall be added to Sub-section 6 of Section 2 of the said "Local Works Loans Act, 1882," namely, "or for the purposes of any Institution being the recipient of any sum of money, or portion thereof, granted by Parliament for the purpose of higher and professional education, and administered in accordance with the provisions of the "Higher Education Act, 1874."

Short Title. 3. This Act may for all purposes be cited as "The Local Works Loans Act 1882 Amendment Act 1902."

No. 46—1902.]

[Nov. 18, 1902.]

ACT

To Exempt Transfer of certain Lands and Buildings from Transfer Duty, Stamp Duty, and Fees of Office.

[Assented to 17th November, 1902.]

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

Exemption from transfer duty of certain transfers of land and buildings. 1. As often as the Superintendent-General of Education shall, by writing under his hand, certify his desire that any land or buildings, used or to be used exclusively for the purposes of any Institution being the recipient of any sum of money, or por-

tion thereof, granted by Parliament for the purpose of higher and professional Education, and administered in accordance with the provisions of the Higher Education Act, 1874, shall be transferred to Trustees approved by him; no transfer duty, stamp duty, or fees of office shall be paid or be leviable in respect of such transfer, anything in the "Transfer Duty Consolidation and Amendment Act, 1884," "The Stamp and Office Fees Act, 1884," or any other law to the contrary notwithstanding.

2. This Act may for all purposes be cited as "The Higher Educational Institutions Transfer Duty Exemption Act, 1902." Short Title*

No. 47—1902.]

[Jan. 30, 1903.]

ACT

To Place certain Restrictions on Immigration and to provide for the Removal from the Colony of Prohibited Immigrants.

[Assented to 22nd December, 1902.]

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

1. So much of any law as is repugnant to or inconsistent with the provisions of this Act is hereby repealed. Repeal.

2. In the construction of this Act the following expressions shall, unless the contrary intention appears, bear the meanings hereby respectively assigned to them, that is to say :— Interpretation.

"Ship" shall include any ship, vessel or boat or description thereof, used in navigation.

"Master" shall include any person other than a pilot in charge or command of any ship.

"Prohibited immigrant" shall mean and include the following persons :—

(a) Any person who, when asked to do so by any duly authorised officer, shall be unable through deficient education to himself write out and sign in the characters of any European language, an application to the satisfaction of the Minister.

(b) Any person who is not in possession of visible means of support or is likely to become a public charge.

No. 47--1902.

- (c) Any person who has been convicted of any of the following offences, that is to say, murder, rape, theft, fraud, perjury or forgery, and who by reason of the circumstances connected with such offence is deemed by the Minister to be an undesirable.
- (d) Any person who is a lunatic within the meaning of the second section of the Lunacy Act, 1897.
- (e) Any person, male or female, who lives on or knowingly receives any part of the proceeds of prostitution.
- (f) Any person who from information officially received by the Minister from any Secretary of State or from any Colonial Minister, or through diplomatic channels, from any Minister of any foreign country is deemed by the Minister to be an undesirable.

3. This Act shall not apply to:—

- (a) Members of His Majesty's Naval and Military forces.
- (b) The officers and crew of any public ship of any foreign State.
- (c) Any person, together with his wife, family, and servants, who is duly accredited to the Colony by or under the authority of His Majesty, or of the Government of any foreign State.
- (d) Persons who have served in any of His Majesty's Volunteer forces in South Africa, and have received good discharges.
- (e) The wife and minor child of any person who is permitted to immigrate into the Colony under the provisions of this Act.
- (f) Persons domiciled in South Africa.
- (g) European persons who are agricultural or domestic servants, skilled artisans, mechanics, workmen or miners, and are able to produce a certificate signed by the Agent-General of the Colony in England or officer appointed by the Governor in England or elsewhere to grant certificates for the purposes of the Act, certifying that the person named therein has been engaged to serve, immediately on arrival in the Colony, an employer therein of repute at an adequate remuneration, and for a reasonable period of time.

Exemption
of certain persons
from the
operation of
this Act.

PART II.

No. 47—1902.

PROHIBITED IMMIGRATION.

4. Subject to the provisions of this Act it shall be unlawful for any "prohibited immigrant" to immigrate, either by land or by sea, into this Colony.

Prohibition of immigration of certain persons.

5. It shall be unlawful to aid or assist any person to immigrate into this Colony in contravention of the provisions of this Act.

Aiding prohibited immigration.

6. It shall be unlawful for the master of any ship knowingly to permit to land or be landed directly or indirectly from his ship any person immigrating into this Colony in contravention of the provisions of this Act.

Master of ship landing prohibited immigrants.

7. It shall be lawful for the Governor from time to time by Proclamation to make regulations in order to prevent any immigration into this Colony, contrary to and in violation of the provisions of this Act, and to appoint officers within and beyond the limits of the Colony to carry out such regulations, and to provide for the removal, from within the territorial limits of the Colony, any persons who are, under and by virtue of the provisions of this Act, prohibited from immigrating thereto, and settling therein, and to provide for the temporary custody, control, and accommodation of such persons pending their removal as aforesaid; and to provide for the importation, reception, accommodation, maintenance, registration, distribution, and contractual engagements of persons immigrating under any approved scheme or belonging to any excepted class, and generally in furtherance of the objects and intents of this Act.

Regulations by Governor to prevent immigration.

8. Any person immigrating into this Colony by land or sea in violation of the provisions of this Act shall be liable to be removed at any time from within the limits of the Colony and to be kept in such custody as may by regulation be prescribed pending such removal.

Penalty for illegally immigrating into Colony.

9. Any person who aids or assists any person in the contravention of any provisions of this Act shall be liable for each offence to a penalty of £50, or in the alternative to three months imprisonment with or without hard labour.

Assisting in illegal immigration: penalty.

10. Any master of any ship who lands, or allows to land, directly or indirectly any immigrant from his ship, whereby such immigrant contravenes any provisions of the Act, and the owners of any such ship from which any such immigrant so lands, shall be jointly and severally liable to a penalty of £100, and to a further penalty of £20 for each such immigrant landed in excess of the number of five, such ship may be refused a clearance till such penalty has been paid, and may in default of payment by or on behalf of the master or owners and by order of the Supreme Court be attached and declared executable in satisfaction of any writ issued for the recovery of such penalty;

Liability of Master of ship for landing prohibited immigrants.

No. 47—1902. — provided that in lieu of granting such order, it shall be lawful for the Court to accept such security for the payment of such penalty as may appear to be adequate.

Penalty for false statements made to obtain certificates.

11. Any person wilfully making any false statement in order to obtain any certificate or recommendation for the purposes of the Act shall on conviction be liable to a fine of not exceeding £50 or to imprisonment without the option of a fine and with or without hard labour for a period not exceeding six months in addition to removal from the Colony.

Penalty for entering into fictitious contracts to evade Act.

12. Any person entering into any contract in the capacity of employer, with any persons at the time being beyond the limits of the Colony, for service or employment within the Colony, for the purpose of any evasion of the provisions of the Act, or being at the time unable to fulfil his part of the contract, or who became unable to fulfil his contract which at the time it was entered into he had no reasonable expectation of being able to fulfil, shall be liable on conviction for each offence to be sentenced to imprisonment for a period not exceeding six months, or to a fine of not exceeding £100 and in default of payment thereof to imprisonment not exceeding six months, or to both such fine and imprisonment.

Penalties for contraventions of Regulations.

13. It shall be lawful for the Governor to prescribe penalties for the contravention of any Regulation made by him under this Act, provided that no penalty in respect of any one contravention shall exceed a fine of £100, or in default of payment thereof imprisonment with or without hard labour for a period exceeding 12 months or to imprisonment with or without hard labour and without the option of a fine for a period exceeding 12 months.

Short Title. 14. This Act may be cited as "The Immigration Act, 1902."

No. 1—1903.]

[June 26, 1903.

ACT

To Apply a further Sum not exceeding One Million Two Hundred and Ninety-nine Thousand Seven Hundred and Forty-eight Pounds Sterling for the Service of the Year ending the 30th June, 1903.

[Assented to 24th June, 1903.]

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending the 30th June, 1903, in addition to the sums provided by Acts 1 and 37 of 1902: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending on the 30th June, 1903, with a further sum of One Million Two Hundred and Ninety-nine Thousand Seven Hundred and Forty-eight Pounds Sterling, in addition to the several sums provided for by the said Acts Nos. 1 and 37 of 1902.

Public Revenue charged with
£1,299,748

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

How to be applied.

3. This Act may be cited for all purposes as the "Additional Appropriation 1902-1903 Act, 1903."

Short title.

SCHEDULE.

Additional Appropriation, 1902-1903.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
1. Ministerial Department of the Prime Minister ...	827	235,615	236,442	236,442
2. Ministerial Department of the Colonial Secretary...	15,454	42,153	57,607	57,607
3. Ministerial Department of the Treasurer ...	6,403	43,917	50,320	50,320
4. Ministerial Department of the Attorney General ...	103,705	44,015	147,720	147,720
5. Ministerial Department of the Commissioner of Public Works ...	1,855	785,764	787,619	787,619
6. Ministerial Department of the Secretary for Agriculture ...	597	19,443	20,040	20,040
Grand Total ...	128,841	1,170,907	1,299,748	1,299,748

Schedule.

No. 2—1903.]

[July 14, 1903.]

ACT

To Authorise the New Cape Central Railway, Ltd., to extend its Railway from Riversdale to Mossel Bay or to a point near Mossel Bay, and to have through traffic over a railway in course of construction between Mossel Bay and Oudtshoorn.

[Assented to 13th July, 1903.]

Preamble.

WHEREAS the Cape Central Railways Ltd. did by authority of Act 16 of 1883 construct, maintain and work a railway from Worcester *via* Robertson to Boodewaai now called Ashton and whereas the New Cape Central Railway Ltd. did thereafter acquire the whole undertaking of the said Cape Central Railways Ltd. and did by virtue of Act 37 of 1894, construct a railway from Ashton to Swellendam which railways are now being maintained and worked by the said New Cape Central Railway Ltd. and whereas the said Company under and by virtue of Act 42 of 1898 was authorised and empowered to construct, work and maintain a railway from Swellendam to Riversdale and whereas it is expedient that the said railway should be further extended from Riversdale to Mossel Bay or to a point near Mossel Bay and that Government be authorised to pay towards the construction of such extension a sum of money as a subsidy and whereas the said Company is willing to construct, maintain and work a railway from Riversdale to a point near Mossel Bay provided that a subsidy as above mentioned is paid by Government, and whereas it is desirable that the said Company should have power on certain conditions to have through traffic over the railway now in course of construction between Mossel Bay and Oudtshoorn.

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

Company
authorised to
construct
Railway.

1. The Company styled the New Cape Central Railway Ltd. shall be and is hereby authorised and empowered to construct, equip, maintain and work a railway on a gauge of not less than three feet six inches wide with no gradient steeper than one in forty and with no curve of a radius less than 7 chains except in difficult country where the Company shall have the right to adopt curves of a radius less than 7 but not less than 5 chains, provided that the total length throughout the railway authorised by this Act of curves less than 6 chains shall not exceed two miles and that the total length of all curves less than 7 chains, including

curves less than 6 chains shall not exceed 4 miles save with the approval of the Government, and provided that the Government shall not object to the places where the Company shall propose to adopt curves of a radius less than 7 chains. The said Railway shall commence from the terminus of the said Company's railway at or near Riversdale and shall continue to Mossel Bay or to a point near Mossel Bay as shown by the plans duly lodged with the Clerk of the House of Assembly save and except in so far as the said plans may be inconsistent with any of the provisions of this Act, provided that the said railway shall be completed within a period of three years after the passing of this Act.

2. The said railway shall commence at the terminus of the railway from Swellendam to Riversdale and thence proceed across or over or near the following lands, and farms that is to say Doornkraal, Zoetemelksfontein, Bovenste Wagendrift, Plattekop, Zoetemelks Rivier, Over de Kleine Palmiet Rivier aan de Hoogekraal annex Hoogekraal and Brakkuilen (alias Reed Grove), Snymans Kraal, Zoutpan, Drooge Vallei (alias Kleinplaats), Tigerfontein, Zout Vlei, Grootfontein, annex Grootfontein, Aasvogelberg, Botteliersfontein, Buffelsfontein, Welgevonden, Boona (or Bon) Avontuur, Hartebeest Kuil (now Roodebloem), Baakfontein, Witkops (formerly Brakfontein), Hollaagte, Leeuwen, Annex Leeuwen, Patrijsfontein, Bartelsfontein, Kleinberg, Duinzicht, Rietvallei, Droegfontein, Kleinzuurkop, Portion of Welbedacht, Remainder of Welbedacht, Lot 704, Hartenbosch, Vijf Brakkefontein (alias Voorbaai alias Zevenfontein) and Mossel Bay Municipality.

The said Company shall be authorised and empowered to make a junction with the railway constructed or to be constructed between Mossel Bay and Oudtshoorn at a point to be approved by the Colonial Government and shall be entitled to have through traffic conveyed over the said Railway between the junction and Mossel Bay and between the junction and Oudtshoorn in such manner and upon such terms as shall be mutually agreed upon or failing such agreement as shall be settled by arbitration in terms of the Arbitration Acts of this Colony. In the event of the Government at any time deciding to construct a line of railway through the Gouritz River Gorge in the direction of Calitzdorp and Oudtshoorn, commencing from a point on the line provided for in this Act, between the Gouritz River Bridge and the junction with the Mossel Bay-George Line then the said Government shall have running powers for through traffic over such portion of the line which lies between the point of junction with the Mossel Bay-George Line and the point of departure for the Calitzdorp-Oudtshoorn Line similar to the running powers conferred upon the Government by virtue of Clause 11, Schedule I of Act 19 of 1900 in the case of the Mossel Bay-George-Oudtshoorn Line.

Route of
Railway.

Power to
make Junction
with
Mossel Bay-
Oudtshoorn
Railway.

No. 2—1903.

Power to enter upon any lands for purpose of survey, &c.

3. The Company may by any person thereto duly authorised in writing, enter upon any land within the limits of deviation as shewn in the said plan for the purpose of surveying the same and of probing and boring in order to ascertain the nature of the soil and of setting out the line of railway, making full compensation to the occupier of the said land for any damage thereby occasioned, the same to be recoverable by action brought in any competent Court within three months from the date when such damage is alleged to have been committed.

Power to take Crown Lands for construction and maintenance of line.

4. The Company may with the consent of Government enter upon and take possession of and hold, and retain for the purposes of this Act free of charge, so much of any Crown land as shall be required for the construction and maintenance of the said railway or any other purposes relating to the execution of this Act, and also with the like consent may enter upon any Crown land lying convenient to the said railway and dig for, excavate, and carry away all stones, clay and other material required for the purposes of the said railway free of charge: provided that nothing in this Act contained shall establish any servitude in favour of the said Company upon any such land not being land reasonably required for the actual construction and working of the said railway which may hereafter be sold or leased by the Colonial Government to any Purchaser or Lessee thereof.

Powers for the taking of land and materials.

5. For the purposes of the said railway the Company is hereby invested with all and singular the legal rights, if any, belonging to the Colonial Government in respect of the taking of any land and the raising and carrying away of materials for making and repairing public roads, whether such rights have been preserved to the said Government by the Proclamation of Sir John Francis Cradock, bearing date the 6th day of August, 1813, permitting the conversion of lands on loan into places of perpetual quitrent or have been created by express stipulation or condition in any grant of freehold property or exist in any other way: provided that no land be taken or materials be raised or carried away without previous notice to the proprietor thereof: and provided that the extent of land taken for the railway under the provisions of this Act shall not exceed in width fifty feet for the formation line and sufficient additional width required for the slopes, drainage, stations, approach roads and all other works, matters and things which may be requisite or necessary for the efficient construction, maintenance or working of the said railway.

Compensation Clause.

6. If the Company shall for the purposes of the said railway require to acquire and use any land or to dig, get or carry away any materials from any land belonging to any person who may not be bound by law to allow such Company exercising the powers of the said Government, so to do without requiring any recompense or payment, and who may think proper to require compensation from the said Company, or if the Company shall

need to acquire or use any land or to take any material from any land that the Company in the exercise of such powers as aforesaid may have a legal right to acquire or use, but which has been improved by cultivation, irrigation, or otherwise, the amount of compensation to be paid to the proprietor shall in the absence of any Agreement be settled by arbitration.

No. 2—1903.

7. Whenever the Company shall expropriate any such land as in the preceding section mentioned, for which compensation shall have to be paid in terms of the said section, the owner of the said land so expropriated shall be bound and obliged to pass transfer to the said Company of such land.

Transfer of lands compensated for.

8. Nothing in this Act contained shall prevent any streets or roads hereinafter to be constructed under lawful authority, from being made and carried across the said railway at all requisite and convenient places: provided that as little damage and inconvenience as possible shall be caused to the said Railway by such crossings.

New streets and roads to be carried across Railway.

9. At all places where the said railway or any deviation thereof shall intersect or cross the line of any street or road, it shall be lawful for the Company to make and carry the said railway across such street or road either by means of a level crossing, or by means of a convenient or sufficient bridge or viaduct over or under the said street or road, and the Company shall be bound to make all such cuttings, embankments and approaches with all such culverts, drains, and all such repairs as may be necessary to make good the street or road across or over or under the said Railway at gradients not exceeding one foot in twenty; and shall also be bound to maintain and keep in efficient repair all such crossings, bridges, viaducts, cuttings and embankments, approaches, culverts and drains as aforesaid.

Provision where Railway crosses any street or road.

10. The Company shall be required to construct the said railway with material equal in quality to that employed upon the railways constructed by the Government, and to arrange for the workmanship to be equally well executed, and all materials shipped in Europe or America, shall, before shipment, be subject to the inspection and approval of an Engineer, to be appointed by the Company subject to the approval of the Government.

Company to construct with material equal to that used by Government.

11. For the purposes of the said railway, the Company is hereby authorised to carry the lines of rails over the bridge known as the Gouritz River Bridge: provided that the rails are so laid as not unduly to interfere with the ordinary road traffic; and provided that the Company shall pay to the Government for the use of the said bridge rent at the rate of £500 per annum, as well as half the cost incurred by the Government in the maintenance thereof; and provided that the speed of trains passing over the said bridge shall be limited to eight miles per hour, and that no reversal of engines, application of brake power, nor stoppage of trains shall be permitted on any part of the said

Conditions on which Railway may cross over Gouritz River Bridge.

No. 2—1903.

bridge or abutments except to avoid accidents, and provided that the arrangements to be made by the Company for the regulation and protection of traffic over the said bridge, and for the working of such shall be subject to the approval of the Government; and provided further that the Government shall not be liable for any loss or damage which the Company may sustain by reason of the said bridge being destroyed or becoming unsafe for traffic, or being closed by the Engineer for the purposes of repair; nor shall the Company be liable to pay rent for any period during which it is unable to use the said bridge by reason of its being destroyed, rendered unsafe for traffic, or closed by the Engineer for the purposes of repair; and provided further that in the event of Parliament deciding at any time that the use of the said bridge for railway purposes shall be discontinued, it shall be lawful for the Governor to give to the Company two years' notice in writing of his intention to resume possession of the said bridge, and on the expiration of the said notice to resume possession thereof, and upon such resumption the Company's occupation of the said bridge shall cease and determine.

Company to
maintain and
run trains
over railway.

12. The said Company shall be bound to maintain the said railway when completed in a proper and efficient manner, so as to reasonably satisfy the Government, and to run not less than three trains per week in each direction for passengers and goods traffic, and if it fail to comply with the conditions laid down in this Section within a period of three months of being called upon to do so, it shall become liable to pay to the Government by way of liquidated damages a sum not exceeding £500 per month, the total amount of damages enforceable, however, not exceeding £5,000 in any one year, and such damages shall be recoverable against the Company in the ordinary way, and shall be chargeable, if not recovered, against the purchase price of the line, should the Government exercise its rights in manner hereinafter provided for under Section Twenty. It is hereby expressly stipulated that the payment hereinbefore provided for, shall be as and for liquidated damages sustained by the said Government, and shall not be considered to be in the nature of a penalty, or subject to the ordinary rules regarding the recovery of penalties for breaches of contract.

Company
may exercise
powers
through
agent.
Subsidy
payable.

13. It shall be lawful for the Company to exercise all and singular the powers by this Act conferred, by or through an Agent in this Colony, duly appointed.

14. The said railway shall be constructed at the expense of the said Company provided that, upon the certificate of an officer to be appointed by the Government that the railway has been satisfactorily completed in accordance with the provisions of this Act, there shall be paid to the Company by the Government a sum of money calculated at the rate of £2,000 sterling per mile

of railway completed as aforesaid; provided further that the Government shall from time to time, as the work progresses, and at its discretion, pay to the Company such portion of the said subsidy as the Government may deem proper.

No. 2—1903.

15. A tariff or tariffs of passenger fares and goods in all classes shall be framed by the Company before commencing to work the said railway, provided firstly: no fare or rate shall exceed the corresponding fare or rate at present charged by the Company on the railway between Worcester and Ashton. Secondly: That as soon as the Railway authorised by this Act shall be in a position to pay a dividend of not less than five per cent. per annum on the capital expended in and about the construction of the said Railway, the said Company shall be obliged to introduce a reduced tariff or tariffs of passenger fares and goods in all classes, such tariff or tariffs being subject to the approval of the Government, and no alteration in any fare or rate shall be thereafter made without the approval of the Government. Thirdly: That the rates so far as affected by quantities shall give the maximum of benefit to the consignors of so small quantities as 10-ton lots, unless the consent of the Government be obtained for lower rates for larger quantities.

How tariff to be framed.

16. The said railway or any portion thereof shall not be opened for public passenger traffic until it shall have been certified to the Governor by the Engineer-in-Chief of the Cape Government Railways, that the same is sufficiently completed for the safe conveyance of passengers.

Railway, when to be opened for traffic.

17. Upon the completion of the said railway or any portion thereof as aforesaid the Company shall enjoy all the privileges and be subject to all the conditions conferred by and contained in the Regulations of Railways Act, 1861, or any amendment thereof.

Application of Act No. 19 of 1861.

18. The provisions of Act 40 of 1889 shall apply *mutatis mutandis* to opening the gates or leaving the same unclosed or unfastened whether the same be done by the owners or occupiers of land adjoining the railway or by any other person.

Application of Act, No. 40 of 1889.

19. The Company is hereby further authorised and empowered to construct, erect and work a telegraph and telephone or either of them along or near the line of railway subject to the provisions of the Electric Telegraphs Act of 1861.

Erection of Telegraph and Telephone.

20. Upon the exercise at any time by the Government of its rights and powers under the Seventeenth Sections of the Cape Central Railways Act, 1883, the Cape Central Railways Extension Act, 1894, and the New Cape Central Railway Extension Act of 1898, the Government shall have the right if so disposed to purchase from the Company on giving six months' notice to that effect and the Company shall be bound six months after receiving the said notice to sell to the Government the whole concern and undertaking authorised by this Act, including

Purchase by Government.

No. 2—1903.

also all buildings and plots of land acquired by the Company and used in connection with the working of the said railways together with all the rolling stock, engines, carriages, plant, and every matter or thing belonging to or connected with the said railway, as also any telegraph or telephone and apparatus, wire, instruments and every matter or thing connected with the working thereof in possession of the Company under the Act upon such terms as may be agreed upon between the Government and the Company and failing such agreement at a price to be settled by arbitration; provided,

Firstly: That such price shall not be less than the actual cost of the work, but that the Arbitrators shall not be entitled to award as such actual cost, a sum in excess of £6,400 per mile (exclusive of Engines, Rolling Stock and Plant), and an amount equal to 20 per cent. of the said actual cost (after deducting from such actual cost the amount paid by the Government for subsidy, and in no case can the 20 per cent. be on a sum exceeding £4,400), to cover interest on the Capital expended during construction, and the cost of raising such capital, as well as profit to which the Company can be entitled.

Secondly: That from the price so ascertained shall be deducted any such amount as shall have been paid by the Government to the Company as subsidy under the provisions of this Act.

Thirdly: The price of the said Engines, Rolling Stock and plant shall, in the event of the Government and Company failing to agree, be also determined by arbitration.

Application of Act No. 6 of 1882.

21. For the purpose of any land taken or any arbitration under this Act, the provisions of the "Lands and Arbitrations Clauses Act, 1882," are hereby incorporated.

Actions in Corporate name.

22. The Company shall, and may sue and be sued within this Colony in its corporate name, and the service of process upon the authorised Agent of the Company at his office or place of business in this Colony shall be good service of such process.

Right to lease or sell.

23. The Company shall, without prejudice to the rights of the Government under Section Twenty have the right of letting the said railway upon lease, and of selling and assigning its rights to the railway, and to the powers and privileges conferred by this Act.

Short title.

24. This Act may be cited for all purposes as the "New Cape Central Railway Extension Act, 1903."

No. 3—1903.]

[July 14, 1903.]

ACT

To Apply a Sum not exceeding One Million Five Hundred Thousand Pounds Sterling towards the service of the year ending the 30th June, 1904.

[Assented to 14th July, 1903.]

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

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending 30th June, 1904, with a sum not exceeding One Million Five Hundred Thousand Pounds sterling (£1,500,000) which sum shall be applied towards the service of the said year, in conformity with the Estimates of the Expenditure for the year ended the 30th June, 1903, which have been approved of by Parliament. Revenue charged with £1,500,000 towards service of year ending 30th June, 1904.

2. This Act may be cited for all purposes as "The Appropriation (part 1903-04) Act, 1903." Short title.

No. 4—1903.]

[July 28, 1903.]

ACT

To Provide for the taking of a Census and the Collection of certain Statistics in the year 1904.

[Assented to 25th July, 1903.]

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

1. The following Acts are hereby repealed—that is to say the Act No. 11 of 1900, entitled "The Census Act, 1900," and the Act No. 29 of 1902, entitled "The Census Act, 1900, Amendment Act, 1902": provided that notwithstanding the said repeal, any act, proceeding, matter, or thing done before the taking effect of this Act, under or by virtue of the Acts so repealed, shall at all times hereafter be judged of and be of the same force and effect in all respects as if the said Acts were still in force. Repeals.

2. An account or census shall be taken, in manner directed by sections two to fifteen inclusive hereof, of the number of persons and the number of each kind of live stock, within the Colony of the Cape of Good Hope including any territory annexed thereto, on such day and month in the year one thousand nine hundred and four as the Governor may proclaim. Census to be taken on day fixed by Governor.

No. 4—1903.

Governor
empowered to
make regula-
tions.

3. The Governor may from time to time make and alter the forms to be used in the taking of the account or census in the second section mentioned, and for the collection of agricultural, educational, ecclesiastical, industrial, Friendly Societies' or other statistics, and may make and alter regulations for the execution of all matters and things arising under this Act not herein expressly provided for, including regulations for ascertaining the number of persons travelling on the appointed day within this Colony or by sea between ports of this Colony, and generally for the more fully carrying out the objects and purposes of this Act; and such forms and regulations, when published in the *Gazette*, shall have the full force of law, and every person who shall be guilty of a breach of any such regulations shall be liable to a penalty not exceeding five pounds.

Director of
Census may
be appointed
by Governor.

4. It shall be lawful for the Governor to appoint some senior officer of the permanent Civil Service of the Colony to be the "Director of the Census of the Colony of the Cape of Good Hope," and to assign to him such duties as to the said Governor may seem necessary to enable the said Director of the Census to efficiently carry out the work of Census-taking.

Appoint-
ment of
Supervisors.

5. For the taking of such Census, and the collection of statistics specified in section three thereof, it shall be lawful for the Governor to appoint the several Civil Commissioners, Chief Magistrates and Resident Magistrates of the Colony to be Supervisors, and to remove such Supervisors, and define the districts for which they shall respectively act, and determine the number of enumerators to be appointed by such Supervisors respectively.

Appoint-
ment of
Enumerators.

6. Every Supervisor shall, subject to the approval of the Governor, appoint enumerators for his district, and assign sub-districts to such enumerators, and, subject to such approval as aforesaid, may remove any such enumerator, and appoint another in his place.

Declaration
to be made by
Enumerators.

7. Every enumerator shall make and subscribe before a Justice of the Peace a declaration in the form in the schedule to this Act annexed, and shall deliver the same to the Supervisor of the district when returning the forms under this Act; and any enumerator making and subscribing a false declaration shall be deemed guilty of perjury.

Letters, &c.
directed to
Director by
Post, to be free
from stamp-
ing, &c.

8. All letters, parcels, and packets, and all telegraphic messages on the subject of this Act transmitted by post or electric telegraph within the Cape Colony, including the Territories in the second section mentioned, to or from the Director aforesaid, or any supervisor or enumerator, if marked with the word "Census," shall be transmitted and delivered free of postage or charges until such day as the Governor may by notice in the *Gazette* appoint.

Supply fill-
ing up, and
collection of
forms.

9. The Governor may in cities, towns and such other localities as may to him appear proper, cause the necessary forms to be left, on or before the day in the second section mentioned, at any

dwelling in any enumerator's sub-district, and in all such cases it shall be the duty of the occupier or person in charge of such dwelling to deliver on demand the said forms duly completed in every particular to the enumerator calling for the same: Provided that the said enumerator shall forthwith examine the said forms as handed to him, and shall satisfy himself that the said forms have been fully, truly and correctly filled up, and if not so filled up in every particular, the enumerator shall himself, then and there, make the same complete according to the best information which he shall be able to obtain: Provided that a dwelling shall be taken to mean and include any house, building, booth, tent, wagon, cart, hut, or other erection in or under which any person usually sleeps, and every ship or other vessel in any port or harbour of the Cape Colony.

10. In cases not provided for by the last section, the enumerator shall on the day next following that fixed by the second section, or as soon thereafter as possible, proceed to receive or take an account, in writing, of the number of persons who were within the limits of his sub-district on the night of the day so fixed, and shall inform himself of all the particulars specified in the said forms.

Account to be taken by Enumerators.

11. The Supervisor on receipt of the completed forms shall cause the same to be examined, and cause any defect or inaccuracy therein to be supplied or corrected as far as may be possible, and shall with the utmost speed forward them to the Director, who shall prepare abstracts made therefrom, and such abstracts shall be printed and laid before both Houses of Parliament.

Examination of forms by Supervisor and transmission to Director.

12. If any occupier or person in charge of any dwelling shall refuse or wilfully neglect to fill up to the best of his or her knowledge, information, or belief, the forms left under the provisions of section nine of this Act, at such dwelling, or to sign and deliver the same, or shall refuse or wilfully neglect to answer or shall untruly answer any enquiry made by an enumerator for any of the purposes of this Act, or shall wilfully make, sign or deliver, or cause to be made, signed or delivered, any false return or statement of any particular in such forms, or shall obstruct any person in the performance of any duty under this Act, the person so offending shall be liable to a penalty not exceeding five pounds. Such penalty shall not be imposed against any person who from conscientious scruples shall omit or decline to state his or her religion, and the proof of such conscientious scruple may be the filling up of the column set apart for that purpose with the word "object": and such penalty shall not be imposed for any false return or statement regarding the number of his or her live stock against any person who not being aware of the precise number of such stock shall give in respect thereof an estimate or reasonable approximation to the truth.

Penalties for refusing to fill up forms, making false returns, &c.; savings.

13. If any person accept the office of enumerator under this Act, and afterwards without lawful excuse refuse or wilfully neglect

Penalty for refusal by Enumerator

No. 4—1903, to perform any duty of such office, the person so offending shall be liable to a penalty not exceeding five pounds.

to discharge duties. 14. If any officer, supervisor, enumerator or clerk divulge the contents of any forms under this Act, he shall for every such offence be liable to a penalty not exceeding fifty pounds.

Penalty for divulging contents of forms. 15. All fines imposed under this Act or the Regulations promulgated thereunder shall be recoverable in a summary manner, before a Resident Magistrate, and in default of payment of any fine the accused shall be liable to imprisonment, with or without hard labour, for any period not exceeding one month, unless such fine be sooner paid.

Recovery of fines. Short title. 16. This Act may be cited as "The Census Act, 1903."

SCHEDULE.

Schedule.

Declaration to be subscribed by Enumerators (to be delivered to the supervisor of the District when returning the forms under (ensus Act, 1903.)

CAUTION.—Any Enumerator making and subscribing a false declaration shall be deemed guilty of perjury (§ 7 of Census Act, 1903).

I, _____, an Enumerator appointed under "the Census Act, 1903," for Sub-District numbered _____ assigned to me by the Supervisor for the District No. _____ of _____, do solemnly declare that the forms numbered from _____ to _____ inclusive, contained in the packet to which this declaration is attached, are all the forms under the said Act which have been completed, and received by me in the sub-district to which I was appointed, and that the whole contents of the said forms are true, to the best of my knowledge, information and belief, and further that I have visited all the homesteads, farms, and dwellings within the limits of the Sub-District assigned to me, and that I have duly and faithfully performed all the duties required of me as such Enumerator in terms of the Census Act, 1903, and of all Regulations promulgated thereunder, to the best of my knowledge, information and belief.

.....
Enumerator.

Made before me on the _____ day of _____ 1904.
Justice of the Peace.

No. 5—1903.]

[August 5, 1903.

ACT

To Amend the Customs Amendment and Tariff Act of 1898, and to effect certain other Alterations in the Customs Laws.

[Assented to 31st July, 1903.]

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

Preamble.

1. The Laws enumerated in Schedule "A" hereunto annexed and so much of any laws as may be repugnant to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed, save as to rights vested or liabilities incurred under any of the said laws before the taking effect of this Act.

Repeal of Laws.

2. On and after the date of the taking effect of this Act there shall be raised, levied, collected and paid upon the goods, wares and merchandise imported or brought into this Colony described and set forth in Classes I., II., III. and V. of the Schedule "B" hereunto annexed, the duties therein set forth and all such duties shall, on collection, be paid into the Colonial Treasury.

What customs duties to be levied.

3. Subject to the exceptions referred to in item No. 77 of Class IV. of the said Schedule "B" in regard to (a) flour, wheaten, or wheaten meal including pollard and (b) spirits, beer and blasting compounds, the goods, wares and merchandise described and set forth in the said class, shall be admitted into this Colony free of duty.

What goods wares and merchandise are to be admitted free.

4. Under such regulations as may be prescribed by the Governor in that behalf a rebate of Customs Duties shall be granted on any goods and articles the growth produce or manufacture of the United Kingdom imported therefrom direct into this Colony for consumption in the Customs Union to the extent following (a) in the case of goods and articles liable to Customs Duty under Classes I., II. or V. a rebate of twenty-five per cent. of any duty chargeable thereon at an *ad valorem* rate, but of no other duty and (b) in the case of goods and articles liable under Class III. to duty at an *ad valorem* rate of $2\frac{1}{2}$ per cent. a rebate of the whole of such duty.

Rebate on goods being the growth, produce or manufacture of the United Kingdom.

5. A rebate similar to that provided for in the fourth section of this Act and under similar regulations shall be granted to goods and articles the growth produce or manufacture of any British Colony, Protectorate or Possession, which shall be imported into the Colony on and after a day to be proclaimed by the Governor, which Proclamation shall not issue until the Governor shall be satisfied that the Government of such British Colony, Protectorate or Possession has consented to grant equivalent reciprocal privileges to this Colony.

Similar rebate in respect of goods of other Colonies granting reciprocal privileges.

6. In the event of any question arising as to whether any goods or articles are entitled to any such rebate as aforesaid, the decision of the Minister in whom the control of the Customs Department is vested shall be final.

Special duty on sugar imported into this Colony from any country which is not a party to the Convention signed at Brussels on the 5th March, 1902.

7. On and after the coming into operation of the Convention signed at Brussels on the 5th day of March, 1902, between the United Kingdom and other Powers relating to the abolition of the bounties on sugar, there shall be raised, levied, collected or paid upon any sugar imported into this Colony from any country which is not a party to the said Convention a special additional duty, which additional duty shall be equivalent to any bounty which may be granted on sugar by the Government of such country. The term sugar shall, for the purposes of this Section include sugar products such as preserves, chocolates, biscuits, condensed milk and all other analagous products containing in a notable proportion sugar artificially incorporated.

Suspension of duty on meat.

8. Notwithstanding anything to the contrary contained in Section 2 of this Act the duty upon meats provided for under item No. 23 of Class I. of Schedule B shall not be imposed, raised, levied, collected or paid upon fresh, chilled or frozen meat or upon animals for slaughter until such time as a majority of the contracting parties to the Customs Convention entered into at Bloemfontein in March, 1903, agree that such suspension shall be removed and the fact of such agreement shall have been declared and made known by the Governor by Proclamation in the *Gazette*.

Conditions under which the duty on corn and gram may be suspended.

9. It shall be lawful for the Governor, upon a Res oution of both Houses of Parliament to that effect, by Proclamation in the *Gazette*, to suspend the whole or part of the Customs duties imposed on corn and grain as described in parts (a) (b) and (c) of Item 15 of the Tariff in Schedule B hereunto annexed, when imported for consumption in this Colony, provided however that during the period of such suspension there shall be paid by the Treasurer of this Colony a bounty on corn and grain as described aforesaid imported for consumption in this Colony from any other part of the Union and produced or manufactured therein solely from Union products; such bounty shall be equivalent to the duty or duties suspended and to be received and paid in accordance with regulations mutually approved by the parties immediately concerned.

Rebate of duty on methylated spirits or alcohol, soaps and other substances imported solely for certain purposes.

10. Under such regulations as may be prescribed by the Governor in that behalf a rebate may be allowed of the whole or part of the duty on methylated spirits or alcohol imported solely for manufacturing or scientific purposes in this Colony and on soap and other substances imported for and exclusively used in connection with the industry of wool washing.

Abatement of duties on

11. Under such regulations as may be prescribed in that behalf the Governor may allow, either by free importation or

rebate, an abatement of the duties on articles imported by and for the use of members of His Majesty's Regular Forces, and also in respect of wines and spirits imported for the use of the Governor or the Officer administering the Government of this Colony.

No. 5—1903.
 certain articles imported for H.M. Regular Forces
Repeal

12. Whenever any goods upon which the duties have been paid in this Colony shall be removed to and for consumption in any other Colony or Territory within the Customs Union there shall be payable to the Government of such Colony or Territory ninety-five per cent. of the Customs Union duties collected under this Act on the said goods.

Repeal
 Goods on which duty has been paid are removed to another Colony in the Union 95 per cent. of duty to be paid to such Colony.

13. Section 3 of Act No. 1 of 1864 is hereby repealed and the following is substituted therefor:—In the event of any increase, decrease or repeal of Customs duty chargeable upon any article being lawfully authorised after the making of any contract or agreement for the sale or delivery of such article, duty to be paid by the seller, in the absence of any special provision in the contract contrary hereto it shall be lawful for the seller in case such increase shall accrue before the clearance or delivery of such article having paid such increased duty to add so much money to the contract price as will be equivalent to such increase of duty and he shall be entitled to be paid and to sue for and recover the same: and it shall be lawful for the purchaser under any such contract or agreement in case such decrease or repeal shall take effect before the clearance or delivery at such decreased duty or free of duty, as the case may be, to deduct so much money from the contract price as will be equivalent to such decrease of duty and he shall not be liable to pay or be sued for the amount of such deduction.

Repeal of section three Act No. 1 of 1864 and other provision made.

14. It shall be lawful for any Officer of the Customs to whom any writ of assistance may be or shall have been granted under the fifty-eighth section of the Customs Act, 1872, in addition to the powers thereby conferred upon him, under and by virtue of the said writ to seize and attach all bills of lading, invoices, books and other documents relating to any goods liable to forfeiture under any Act relating to the Customs and in case of necessity to break open any doors and any chests or other packages for that purpose.

Powers of Officers on Customs under Section fifty-eight of Customs Act, 1872, extended.

15. Notwithstanding anything in Section nine of Act 10 of 1872 to the contrary, the Public Holiday on the Twenty-fourth day of May in every year provided for under Act No. 15 of 1902, shall be kept a public holiday by the Customs.

Twenty-fourth of May in each year shall be a Customs Holiday.

16. This Act may for all purposes be cited as "The Customs Amendment and Tariff Act, 1903," and shall come into operation upon a day to be fixed by Proclamation in which Proclamation shall be set forth the name of each Colony or Territory in the South African Customs Union and party to the Customs Union Convention, and from time to time thereafter, the Governor may

Short Title and date of taking effect of Act.

No. 5—1903. in accordance with such Convention by further Proclamation declare the admission to the said Union of any other Colony, Territory or State of South or Central Africa having a civilised Government.

Schedule A.

SCHEDULE A.

LAWS REPEALED.

Number and Year.	Title.	Extent of Repeal.
Act 1 of 1864.	Better Protection of Customs Revenue in certain Cases.	Section 3.
Act 8 of 1897.	Customs Amendment Act, 1897.	Section 4.
Act 6 of 1898.	Customs Amendment and Tariff Act, 1898.	Sections 1, 2, 3 and 8.

Schedule B.

SCHEDULE B.

CLASS I.—SPECIAL RATES.

Vide.—Article IIIA of Convention.

	£	s.	d.
1. Ale, beer and cider : all kinds of strength exceeding 3 per cent. of proof spirit, per Imperial gallon (and in addition ten per cent. <i>ad valorem</i>). (Note.— <i>Vide</i> Article XVII of Convention.)	0	1	6
2. Acetic acid per Imperial gallon	0	3	0
3. Animals, viz. :— (a) Cattle for slaughter... .. each (b) Sheep for slaughter each (Note.— <i>Vide</i> Article XIII of Convention.)	1	10	0
4. Beads, known as “Kaffir beads” per lb.	0	0	6
5. Blasting compounds, including all kinds of explosives suitable and intended for blasting, and not suitable for use in firearms ; and collodion cotton not intended for manufacturing purposes per lb. (Note.— <i>Vide</i> Article XVII of Convention.)	0	0	1½
6. Butter, butterine, margarine, ghee and other substitutes for butter per lb.	0	0	2
7. Chicory and substitutes for coffee or chicory, per lb.	0	0	2
8. Coffee :— (a) Raw per lb. (b) Roasted, ground or mixed per lb.	0	0	0¼
9. Cocoa and chocolate unsweetened per lb.	0	0	1

	£	s.	d.
10. Cocoa and milk, chocolate and milk, and coffee and milk per lb.	0	0	1
11. Condensed, desiccated or preserved — milk or cream per lb.	0	0	0½
12. Coals... .. per ton of 2,000 lbs.	0	3	0
13. Coke and patent fuel ... per ton of 2,000 lbs.	0	2	0
14. Confectionery, including sweetened cocoa or chocolate, honey, jams, jellies, preserves, sweetmeats, candied or preserved ginger or chow-chow ; and all other kinds compounded, made or preserved with sugar, but not including purely medicinal preparations properly classed as apothecaryware per lb.	0	0	2
15. Corn and grain, viz. :—Barley, maize, millet, oats, rye, wheat, beans and peas :—			
(a) In the grain, or (b) crushed, flaked, ground, hulled, malted, pearled, split, or otherwise prepared, except oats not in the grain and bran per 100 lbs.	0	1	0
(c) Flour, wheaten, or wheaten meal, including pollard per 100 lbs.	0	2	0
(Note.— <i>Vide</i> Free List and Article XV of Convention.)			
16. Dates... .. per lb.	0	0	0½
17. Fish :—Cured, dried, pickled, preserved, pressed or smoked, not being of South African taking... per lb.	0	0	1
18. Fodder, viz. :—Chaff, hay, lucerne, oat-hay and other fodder, not otherwise described, but not including bran per 100 lbs.	0	1	0
19. Fruits :—Preserved, of all kinds, bottled, tinned or otherwise preserved, including pulp and candied peel per lb.	0	0	2
20. Fruits :—Dried of all kinds, including almonds and nuts per lb.	0	0	2
21. Gunpowder and other explosives suitable for use in firearms per lb.	0	0	6
(and in addition ten per cent. <i>ad valorem</i>)			
22. Guns and gunbarrels, firearms :—			
(a) Single, per barrel	1	0	0
(b) Double and other, per barrel	0	15	0
(and in either case in addition ten per cent. <i>ad valorem</i>)			
23. Meats, including lard, fats, soups, and other similar substances used as food, but not including extracts and essences or tallow per lb.	0	0	1
(<i>Vide</i> Article XIII of Convention.)			

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		£	s.	d.
No. 6—1903.	24. Matches : (a) Wooden : in boxes or packages of not more than 100 matches			
	per gross of boxes or packages	0	2	0
	In boxes containing more than 100, but not more than 200 matches			
	per gross of boxes or packages	0	4	0
	And for every 100 additional matches, in boxes or packages ... per gross of 100 matches	0	2	0
	(b) Fusees, vestas or wax matches, or other patent lights used as such : in boxes or packages containing not more than 50 ...			
	per gross of boxes or packages	0	2	0
	In boxes or packages of more than 50 but not more than 100, per gross of boxes or packages	0	4	0
	And for every 50 additional in boxes or packages per gross of 50 matches	0	2	0
	25. Onions, not preserved per lb.	0	0	0½
	26. Pickles, Sauces, Chutneys, Chillies and other condiments per lb.	0	0	2
	27. Pistols and revolvers each	0	5	0
	(and in addition ten per cent. <i>ad valorem</i>)			
	28. Soap, not including toilet soaps and soap powders and extracts per lb.	0	0	0½
	(Note.— <i>Vide</i> Article XVIII of Convention.)			
	29. Spices and turmeric per lb.	0	0	2
	30. Spirits :			
	(a) Perfumed per Imperial gallon	1	0	0
	(b) Liqueurs and Cordials exceeding 3 per cent. of proof spirit per Imperial gallon	0	15	0
	(c) Other sorts, exceeding three per cent. but not exceeding the strength of proof by Sykes' Hydrometer and so on in proportion for any greater strength ... per Imperial gallon	0	15	0
	(And in addition ten per cent. <i>ad valorem</i> on all the above classes of spirits).			
	(Note.— <i>Vide</i> Articles XVII and XVIII of Convention.)			
	31. Sugar :			
	(a) Not refined, golden syrup, molasses, saccharum and treacle per 100 lbs.	0	3	6
	(b) Refined "	0	5	0
	(Note.— <i>Vide</i> Article V of Convention.)			
	32. Tea per lb.	0	0	4
	33. Tobacco :			
	(a) Cigars and Cigarillos per lb.	0	6	0
	(and in addition ten per cent. <i>ad valorem</i>)			

(b) Goorak or Goorako, and Hookah mixture, and all imitations or substitutes ... per lb.	0	6	0
(c) Snuff „	0	4	0
(d) Cigarettes „	0	4	0
(and in addition ten per cent. <i>ad valorem</i>)			
(e) Manufactured and cut per lb.	0	3	6
(f) Manufactured but uncut „	0	3	0
(g) Not manufactured but stemmed „	0	2	6
(h) Not manufactured and unstemmed... .. „	0	2	0

34. Vinegar :

(a) Of standard strength, fit for immediate use as such (<i>i.e.</i> , requiring no more than 40 grains of bicarbonate of potash to neutralise one ounce Troy) :			
(1) In bottles or other vessels of the capacity of not more than one Imperial quart ...			
per Imperial gallon	0	1	0
(2) In larger vessels or in bulk			
per Imperial gallon	0	0	6
(b) Concentrated extract or essence, of greater strength than above ... per Imperial gallon	0	3	0

35. Wine :

(a) Still wines not exceeding 20 per cent. of proof spirit per Imperial gallon	0	4	0
(b) Still wines exceeding 20 per cent. but not exceeding 50 per cent. of proof spirit ...			
per Imperial gallon	0	8	0
(c) Sparkling Wines „ „	0	12	6
(and in addition ten per cent. <i>ad valorem</i> on all the above classes of wine).			

Note—Wines containing less than three per cent. of proof spirit are not included in the above and wines containing more than 50 per cent. of proof spirit are classed as spirits.

CLASS II.

(*Vide* Article III A of Convention.)

MIXED *ad valorem* RATES.

36. Bicycles, tricycles and velocipedes and parts thereof per £100	12	10	0
37. Blankets and sheets, or rugs, cotton or woollen, or manufactures of cotton and wool, commonly used as cotton or woollen blankets or rugs, the single article, in pairs or in the piece; and coats, jackets other apparel made of blanketing or baize per £100	25	0	0

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		£	s.	d.
38.	Bon-bons, surprise packets and crackers, and other similar fancy confectionery ... per £100	25	0	0
39.	Cards, playing	25	0	0
40.	Carriages, carts, coaches, wagons and all other wheeled vehicles, not elsewhere described, intended for the conveyance of persons or goods, including finished parts thereof, not being metal parts not usually made in the Union, but required in the manufacture of wheeled vehicles therein; but not including bath chairs, perambulators, toy carts, store trucks or barrows per £100	12	10	0
41.	Extracts and essences of all kinds for flavouring or perfumery, including saccharine per £100	25	0	0
42.	Fireworks of all descriptions	25	0	0
43.	Medicines, patent or proprietary	25	0	0
44.	Motor vehicles, including their parts, and motor cycles, but not including traction engines and power lorries per £100	5	0	0
45.	Oils, essential or perfumed	25	0	0
46.	Perfumery, cosmetics, dyes, powders and soap, and other preparations for toilet use, and soap powders and extracts per £100	25	0	0
47.	Shawls	25	0	0

CLASS III.

(Note—*Vide* Article III B of Convention.)*Ad valorem* 2½ PER CENT.

48. Acids: nitric and sulphuric.
49. Asbestos packing and boiler composition.
50. Assay apparatus.
51. Bands and belting of all kinds for driving machinery, boiler tubes, bolting cloth and mill silk.
52. Battery cloth and baize, gauze, matting, sieving and screening for use in connection with machinery and apparatus.
53. Bolts, nuts and rivets.
54. Bottles and jars of common glass or earthenware, and bottles ordinarily used for aerated waters: empty.
55. Chain for hauling.
56. Chimneys: metal (smoke stacks).
57. Corks and bungs, and corkwood unmanufactured.
58. Cranes, elevators and shears.
59. Crucibles, cupels, cupelling furnaces, ingot moulds, retorts and furnaces for roasting minerals.
60. Cyanide of potassium.
61. Fire escapes and fire hose and hose reels.

- No. 5—1903.
62. Hose : steam, suction and armoured (not including garden), for use in connection with machinery and apparatus.
 63. Machinery, not elsewhere described, to be driven by cattle, electric, gas, heat, hydraulic, pneumatic, steam, water or wind power, including spare parts ; and apparatus and appliances used in connection with the generating and storing of electric power or gas ; electric cable or wire and the posts for carrying the same ; lamp posts and their fittings.
 64. Mining buckets, skips, trucks and tubs, wheeled or otherwise, for hauling on rails or wires.
 65. Packing and lagging for engines, machinery and piping.
 66. Pipes, piping and tubes of all kinds for gas, steam, drainage, sewerage, irrigation, water supply or pumping, not including downpiping and guttering or cocks and taps.
 67. Railway construction or equipment requisites as follows :—
 Rails, sleepers, fastenings for rails or sleepers, girders, iron bridge work, culvert tops, locomotives, tenders, ballast trucks, goods wagons, carriages, trollies, engine water-tanks, turn-tables, permanent or fixed signals and weighbridges.
 68. Rubber for use in connection with machinery and apparatus.
 69. Tanks and vats suitable and intended for mining purposes.
 70. Telegraphs and telephones :—Materials and instruments for use in construction and working of telegraph and telephone lines.
 71. Traction engines and power lorries.
 72. Tramway construction and equipment requisites, as follows :—
 rails, sleepers, fastenings for rails or sleepers, iron gates, girders, iron bridge work, culvert tops, cars, trollies, water tanks and turntables.
 73. Wire and wire-netting for fencing ; droppers, gates, hurdles, posts, standards, strainers, staples, stiles, winders, and other materials or fastenings of metal ordinarily used for agriculture, or railway fencing ; and baling wire.
 74. Wire rope.

CLASS IV.

FREE.

75. Agricultural implements and machinery, and all apparatus and plant usually and principally employed in farming operations ; binding twine and harvest yarn.
76. All raw produce of South Africa, and animals bred in South Africa imported into the Union overland.
77. All animals bred and articles grown, produced or manufactured within the Union, except :

- (a) Flour, wheaten, or wheaten meal, including pollard, manufactured from other than South African wheat.
- (b) Spirits, beer, or blasting compounds, distilled or manufactured in the Union, should a duty be imposed under Article XVII. of Convention.
78. Ambulance materials imported by recognised associations, corps or hospitals lawfully established for instruction or drill in first aid to the wounded.
79. Anchors and chain cables for the use of ships, tugs or lighters.
80. Animals living, except cattle and sheep for slaughter. (*Vide* Article XIII of Convention).
81. Arms, ammunition, appointments and uniforms for the Regular Military, Naval or Volunteer Imperial or Colonial Forces of His Majesty.
82. Atlases, charts, globes and maps.
83. Bags for flour, grain, manure, produce, sugar, wool, coal and minerals, not including paper bags; and bagging and sacking in the piece.
84. Band instruments and stands, the *bona-fide* property of any Government belonging to the Union or of a Regular Military or Volunteer Corps, and not the property of individuals.
85. Bones, feathers, ivory, hair, hoofs, horns, shells, skins, teeth, wool and other parts of animals, birds, fishes or reptiles, not being manufactured, polished, or further prepared than dried and cleaned, but in their raw and unmanufactured state.
86. Bookbinders' requisites, consisting of boards, cloth, leather, marble paper, skin, thread, tape, vellum, webbing and wire.
87. Books and music, printed, including newspapers and periodicals, not being foreign unauthorised prints of any British or South African copyright work.
88. Borax, bromine, litharge, manganese di-oxide and quicksilver.
89. Bottles and jars of common glass or earthenware imported full of any article liable to a rated duty.
90. Boxes, empty, cardboard and wooden, put together or in pieces, or shocks for packing; and staves.
91. Brass and copper, and composition metal: in bars, ingots, plates and sheets: plain, including perforated, but otherwise unmanufactured.
92. Bullion, coin, specie, bank notes and other paper currency.
93. Carriages, carts, wagons and other wheeled vehicles, the manufacture of South Africa, imported into the Union overland.
94. Church decorations, altars, bells, fonts, lecterns, pulpits, organs, plate or vestments, and illuminated windows, imported by or for presentation to any religious body.

95. Coir, candlewick, cotton, flax, fibre, flock, hemp and jute : No. 5—1903.
raw, waste or unmanufactured.
96. Collodion cotton, glycerine and nitrates for manufacturing purposes.
97. Cups, medals, and other trophies imported for presentation, or presented as prizes at examinations, exhibitions, shows, or other public competitions, for excellence in art, bravery, good conduct, humanity, industry, invention, manufactures, learning, science, skill or sport, or for honourable or meritorious public services : provided that such articles shall on importation or delivery free from the Customs bear engraved or otherwise indelibly marked on them the name of the presenter or presentee and the occasion or purpose for which presented.
98. Consular uniforms and appointments and printed official Consular stationery.
99. Cork dust, paper shavings, sawdust, husks and other waste substances intended and suitable for use only as packing material.
100. Diagrams, designs, drawings, models and plans.
101. Diamonds and other gems or precious stones in their rough state.
102. Dye-nuts, gambier, myrobalans, sumach, valonia and other dye stuffs : for leather.
103. Engravings, lithographs and photographs, and enlargements or reproductions of the same.
104. Fire-clay, terra alba and fire bricks.
105. Fish, fresh and fish ova ; also dried, cured or salted fish and raw fish oil of South African taking.
106. Fruit : fresh or green, including cocoa nuts.
107. Fruit and other produce : driers or evaporators of.
108. Glue.
109. Guano and other substances, animal, mineral or vegetable, artificial or natural, suitable for use as fertilizers or manures.
110. Hair cloth and springs for furniture.
111. Ice.
112. Iron and steel ; angle, bar, channel, hoop, rod, plate, sheet or T ; plain, including perforated and galvanised ; rough and unmanufactured, not including corrugated sheets.
113. Launches, tugs and lighters ; provided that when condemned or landed to be broken up, duty shall be paid at the Customs on the hull and all fittings according to the tariff that may then be in force.
114. Lead : bar, pipe, sheet, foil and acetate of.
115. Leather : patent, enamelled, roan and morocco, and pigskin in the picce and valve hide.

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116. Lifeboats, belts and buoys, and other life-saving apparatus imported by any recognised society.
117. Metal of all sorts in bars, blocks, ingots, and pigs for founding, not elsewhere described.
118. Paintings, pictures, picture books and etchings.
119. Paper ordinarily used for printing books, pamphlets, newspapers and posters, or for lithographic purposes.
120. Potash and soda, carbonate, bi-carbonate, caustic, crystals and silicate.
121. Printing and lithographic inks.
122. Printing, lithographing, paper-cutting, folding, numbering and perforating machines or presses, blocks, formes, fontes, plates, rollers, stones and type, and other apparatus suitable only for use in the bookbinding or printing industries.
123. Public stores, imported or taken out of bond by, and *bona-fide* for the sole and exclusive use of, the Government of His Britannic Majesty, and of any Government belonging to the Union, provided that a certificate be delivered to the Customs Authorities given under the hand of an Officer approved of by the Principal Officer of Customs, setting forth that any duty levied on such public stores would be borne directly by the Government: and provided further that no portions of such stores used or unused shall be sold or otherwise disposed of so as to come into the possession of or into consumption by any persons not legally entitled to import the same free of duty, without the consent of the Principal Officer of Customs and the payment of the duties to him by the Officer so selling or disposing of such public stores.
124. Rattans, cane and bamboo: unmanufactured.
125. Resin and carbonate of ammonia.
126. Saddle-trees.
127. School furniture and requisites: being all articles certified by the Superintendent-General of Education, or any official appointed for that purpose in any Colony or Territory in the Union, to be for use in any school.
128. Sculpture, including casts or models of sculpture.
129. Seeds, bulbs, plants and tubers for planting or sowing only, under such regulations as regards edible kinds as the Customs Authorities may impose to safe-guard the revenue against diversion into ordinary consumption.
130. Sheep-dip, sheep-dipping powders, material suitable only for dip and dipping tanks.
131. Specimens illustrative of natural history, and exhibits for public museums.

132. Sprayers and sprinklers and other apparatus for destroying pests or diseases in stock, plants or trees. No. 6—1903.
133. Sulphur and other substances for destroying pests or diseases in stock, plants or trees; and disinfectants.
134. Thread: boot and shoemakers', saddlers' and sailmakers', and seaming twine.
135. Tin and zinc: bar, plate or sheet; plain or perforated, but otherwise unmanufactured.
136. Tobacco, the produce of South Africa, imported into the Union overland.
137. Vaccine virus, toxin and serum.
138. Vegetables: Fresh or green, but not including potatoes or onions.
139. Water-boring and pumping apparatus.
140. Wax, viz.:—Paraffin and stearine and stearine grease ordinarily used in the manufacture of candles.
141. Wine presses and wine pumps.
142. Wood meal.
143. Wool, straw, hay and forage presses.

CLASS V.

(Vide Articles IIIA of Convention.)

GENERAL *ad valorem* RATE, TEN PER CENT.

144. All goods, wares or merchandise not elsewhere charged with duty, and not enumerated in the Free List, and not prohibited to be imported into the Union, shall be charged with a duty of ten per cent. *ad valorem*.

No. 6—1903.]

[August 11, 1903.]

ACT

To confer certain rights, powers and privileges upon the Green and Sea Point Municipal Council.

[Assented to 10th August, 1903.]

WHEREAS it is expedient that the limits of the Municipality of Green and Sea Point should be defined by Act of Parliament, and that all vacant Crown land within the said limits should be vested in the Council of the said Municipality upon conditions hereinafter set forth:

Preamble.

And whereas it is further expedient to confer upon the said Council certain amended or increased rights, powers and privileges with regard to municipal property, works and undertakings, including the power to make grants of money in aid of public schools and hospitals, the acquisition of immovable property for

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municipal purposes, the establishment and management of a sinking fund, and the redemption of loans, and with regard to the good, cleanly and healthy order and condition of the said Municipality and the inhabitants thereof, including the establishment of a system of electric lighting and of a fire brigade: And with regard to maintaining and developing good municipal government therein by means of suitable rules and regulations made by the said Council and approved of by the Governor:

And whereas it is further expedient that powers be granted to the said Council to construct, erect and maintain along the seashore within the said limits, subject to the approval of the Governor, promenades and esplanades with necessary sea-walls, to erect baths and bathing-places subject to the like approval, for the use of the public, and to obtain title subject to the like approval and upon such conditions as may to the Governor seem fit, of any portion of the foreshore required for the purposes of the said promenades, baths and the like works.

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

Limits of
Green and Sea
Point Municipality.

1. The Municipality of Green Point and Sea Point shall include the space of ground situate within the following limits: From the junction of Boundary Road with Somerset or Green Point Road, thence along the north-western side of Boundary Road or the south-eastern boundary of lots 1 and A (Green Point lots) to a point where the line of the western side of Strand Street prolonged northwards shall intersect said south-eastern boundary at the southern Beacon of lot A; thence in a straight line or water-shed to the summit of Signal Hill; thence along the watershed of the Lion's Rump to the summit of Lion's Head; thence in a straight line to the south-western boundary of the property called Botany Bay; thence along the south-western and western boundary of said property prolonged northwards until it runs into the sea at low water mark; thence along the sea shore at low water mark to its intersection with a straight line running parallel with and 20 yards east of the cross road branching off from the Somerset or Green Point Road to Three Anchor Bay, as it existed in 1839, to low water mark; thence along said straight line running twenty yards East of such cross road to a point twenty yards North of Somerset or Green Point Road; thence along a line running parallel with and twenty yards distant from the Green Point or Somerset Road, as it existed in 1839 (on the north and north-east side), to a point opposite the north-western side of Boundary Road; thence to the junction of Boundary Road with Somerset or Green Point Road, the point first named.

Certain vacant Crown land in Municipality to be

2. From and after the passing of this Act, all vacant Crown lands situated within the Municipality of Green Point and Sea Point, with the exception of the Crown land situated along the

foreshore extending from Three Anchor Bay to Botany Bay, and all right, title, and interest in and to the same shall be, and the same are hereby vested in the Council of the Municipality of Green Point and Sea Point. No. 6—1903.
vested in Council thereof.

3. The provisions of sections 160 to 163, inclusive, of the Municipal Act, 1882, shall apply to the sale, alienation or lease of any of the said lands, and the said Council shall not be authorised to sell, lease, or otherwise alienate the said lands or any portion thereof without first having complied with the provisions of the said sections. And in all cases in which such authority is granted at the request of the said Council the Government shall issue to them formal title in terms of and subject to the provisions of this Act. But not to be alienated except under provisions of Municipal Act, 1882.

4. The Governor shall at all times have the right of resuming the whole or a portion of the said lands if required for public purposes, without compensation except for improvements to the said lands; and the amount of such compensation shall be agreed upon by parties concerned, or failing such agreement shall be determined by arbitration. Governor to have right of resumption.

5. Nothing in this Act contained shall be deemed construed or taken to deprive the owner of any property situate within this Municipality of any right of access to such property over any portion of the said lands which at the date of the taking effect of this Act was used as a public thoroughfare or over which such owner has acquired a right of access. Rights of access reserved.

6. The proceeds of the sale of land acquired under the provisions of this Act shall become the property of the Municipal Council, but the said proceeds shall only be devoted to such permanent public works or to the redemption of loans for such permanent public works as may have the approval of the Governor. Proceeds of sale of land, not to be applied.

7. The Council may from time to time with the consent of the Governor, erect construct and maintain along the seashore, promenades and esplanades with any necessary sea-walls, and may also erect, construct and maintain subject to the approval of the Governor, bathing houses, public baths and bathing places. And the Governor is hereby authorised to grant to the Council title of such portions of the foreshore as may be required from time to time for any of the aforesaid purposes upon such conditions as to him may seem desirable. Construction of promenades, public baths, etc.
Grant of foreshore.

8. The Council are hereby authorised to sewer old streets, existing streets and new streets, as defined in the Municipal Amendment Act of 1899, and the Council may by themselves or their appointed officers apportion the cost of such sewers among the owners interested upon the same principles and rules, and under the same conditions, as are laid down in the Municipal Amendment Act of 1899 with regard to the construction of streets. The expenses so apportioned and all interest thereon. Construction of sewers.
Apportionment of cost.

No. 6—1903. shall rank equally with the expenses of street construction provided for by the said Act as a first claim and charge upon the property abutting on the street against which they are apportioned and shall be recoverable from the owners thereof and their successors in title in any competent Court as provided in the said Act with regard to the expenses of street construction.

Duty with regard to repair and maintenance of sewers. 9. Whenever the Council has laid a sewer in any old, existing or new street the duty of repair or maintenance of such sewer shall be cast upon the said Council: provided however that until the carriage-way of any such street be duly constructed the mere act of constructing the sewer shall not be taken to vest such street in the Council.

Construction of streets. 10. If in any case the majority of the owners of property abutting on any street which the Council in terms of Act No. 41 of 1899 would be authorised to construct should be desirous, on account of the narrowness of such street, that in lieu of kerbing, guttering and a footpath on each side thereof, a channel for water should be laid in the centre of such street, to be sloped from each side so as to cause all water to flow down the centre, it shall be lawful for the Council to construct such channel and the cost thereof shall be defrayed by the Council and owners in the same proportions and under the same obligations as if the same were a kerb and gutter constructed in terms of the said Act No. 41 of 1899, excepting that the owners on both sides of such street shall be proportionately liable for such construction.

Register of charges to be kept. 11. The Council shall keep a register of charges under this Act and the Municipal Amendment Act of 1899 and of the payments made in satisfaction thereof under the provisions of the eighth section of this Act or the said Act of 1899, and the said register shall be open for inspection to all persons at all reasonable times on payment of a sum not exceeding one shilling in respect of each name or property searched for, and the Council shall furnish copies of any part of such register to any person applying for same on payment of such reasonable sum as may be fixed by the Council.

Expropriation of private property for drainage purposes. 12. If in the opinion of the Council or its authorised officer any private land or buildings erected or to be erected thereon cannot be drained or connected with the main sewer except by constructing a drain through private property, the Council shall be entitled to expropriate or acquire such land as may be necessary for the purpose of constructing a drain over such private land or may acquire a servitude or right of drainage in favour of the owner for the time being of the first mentioned land or buildings upon payment of reasonable compensation, which compensation the Council shall be entitled to charge against the owner for the time being of the first-mentioned property.

Extinction of fires. 13. The Council may purchase or provide such engines and appliances for extinguishing fire, and such water buckets, pipes,

and other appurtenances for such engines and such fire escapes and other implements for safety or use in case of fire, and may purchase, keep, or hire such horses or provide such other power for drawing such engines as they think fit; and may purchase, build, provide, or hire places for keeping such engines with their appurtenances and for the horses and for the accommodation of the persons charged with the management thereof, and may employ a force of firemen and form an association of citizens to assist in the suppression of fire, and such force and association shall be known as "The Green and Sea Point Municipal Fire Brigade," and shall be under the command of an officer appointed by the Council and styled the "Superintendent of the Fire Brigade," and the Council may make rules for the regulation of the said brigade, and may therein prescribe who shall be the officer in charge of the brigade at any fire when the Superintendent is absent or incapacitated from acting, and may also give such firemen and other persons such salaries and rewards for their exertions in case of a fire as the Council think fit. In the absence or incapacity of the Superintendent, unless it be otherwise prescribed in the regulations, the senior in rank in the brigade present at any fires shall assume the duties of the Superintendent, and be the officer in charge for the time being. In the succeeding sections, from fourteen to twenty-three inclusive, the term "Superintendent" shall be taken to include the officer in charge for the time being of the brigade.

14. On the occasion of any fire within the Municipality, the Superintendent of the said brigade shall, from the time he arrives at the fire, have control over the property on fire, and over such other property as may be considered by him at risk, and shall also so continue until he reports to the Council that the fire has been extinguished, which report may be made verbally to the Mayor or municipal clerk. He may in his discretion avail himself of the assistance, and if he does accept such assistance, shall take command of any persons who may voluntarily place their services at his disposal, and generally he may take any measures that may appear expedient for the protection or saving of life and property, with power by himself, his men, or any person under his command, to enter upon, break into, or through, or take possession of, pull down, or destroy any buildings or other property for the purpose of protecting, saving life or property, or putting an end to or preventing the spread of a fire, doing as little damage as possible; and for these purposes he shall have a free right of access to and liberty to draw water from the water mains of the Municipality of Green Point and Sea Point, from all tanks and cisterns whether on municipal or other property, and, subject to agreement with the Corporation of Cape Town as hereinafter provided, from the water mains of the Cape Town Council, but the said Council shall not be compelled to enter into such agree-

Powers of Superintendent of Fire Brigade in case of fire.

No. 6—1903. ment. The persons volunteering as aforesaid and any other person whose services may be temporarily engaged, for the time they are assisting shall be deemed to be members of the said brigade and the superintendent shall have power to dispense with the services of any of them at any time.

Agreement with Cape Town Council as to use of water.

15. The Council shall have the right to enter into any agreement with the Corporation of the City of Cape Town for the use of water from the Cape Town mains and for assistance if necessary from the Metropolitan fire brigade in case of fire.

Powers of police in case of fire.

16. The police shall aid the brigade in the execution of their duties; they may close any street, passage or thoroughfare in or near which a fire is burning, and may on their own authority and at the request of the Superintendent remove any persons who may interfere, or are considered as likely to interfere by their presence or otherwise with the operations of the brigade.

Certain persons indemnified from claims for damages.

17. The brigade, the police, and all persons acting under the orders of the Superintendent are hereby indemnified and exempted from all claims and demands whatever by reason of anything necessarily done in the execution of their duty, and the Mayor and Council are hereby indemnified and exempted from all claims or demands whatsoever by reason of any damage done upon sufficient necessity by them, the brigade, the police, and other persons aforesaid.

Charges to be made by Council in case of fire.

18. The Council shall be authorised to charge on a private dwelling-house and its outbuildings which shall be or shall have been on fire, the sum of five pounds sterling for the services of the brigade and the use of fire engines and appliances, and also the sum of one pound sterling per hour for every jet of water supplied during the time that such jet shall be playing upon the said dwelling-house, its outbuildings and contents, and upon the adjoining buildings and erections to prevent the extension of the fire. And the Council are hereby authorised to charge on every building (other than a private dwelling-house and its outbuildings) which shall be or shall have been on fire, the sum of ten pounds sterling for the services of the brigade and the use of the fire engines and appliances, and also the sum of two pounds sterling per hour for every jet of water supplied during the time that such jet shall be playing upon any such building and its contents and upon any adjoining buildings and erections to prevent the extension of the fire: provided, however, that the provisions of this section shall not extend to any buildings owned or occupied by the Government of this Colony when and so long as any special agreement exists between the Council and the Government as to the terms upon which the Council will grant the services of the brigade and supply water for the extinguishment of fires upon such buildings.

Who to pay charges.

19. The amounts charged on any building, in terms of the last preceding section shall be payable by the owners and occupiers

of such building in equitable proportions, and the distribution thereof shall be made by the Superintendent whose certificate shall be final and binding upon all persons interested, without appeal or review on any ground whatever. The amount charged on any building shall, however, be recoverable by the Council from the owner or the occupier thereof, or both, who may be sued jointly or severally, each for the full amount in any court of competent jurisdiction, and any owner or occupier paying the full amount charged as aforesaid shall be entitled to be reimbursed by the other owners and occupiers to the extent to which according to the said certificate they are severally liable.

20. No expenses incurred by the Council or the Superintendent in causing to be pulled down or destroyed any buildings or erections, or any parts thereof, for the purpose of putting an end to or preventing the spread of a fire, or for saving life, or in attempting to save buildings adjacent to or in the vicinity of a fire shall be chargeable against the owners or occupiers of immovable property, but the Council shall not be liable to rebuild or repair or make compensation for any damage caused to any persons or any buildings or other erections so dealt with.

Salvage expenses.

21. The Council shall be entitled to sue for and recover all expenses incurred by them and the Superintendent in saving and removing and in attempting or with a view to save or remove movable property from any buildings or erections on fire and from any buildings or erections adjacent to or in the vicinity of any building or erection on fire, and all expenses in keeping safe custody thereof, from the owners of the movable property saved or removed in equitable proportions, and the Council shall have an absolute lien upon the movable property so saved or removed until the expenses aforesaid shall have been received by the Council. The apportionment of the expenses aforesaid shall be made by the Superintendent whose certificate shall be binding on all parties without appeal or review on any ground whatever, and if the aforesaid lien be not paid and discharged within twenty-one days the Council shall have the right to sell and dispose of the said movables, or any of them, by public auction after three days' notice in two or more newspapers published in Cape Town and after applying the net proceeds in reduction of such expenses may sue for and recover any deficiency which may be found to exist.

Apportionment of expenses incurred.

22. The Superintendent shall make a report in writing to the Council on every fire he attends.

Report to Council on every fire by Superintendent.

23. All expenses incurred by the Superintendent of the brigade and the Council in the saving and removing or attempting to save or remove movable property, and in operations to save property and extinguish fire, charged against and recoverable by the Council from owners or occupiers of movable or immovable property under this Act, and all damage occasioned by the brigade in the execution of their duties, and all sums chargeable upon any

Damages and expenses incurred to be within meaning of policy of insurance.

No. 6—1903. buildings and payable in terms of section eighteen of this Act, shall be deemed to be loss or damage by fire within the meaning of any policy of insurance on such property or buildings against fire: provided that nothing herein contained shall be construed so as to compel any insurance company to pay any sum in excess of the full amount insured in terms of such policy.

Powers of Council to supply electricity.

24. It shall be lawful for the Council to construct, provide, and maintain generating and transforming stations and all other works necessary with a view to supplying electrical energy for the purposes after-mentioned; for lighting or the application of power to public buildings and places, places of worship, places of entertainment, private residences and grounds, shops, warehouses, offices, and such like, and for domestic and industrial purposes, for electric traction, and for supplying consumers generally, except for telegraphs, telephones, or other electric signals within the Municipality.

Right of Council to place and lay electric wires.

25. The Council shall have full power and authority to do all things necessary for the placing of main and branch wires in lines of pipes or overhead, to convey the electric current to be used for the purposes hereinbefore set forth, underneath the streets of the Municipality, and to connect the said wires, lines, or pipes with any premises, subject to the provisions of the Electric Light and Power Act, 1895, or of any law now in force or which hereafter may be passed amending or extending the said provisions and to any Regulations made under the said provisions and to any bye-law framed under the provisions of the next succeeding section.

Right of Council to enter into agreements for electric supply and to make charges.

26. The Council shall have full power and authority subject to the provisions of the Electric Lighting and Power Act, 1895, to enter into agreements with any person, company, or public body for the supply of electricity to such places or premises and for such purposes as are hereinbefore set forth, and shall make charges for the said supply in accordance with the tariff to be framed by the said Council.

Supply to be in accordance with general Regulations and with bye-laws.

27. The said supply of electricity shall be furnished in all respects in accordance with part one of the Regulations framed under the provisions of the Electric Lighting and Power Act 1895 styled "Regulations for securing the safety of the public" in so far as the said regulations are applicable to the said supply and in accordance with any additional bye-laws which the said Council may from time to time publish with the approval of the Governor for securing the safety of the public and regulating the supply of electricity.

Acquisition of land and construction of works for purpose of electric supply.

28. The Council may subject to and in accordance with the powers and restrictions of this Act and of the Electric Lighting and Power Act 1895 and the regulations made thereunder and for the purpose of supplying electricity as aforesaid acquire such land, construct such works and enter into such contracts and

generally do all such acts and things as may be necessary and incident' al to such supply. No. 6—1908.

29. Subject to the provisions of this Act and of the Electric Lighting and Power Act of 1895 and of any law now in force or which may hereafter be passed amending or extending the provisions thereof and to any Regulations framed under the provisions of the said Act the Council may also alter the position of any pipes lines or wires which may interfere with the exercise of their powers under this Act on previously making or securing such compensation to the owner of such pipes, lines or wires and on complying with such conditions as to the mode of making such alterations as may before the commencement of such alterations be agreed upon between the Council and the owners, or in case of difference as may be provided by arbitration.

Alteration of position of pipes, etc., for the purpose of electric supply

30. In the exercise of the powers in relation to the execution of works given under this Act the said Council shall cause as little detriment and inconvenience and do as little damage as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them by reason, or in consequence, of the exercise of such powers. The amount of application of such compensation in case of difference to be determined by arbitration.

Compensation to be made by Council for damage done in exercise of powers conferred.

31. If any company or person neglect to pay any charge for electricity or any other sum due to the Council in respect of supply of electricity, the Council may cut off such supply and for that purpose may cut or disconnect any electric wire, line or other work through which electricity may be supplied, and may until such charge or other sum together with any expenses incurred by the Council in cutting off such supply of electricity are fully paid, but no longer, discontinue the supply of electricity to such company or person.

Electric supply may be cut off on failure to pay charges.

32. Any person who unlawfully and maliciously cuts or injures any electric wire, line, pipe or work shall be guilty of an offence against this Act, and shall be liable upon conviction to a fine not exceeding fifty pounds or to be imprisoned, with or without hard labour, for any period not exceeding six months, or to both such fine and imprisonment.

Malicious injury to electric apparatus punishable.

33. Any person who maliciously abstracts, or causes to be wasted or diverted any electricity shall be guilty of theft and punishable accordingly.

Malicious abstraction, etc., of electricity punishable as theft.

34. The word "street," except as defined in Sections eight, nine, and ten of this Act, in this Act shall include any public square, court or alley, highway, lane, road, thoroughfare or public passage or place whatsoever.

Street defined.

35. Any officer appointed for that purpose by the Council may at all reasonable times enter any premises to which electricity is, or has been, supplied by the Council in order to inspect the electric wires, lines, meters, accumulators, fittings, work and

Right of inspection by officers of the Council.

No. 6—1903. apparatus for the supply of electricity belonging to the Council and for the purpose of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required or where the Council is authorised to take away and cut off the supply of electricity from any premises, for the purpose of removing any electric wires, lines, accumulators, fittings, works or apparatus belonging to the Council, but all damage caused by such entry, inspection or removal, shall be repaired at the expense of the Council.

Arbitration Act, 1882, to apply. 36. The provisions of the Lands and Arbitration Clauses Act, 1882, shall apply to any arbitration under this Act.

Works and Plant to be subject to general Regulations. 37. All works and plant erected or installed by the Council and all other works and plant of a like nature which may be erected shall be subject to the approval of an officer appointed by the Governor and to such regulations as the Governor may from time to time make in accordance with the regulations for the time being in force; and nothing in this Act contained shall exempt the Council from the provisions of any general Act relating to electric light or power which may hereafter pass during any future session of Parliament.

Periods mentioned in certain regulations not to apply. 38. The Council shall have full power to do all things authorised by this Act notwithstanding that the conditions mentioned in the 9th, 10th and 11th of the regulations under the Electric Lighting and Power Act, 1895, as to compliance with the provisions in connection with the application to Government for authority to supply and use electricity have not been satisfied within the periods mentioned in the said regulations.

Grants to public schools and hospitals. 39. The Council may make grants annually out of the revenues of the Municipality to any public school within the Municipality and to any hospital, whether within or without the Municipality, provided the total amount so granted shall not exceed two and a-half per cent. of the said revenues.

Conditions on which loans for permanent works may be incurred. 40. Before proceeding to borrow any money upon loan for the purpose of permanent works or for the payment of any works the cost of which ought in the opinion of the Governor to be spread over a term of years, or for the repayment of any existing loan, the Council shall decide as to the period within which such loan should be discharged and shall thereupon submit to the Governor particulars of the desired loan and the purposes for which it is required and the period in which the Council proposes so to discharge the same, and apply for his approval of the duration of such period.

Sinking fund to be established. 41. Upon obtaining the consent of the Governor thereto, and after obtaining due authority to raise the loan in terms of the Municipal Act of 1882, the Council shall upon raising such loan forthwith proceed to form a sinking fund for its redemption within the prescribed period. In order to provide such a sinking fund

the Council shall annually out of its revenues pay into the sinking fund such sum as will be required for the purpose. No. 6—1903.

42. The first of such payments shall be made within two years from the date of the loan. Date of first payment.

43. All sums paid into the sinking fund shall be as soon as possible invested by the Council in securities in which trustees are by law for the time being authorised to invest and any such investments may from time to time be varied or transposed and all dividends and other annual sums received in respect of such investments shall as soon as may be after they are received be paid into the sinking fund and invested by the Council in like manner. Investment of monies paid into Sinking fund.

44. The Council may from time to time apply the sinking fund or any part thereof in or towards the discharge of the loan or part of the loan for which it was created, or such part thereof as the Council may determine, and until such loan or part is wholly discharged shall not apply the same for any other purpose. Discharge of Loan by payments out of Sinking fund.

45. The debentures to the payment of which such sinking fund is for the time being applicable shall be ascertained in such manner as may have been fixed at the time of the issue of the debentures or may thereafter have been arranged. Debentures.

46. Any surplus of the sinking fund remaining after the discharge of the loan or part of a loan for the discharge of which it was created shall be paid into some other sinking fund under the control of the Council or if there is no such fund shall be applied to any purpose to which the Council may with the assent of the Governor think expedient. Disposal of surplus of Sinking fund.

47. Where any part of the sinking fund is applied in paying off any part of the loan before the prescribed period, the interest which would otherwise be payable on such securities, or on such part of the loan, shall be paid into the sinking fund and invested in manner provided by this Act. Adjustment of interest.

48. Where a sinking fund is created for the purpose of discharging any loan or part of a loan, the Council shall until such loan or part of a loan is discharged, within twenty-one days after the expiration of each year, transmit to the Governor a return in such form and verified in such manner as from time to time he may direct, showing the amount which has been invested or applied for the purpose of such sinking fund during the year next preceding the making of such return and the description of the securities upon which any investment has been made, and the purposes to which any portion of the sinking fund has been applied during the same period and the total amount, if any, remaining invested at the end of the year. If it appears to the Governor by such return or otherwise that the Council have failed to comply with the provisions of this Act with respect to the sinking fund, the Governor may, if he thinks fit and after hearing the Council if desirous to be heard, by order direct that Annual returns shewing particulars as to the state of Sinking Fund.
Provision in case of default by Council.

No. 6—1903. the sum in respect of which default has been made be raised by the Council and invested or applied as part of the sinking fund and any such order may be enforced against the Council in any competent Court.

Loans under Act 1882 unaffected. 49. Nothing in the foregoing sections contained shall affect any loans raised under the Local Works Loans Act, 1882.

Power of Council to compel owner to secure a supply of water 50. Where, on the report of a duly authorised officer, it appears to the Council that any house within the Municipality is, either from the want of a separate leading or some other cause, without a proper supply of water for domestic purposes and for flushing and for sanitary conveniences, and that such water can be furnished thereto by the Corporation of the City of Cape Town, the Council may give notice in writing to the owner, requiring him, within a time therein specified, to obtain such supply from the Corporation of Cape Town as the Council may deem sufficient and to provide a separate leading. If such notice is not complied with within the time specified, the Council may, if they think fit, enter into an arrangement with the Corporation of the City of Cape Town for providing such water supply or separate leading, and any expense incurred by the Council or City Corporation in so doing shall be recovered in a summary manner from the owner of the premises together with all legal costs incurred by them, and the Council are hereby authorised to frame regulations in the manner set forth in the fifty-third and fifty-fourth sections hereof for the purpose of carrying into effect the provisions in this section contained and for imposing fines and penalties in connection with the non-observance thereof.

Powers of Council as to closing of streets and lanes 51. If, in the opinion of the Council, it is expedient to close any street, lane or thoroughfare, public or private, the Council is hereby authorised, subject to the provisions hereinafter set forth, to close the same provided always that if the Council should so decide they shall not less than one month prior to so doing advertise their intention in two or more newspapers circulating within the Municipality and shall also serve such notice on the owners and reputed owners, lessees or reputed lessees and the occupiers of all properties abutting upon and adjoining such street, thoroughfare or lane during which time any person feeling aggrieved by such contemplated closing may serve written notice on the Council of any objection to such closing and should any such objection be received the closing shall not be proceeded with until the sanction of the Governor has been obtained. And the Governor may on the application of the Council appoint an inspector to make enquiry at the cost of the Council into the propriety of the intended closing and the objections thereto and such inspector shall report to such Minister as the Governor may direct on the matter and on receiving the report of such inspector the Governor may make or disallow the said closing or allow it with such a modification, if any, and upon such

conditions as he may deem necessary or may allow it subject to the payment by the Council to the person so objecting of any compensation for loss which he may sustain, and failing mutual agreement the amount of such loss shall be settled by arbitration. Upon the closing of any public street, road or thoroughfare, the same shall vest in the Council, but any private street, road, or thoroughfare which may be closed shall, subject to any arrangement which may be made with the owners abutting thereon, vest in such owners.

52. The Council may from time to time make, alter, revoke, or amend bye-laws and regulations for all or any of the following purposes :—

Matters upon which regulations may be made.

- (a) Regarding the licensing and supervision of traction engines, street locomotives, motor cars, trailers, and vehicles drawn or propelled by steam, electricity, compressed air, oil or mechanical power, and to regulate, restrict, and control their use in the public streets, and to impose on and recover licence fees from bodies, companies or persons owning, keeping or using the same.
- (b) For regulating and registering houses, let or occupied as common lodging-houses and houses sub-let and occupied by more than one tenant, boarding-houses, and hotels, and for inspecting such houses and hotels, and for requiring the keeping the same in a cleanly and wholesome state.
- (c) For regulating laundries and bakehouses, and for prohibiting the use of shops for sleeping purposes.
- (d) Prohibiting the use of buildings for the purpose of human habitation, which have been erected for other purposes, unless with the consent of the Council.
- (e) For regulating the cleaning of drains, lanes, and passages common to two or more owners, and imposing duties in respect thereof upon occupiers and tenants.
- (f) To compel the owners or occupiers of vacant land in the vicinity of roads and streets to enclose or fence in the same, and for the prevention of vacant ground being used for the deposit of rubbish or anything likely to be a source of nuisance in the neighbourhood.
- (g) For enabling the Council to prevent the alterations, erection, or use of buildings for purposes which will depreciate the value of properties in the locality, or which are likely to cause annoyance to the inhabitants of the neighbourhood.
- (h) To prohibit the erection of any building within twenty feet of the centre of any road or street without the prior consent of the Council.
- (i) To empower the Council to make regulations preventing the carrying on of building operations on Sundays.

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- (j) For determining and regulating the place where and the manner in which placards, bills, advertising boards or advertisements or notices of any kind shall be displayed in or near or in view of any street or thoroughfare.
- (k) For preventing the disfiguring of the front or frontage of buildings, lands or fences, and for prohibiting, or licensing the use, or regulating the size, description and fixing of signboards, screens, private lamps and blinds or other devices attached to or connected with any buildings or fences by means whereof any advertisement or notices of any kind may be displayed.

Manner of approval and Publication of Regulations.

53. After any regulations have been framed by the Council, a copy of the same shall be posted in the Municipal office and a notice published in one or more local newspapers calling attention thereto, and fourteen days after such notice shall have been advertised, the said regulations shall be submitted for the approval of the Governor, and, if approved, shall be published in the *Gazette*, and thereupon have the force of law in the Municipality.

Certain provisions of Act 45, 1882, to apply.

54. The provisions of Sections 169, 170, 171, 173, 174 of Act 45 of 1882 shall, *mutatis mutandis*, apply to all bye-laws framed and matters and things done under and by virtue of the provisions of this Act.

Penalty for contravention.

55. Every person convicted of an offence against any municipal bye-law or regulation shall for every such offence be liable, if no other penalty be imposed, to a penalty not exceeding ten pounds, or in the case of a continuing offence to a daily penalty not exceeding twenty shillings.

Imprisonment in default of payment of fine.

56. Whenever any penalty shall have been imposed under the provisions of this Act or of any byelaw or regulation made thereunder the Court may direct that in default of payment of such penalty such person be imprisoned with or without hard labour for a period not exceeding three months, or in the case of a second or subsequent offence for a period not exceeding six months and such person shall be detained and kept to hard labour accordingly, unless he shall sooner pay the penalty.

Short title.

57. This Act may be cited for all purposes as "The Green and Sea Point Municipal Amendment Act, 1903."

No. 7—1903.]

[August 11, 1903.]

ACT

To Authorise the Durbanville Railway Company, Limited, to construct a railway between Durban Road and Durbanville.

[Assented to 10th August, 1903.]

Preamble.

WHEREAS it is expedient that powers should be granted to The Durbanville Railway Company, Limited, a company duly

registered in the Cape Colony, to construct, equip, maintain and work a railway with all necessary sidings, junctions, termini, stations, bridges, culverts, roads, appliances, and other works incidental to or necessary for the proper construction, equipment and working of the said railway from the Durban Road junction passenger station in the Cape Division or such convenient junction point in the vicinity as shall be agreed upon between the said Company and the Colonial Government (where it will branch off from the main line of the Cape Government Railways) to a point upon the crown land adjoining the village of Durbanville opposite the street called Oxford Street :

And whereas it is also expedient that powers be granted to the said Company, to construct, maintain and work telegraph and telephone lines in conjunction with such railway along or near to the said line in accordance with the provisions of this Act: and to exercise certain powers reserved to the Government in connection with the private line of railway hereinafter mentioned :

And whereas it is also expedient that powers be granted to the said Company to frame rules and regulations and tariffs for the due and proper management of the said railway :

And whereas plans and sections of the line of railway proposed to be constructed have been deposited in the office of the Clerk of the House of Assembly :

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

i. The Company styled The Durbanville Railway Company, Limited, shall be and is hereby authorised and empowered to construct, equip, maintain, and work a line (or double line) of railway similar to railway lines already constructed in this Colony, on the standard Cape Government railway gauge at a gradient at no point steeper than one foot in sixty feet on the straight and correspondingly compensated on curves and with no curves of less than seven chains radius from the Durban Road Junction passenger station in the Cape Division or such convenient junction point in the vicinity as the Government shall fix branching off from the main line of the Cape Government Railways and proceeding thence across the crown land (railway property) to and over the adjoining crown land and there crossing the existing route of the private line of the Bradford and Poole Railway Syndicate and joining the said private line on its projected new route passing thence over and along the said private railway which crosses the main wagon road to Stellenbosch at a point about twenty chains from the junction of said road with the main divisional council road to Durbanville and enters the place called Oakdale, proceeding first over the

Authority to construct railway.

Line of railway defined.

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portion thereof now owned by Mr. J. J. van As, over which the said railway will continue on and along the said private railway on the said place Oakdale, and thereafter proceeding over that part of the said place Oakdale known as Rondevlei and owned by Mr. Sybrand Johannes van der Spuy, to a point about fifty chains from the commencement of the said private railway, branching off from there to the northeastward, and proceeding over that part of the place Oakdale owned by Messrs. Bradford, Poole and Company and thereafter entering the land part of the place Stikland of Mr. Christiaan Friedrich Feinauer and proceeding over said property of said Mr. Feinauer, thereafter again entering the land called Oakdale, the property of said Bradford, Poole and Company, proceeding over said two lastmentioned properties in an easterly direction eventually trending in a northerly direction over the said farm Oakdale and thereafter proceeding over the said property in a northwesterly direction to the main divisional council road to Durbanville, crossing said road at a point about one mile and thirty-two chains from the junction of said road with the main wagon road to Stellenbosch, proceeding thence over the said land of said Bradford, Poole and Company, situate to the westward of the said main divisional council road to Durbanville in a northeasterly direction to the boundary of Mr. Johannes Jacobus Hubert de Villiers' farm "Dooden Kraal" entering same and proceeding over said land first in a northeasterly and subsequently in a northerly direction behind the house "Fairview" and in front of the house presently leased by Mr. Bonthuys and leaving said property of said Mr. de Villiers to cross an intervening strip of crown land and thereafter entering the property of Mr. George Francis Parker, known as "Tygerberg," and proceeding over said farm "Tygerberg," in a northeasterly direction, leaving said lastmentioned property and thereafter entering crown land and crossing the Nek, proceeding thence over said crown land first in a southeasterly direction and eventually trending in a northwesterly direction and thereafter proceeding in a northeasterly direction to the road to Johannesburg, crossing same and proceeding thence still in the same direction over said crown land, and finally reaching its terminus at or near a point opposite Oxford Street, Durbanville — a distance estimated at seven miles, three hundred and thirty-three yards from the Durban Road passenger station the course aforesaid as from the boundary of the farm "Tygerberg," being within the municipality of Durbanville; provided that it shall be lawful for the said Company to deviate from and vary the said line of railway outside the limits of deviation as shown by the said plans with the consent of any owner or owners, lessees or occupiers, through whose lands the said line may pass to such extent as may be allowed by the

Extent of deviation authorised.

Commissioner of Public Works or his nominee upon the request of the Directors, as also to construct stations ^{and} _{or} sidings at such convenient point or points along the route as may be agreed upon between the Company and the owners of lands traversed by the railway, or failing such agreement as the Commissioner of Public Works for the time being or nominee of the Cape Government Railways shall on application to him by the Company fix.

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Authority to construct stations and sidings.

2. The Company shall in and about the construction of the said railway conform to the following provisions and requirements:—

Provisions and requirements for construction.

- (a) All rails used shall weigh not less than 60 lbs. to the yard and shall be fitted with sufficient and suitable fastenings and other accessories to the satisfaction of the Engineer-in-Chief of the Cape Government Railways.
- (b) All material and workmanship shall be equal in quality to the material and workmanship respectively of the railways constructed by the Colonial Government, and such material and workmanship shall in every way satisfy the requirements of the Engineer-in-Chief aforesaid.
- (c) All material or plant obtained in Europe or America shall before shipment be submitted for inspection to the Consulting Engineers for the Cape Government Railways and shall be by them approved or rejected, and no such material shall be brought upon or used in the construction of the said railway unless so approved.
- (d) Material or plant rejected under the provisions of this or any other section of this Act shall be forthwith removed by the Company from the said railway, and if the Company shall fail or refuse to remove such material as aforesaid then the said material may be removed by the Colonial Government at the risk and expense of the Company and the cost of such removal may be deducted by the Colonial Government from any moneys due to the Company.

3. The levels of the said crossings over the said main divisional council road to Durbanville and the said main wagon road to Stellenbosch which latter is crossed on the said private line of the Bradford and Poole Railway Syndicate shall at all times correspond with the levels of the said roads so that the surface of the said line shall be level with the surface of the said roads and the said railway shall cross the said roads at right angles provided further:—

Manner of crossing Divisional Council Roads.

- (a) That the Company shall for the purpose of maintaining the said roads and the lines of rails crossing the said roads at their own cost pave that portion of the said roads between the said rails and three feet beyond each

- line of rail with hard wood-sets and shall keep same in a proper state of repair.
- (b) That the Company shall provide at each of the said crossings over the said main roads guard rails of not less than thirty feet in length.
 - (c) That at no time shall any engine, truck, carriage or vehicle belonging to the Company running on the said lines of rails crossing the said roads be allowed to remain on the said crossings so as to impede public vehicular or other traffic.
 - (d) That proper provision shall be made by the Company for carrying away of all storm water which the construction of the said railway may cause to be accumulated so as to prevent any injury being done to the said roads.
 - (e) That each and every approaching train shall be properly signalled by the due sounding of the whistle of the locomotive of the train before crossing the said road.
 - (f) That all work connected with the undertaking and affecting the crossing of the said main roads shall be subject to the approval of the Cape Divisional Council signified by certificate of the said Council's engineer for the time being.
 - (g) That the Company shall hold the said Council indemnified against any action which may be brought against it in respect of any of the said crossings over the said main roads which may be occasioned by any fault or default of the Company or its servants.
 - (h) That the Company shall provide proper and sufficient gates of not less than thirty feet in length and signal-posts and a gatekeeper to take charge thereof at each of the said crossings over the said main roads as well as a wicket-gate on each side of the line of rails at each of the said crossings, the said thirty foot gates to consist of two fifteen foot swing-gates and to be fitted with "danger discs" for use by day and lamps for use by night.
 - (i) That should the increase in vehicular traffic over the said main roads at any time become so great as in the opinion of the said Council to render overhead bridges across the said line of railway at the said crossings necessary the Company or its assigns shall construct and maintain such overhead bridges across the said line, said bridges to be not less than thirty feet in width and the approaches thereto to be of a gradient not steeper than one foot in thirty feet, the road over such bridges to be constructed by the Company or its assigns and to be thereafter maintained by the said Council.

4. All works necessary or convenient for effecting the junction with the main line of the Cape Government Railways, including the necessary extensions of sidings, platforms and buildings, and the provision of the requisite signals and other appurtenances thereto shall be carried out by the Colonial Government. Provided that:

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Colonial Government to effect the junction with main line.

- (a) The cost of effecting the said junction as aforesaid, and of all works incidental to the establishment of such junction so as to provide reasonable facilities for the working thereof shall be borne by the Company.
- (b) The Company shall bear a proportion of the cost of working and maintaining the Durban Road Junction Station and Yard, calculated upon the *pro rata* basis of the number of trains passing through or stopping at the said station during the course of any one month, and owned or controlled by the Company or the Colonial Government respectively.
- (c) The Company shall not by reason of the said payments be deemed or taken to acquire any right, title or interest in, or to, or any servitude over the said station, yard or junction, or any of the works appertaining thereto and hereinbefore set forth.
- (d) In the event of any dispute as to the necessity, or convenience or otherwise of any of the said works, the Commissioner of Public Works shall decide, and his decision shall be final.

5. The directors of the said Company may by persons by them authorised thereto in writing, enter upon any land in the vicinity of the said railway for the purpose of surveying the same and of probing and boring in order to ascertain the nature of the soil, or of setting out the line of railway, making compensation to the occupier of the said land for any damage thereby occasioned and legally claimable, such damage to be recoverable by action brought in any competent court within three months from the date when the damage is alleged to have been committed.

Power of entry on land

6. The directors may, with the permission of the Governor, enter upon, take possession of, hold and retain for the purposes of this Act, free of charge, so much of any crown lands as shall be required for the construction and maintenance of the said railway, or for any purposes relating to the execution of this Act, and also with the permission of the Governor enter upon any crown land situated in the vicinity of the said railway, and dig for, excavate and carry away free of charge, all stones, clay or other material required for the purposes of the said railway; provided that nothing in this Act contained shall establish any servitude in favour of the said company upon any such land not being land reasonably required

Free entry and occupation of crown land.

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Powers of directors as to taking of lands and materials.

7. For the purpose of the said railway the directors of the company are hereby invested with all and singular the legal rights, if any, belonging to the Colonial Government in respect of the taking of any land and the raising and carrying away of materials for making and repairing public roads, whether such rights have been preserved to the said Government by the proclamation of Sir John Francis Cradock bearing date the 6th day of August 1813, permitting the conversion of lands on loan into places on perpetual quitrent or have been created by express stipulation or condition in any way : provided,

- (a) That the extent of the land taken for the railway shall subject to any agreement to the contrary made between any owner or owners and the Company, and save as hereinafter excepted, not exceed in width sixty feet for the formation line inclusive of the width required for the slopes, drainage, stations, approach roads, and all other works matters and things which may be requisite or necessary for the efficient construction, maintenance, and working of the said railway, and
- (b) That an extent or area of crown land to be approved in writing by the Commissioner of Public Works or his nominee but not exceeding eleven morgen, being the portion of such land bounded southeastwards by main road to Koeberg, northwestwards and northeastwards by part of Johannesburg (the property of King Brothers), and westwards by metalled road to Johannesburg, may be taken by the Company for the site of the Durbanville terminus of the said railway, and
- (c) That the land so granted shall be used exclusively for railway purposes and no portion of such land shall be sold or otherwise used than for *bona fide* railway purposes.

Amount of compensation to owners in absence of agreement settled by arbitration.

8. If the Company shall for the purposes of the said railway require to acquire and use any land or to dig, get or carry away any materials from any land belonging to any person who may not be bound by law to allow such Company exercising the powers of the said Government so to do without requiring any recompense or payment and who may think proper to require compensation from the said Company or if the Company shall need to acquire or use any land or to take any material from any land that the Company in the exercise of such powers as aforesaid may have a legal right to acquire or use, but which has been improved by cultivation, irrigation, fencing or otherwise, the amount of compensation to be paid to the proprietor or pro-

prietors shall in the absence of agreement be settled by arbitration under the provisions of the Lands and Arbitration Clauses Act, 1882, and the Arbitration Act, 1898.

9. The provisions of the two hundred and fifth and two hundred and sixth sections of Act No. 40 of 1889 shall, *mutatis mutandis*, extend and apply to the said railway.

10. At all places where the lines of the said railway shall intersect or cross the line of any street or road, it shall be lawful for the directors to make and carry the said railway across such street or road, either by means of a level crossing or by means of a convenient and sufficient bridge or viaduct over or under such street or road, provided that the said directors shall be bound:—

- (a) To make all such cuttings, embankments and approaches with all such culverts and drains, and all such repairs as may be requisite to make good the street or road across or over or under the said railway.
- (b) To maintain and keep in repair all such crossings, bridges, viaducts, cuttings, embankments and approaches, culverts and drains as aforesaid.
- (c) To fence the approaches to all such crossings, viaducts and embankments or to provide otherwise for the due protection of the public safety thereat.

11. Nothing in this Act contained shall prevent any street or public road hereafter to be constructed under lawful authority from being made and carried across or under or over the said railway at all requisite and convenient places: provided that the said authority shall be liable to make good all damage occasioned by such works.

12. It shall be lawful for the directors to exercise all and singular the powers by this Act conferred upon them by or through an agent or agents duly authorised in writing.

13. The directors are hereby further authorised and empowered to construct, erect and work for the purpose of the said railway and for no other purposes, a telegraph and telephone or either of them, along or near the said line of railway and along or near the private line of railway hereinafter mentioned, subject to the provisions of Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs" and to the provisions of Act No. 36 of 1895, entitled the "Railways Regulation Amendment Act, 1895," and as far as mails are concerned their conveyance shall be subject to the provisions of the last named Act.

14. All and singular the powers reserved to the Government under the contract bearing date 26th July, 1901, concluded between Thomas Rees Price in his capacity of General Manager of Railways, and as such acting for and on behalf of the Colonial Government of the one part, and George Bradford and Edward Poole, trading as Bradford and Poole, of the other part, and under the notarial act bearing date 26th July, 1901, entered into

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Sections 205 and 206 of Act 40 of 1889 apply *mutatis mutandis* to this railway.
Method to be adopted in crossing street or road.

Provision for crossing of railway by new streets or roads.

Powers of directors may be exercised by an agent.

Telegraphs and telephones may be constructed for railway purposes.

Vesting in Company of rights reserved to Colonial Government in connection with private railway of Bradford and Poole.

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before the Notary Charles Hermanus Maasdorp, by Sybrand Johannes van der Spuy, as owner of the farm Oakdale, of which contract and notarial act copies are set forth in the first and second schedules hereto shall so far as such powers confer a right on the Government to extend the private line of railway therein referred to or to expropriate or take over the same, or to exercise running powers thereover, attach to and be vested in the Company in so far as it may require to exercise the same or any of them for the purpose of its undertaking, provided always that the Cape Government Railways retain all the powers conferred upon it by virtue of the contract and the notarial act hereinbefore referred to with regard to the exercising of running powers over the said private line and provided always :—

Terms upon which running powers etc. over said private line to be exercised.

- (a) That the Company shall have the right to exercise running powers over fifty chains or thereabouts of the syndicate's said branch line, to wit, the portion thereof beginning at or about fourteen chains from the junction of the said branch line with the main line of the Cape Government Railways and ending at or about fifty chains from the said junction point on condition :
1. That should the Company exercise running powers over the said portion of the said line they shall do so on reasonable terms to be fixed by agreement between the parties or failing such agreement by the arbitrament of the General Manager for the time being of the Cape Government Railways.
 2. That should the Company at any time elect to expropriate or take over the aforesaid portion of the said branch line they shall do so on reasonable terms to be settled in manner aforesaid, and they shall allow the Syndicate to retain running powers over such portion as they may take over—the Syndicate to exercise such running powers on reasonable terms to be settled as aforesaid.
 3. That the Company shall be entitled on obtaining cession of the right of the Colonial Government so to do to expropriate or take over the balance of the said branch line with loop and siding in accordance with clause seven of the agreement set out in the first schedule hereto : provided always that running powers over the said branch line referred to herein be reserved for the said syndicate's rolling stock and goods traffic, on reasonable terms to be fixed by agreement between the parties or failing such by the arbitrament of the General Manager for the time being of the Cape Government Railways.

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- (b) That while and so long as the Company claims to exercise thereon running powers only, the respective uses of the said private line of railway in so far as affected thereby by the syndicate or its assigns and the Company shall be settled by agreement as between them, failing which by the arbitrament of the General Manager for the time being of the Cape Government Railways, and
- (c) That such provision for the conveyance of the traffic of the said Bradford and Poole or their assigns or others interested over the said private line of railway in so far as such private line may be expropriated or taken over by the Company shall be made as they and the Company shall agree upon and failing agreement as on reference to him by the parties concerned or either of them, the General Manager for the time being of the Cape Government Railways shall direct.
- (d) That the Company shall pay to George Bradford and Edward Poole the sum of £1,000 (One Thousand Pounds Sterling) in cash, and shall issue to them or their nominees 1,500 fully paid up shares of £1 (One Pound Sterling) each in its capital — the said £1,000 (One Thousand Pounds) in cash to be paid before the Company shall exercise running powers over any portion of the said line, and the shares to be issued immediately on the passing of this Act.
- (e) That neither the Colonial Government nor the Company shall be called upon or required to construct the siding to the gravel pit referred to in the notarial act forming the said second schedule.
- (f) That the Company shall make reasonable provision for such level crossings on its line in so far as it passes over the farm Oakdale, as the said Bradford, Poole and Company or the owner for the time being of the farm Oakdale shall require, subject however to the following conditions, namely:—
1. The number of such crossings shall not exceed six, and they shall be located at such spots as the Company and the said Bradford, Poole and Company or their successors in title shall mutually decide, and failing agreement as the General Manager for the time being of the Cape Government Railways shall determine.
 2. The crossings shall be made and the gates shall be provided and maintained by the Company, but the construction of the approaches thereto shall be made and maintained by the said Bradford, Poole and Company or their successors in title.

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Provision for cession to Company of certain rights in connection with said private railway.

Railway when to be opened for traffic.

Terms and conditions of through traffic.

15. Subject as aforesaid, it shall be lawful for the Company on obtaining cession from the Colonial Government of any of the other rights reserved to the Government under the said contract and notarial act to duly exercise the same as fully and effectually as the said Government might or could do.

16. The said railway or any portion thereof shall not be opened for public or private traffic until it shall have been certified to the Governor by some officer to be by him appointed that the same is sufficiently completed for the safe conveyance of passengers.

17. The Government shall have the right to run trains with through traffic over and upon the said line of railway upon the following terms and conditions :—

- (a) Such trains shall receive equal treatment with those carrying the ordinary traffic of the Company.
- (b) The engines and rolling stock composing such trains shall not be heavier than the engines and rolling stock respectively employed by the Company upon the said line, nor shall such train whilst upon any portion of the said line run at a higher rate of speed than the rate of speed used in conducting the ordinary traffic thereupon.
- (c) For such time as the said through traffic is confined to special trains only the toll to be paid by the Colonial Government to the Company in respect thereof shall be calculated on the basis of forty per cent. of the fares or rates fixed and determined under section nineteen of this Act. If and when the Colonial Government shall require a regular service of through trains the terms and conditions shall be such as may be agreed upon and in the event of any dispute shall be settled by arbitration.
- (d) Any water supplied for such trains shall be paid for at the rate of one shilling per thousand gallons with ten per cent. added to cover the cost of supervision.
- (e) The officials of the Cape Government Railways conducting any such train or traffic shall during the period that such train or traffic is upon any portion of the said line be subject to the rules of the Company and shall obey all reasonable directions or orders of the officials of the Company.
- (f) The Colonial Government shall not compete against the Company for traffic at any terminal or crossing of or upon the said line.

Application of Acts 19 of 1861, 35 of 1894 and 31 of 1896 to railway when completed.

18. Such and so many of the provisions of the "Regulation of Railways Act, 1861," and of the "Regulation of Railways Amendment Acts, 1894 and 1896," as the Governor, with the advice of the Executive Council, shall by any proclamation to be published in the *Gazette* specify and determine, shall come

into force and apply to the said railway hereby authorised to be constructed as if the provisions were herein separately set forth and made applicable to the same. No. 7—1903.

19. The tariffs of fares for passengers and rates for goods in all classes shall be framed by the Company before commencing to work the said railway, and shall be approved by the Governor, and shall be liable to be similarly re-adjusted from time to time at intervals of not less than three years at the instance of the Company, or at the instance of the Governor; and the tolls fares or rates of charge to be taken or made for passengers shall be at all times charged equally to all persons and after the same rate in respect of all passengers travelling under the same conditions; and the tolls fares or rates of charge to be taken or made for goods shall be likewise charged equally after the same rate, whether by ton or otherwise, in respect of all goods of the same description. Tariffs.

20. The Governor is hereby authorised to pay to the directors of the Company a subsidy at a rate not exceeding the sum of £1,200 (one thousand two hundred pounds) Sterling per mile of railway, and such subsidy shall be so paid as each successive mile of railway, commencing from the Durban Road Junction passenger station, is completed and certified to be so completed, the fact of such completion and the actual cost of the construction to be certified by the Government engineer appointed for the purpose. Subsidy.

21. The Colonial Government shall have the right at any time upon giving to the Company twelve months' notice to that effect to purchase, and the Company shall be bound to sell to the Colonial Government the said railway, and also all buildings and lands acquired by the Company and used in connection with the working of the said railway, together with all rolling stock, engines, carriages, plant, machinery, and every matter or thing belonging to or connected with the said railway, as also any telegraph or telephone and apparatus, wire, instruments, and every matter or thing connected with the working therewith, in the possession of the Company under this Act, upon such terms as may be agreed upon between the Company and the Colonial Government, and, failing such agreement, at a price to be settled by arbitration in manner provided for under the "Lands and Arbitration Clauses Act, 1882," and the "Arbitrations Act, 1898." Provided that:— Right of Government to purchase railway.

- (a) Such price shall not be less than the actual cost of the work but that the arbitrators shall not be entitled to award as such actual cost a sum in excess of £4,500 (four thousand five hundred pounds) Sterling per mile (exclusive of engines, rolling stock and plant) and an amount equal to twenty per cent. of the said actual cost after deducting from the amount of the said actual

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cost the amount paid to the Company under the provisions of the last preceding section, and the said amount of twenty per cent. shall in no case be reckoned on a sum exceeding the amount of £3,300 (three thousand three hundred pounds) sterling per mile. Such amount equal to twenty per cent. as aforesaid shall be deemed and taken to cover all interest on capital expended during construction and the cost of raising such capital as well as all profits to which the Company may be entitled.

- (b) From the price so ascertained shall be deducted any such amount as shall have been paid by the Colonial Government as subsidy under the provisions of the last preceding section.
- (c) The price to be paid for the said engines, rolling stock and plant shall in the event of the Company and the Colonial Government failing to agree in respect thereof also be determined by arbitration.

Two years for completion of railway.

22. If two years after the taking effect of this Act the railway shall not be completed the Governor may at any time thereafter give the Company notice to complete the railway within twelve months, and should the Company not so complete the same then all rights and powers conferred by this Act shall cease and determine.

Railway to be constructed with proper material.

23. The Company shall be required to construct the said railway with material equal in quality to that employed upon the railways constructed by the Government, and to arrange for the workmanship to be equally well executed.

Company to maintain railway when completed in efficient manner, or on failure to do so to pay damages to Government.

24. The said Company shall be bound to maintain the said railway when completed in a proper and efficient manner to the satisfaction of the Government, and to run not less than one train per day in each direction for passengers and goods traffic, and if they fail to comply with the conditions laid down in this section within a period of three months of being called upon to do so they shall become liable to pay to the Government by way of liquidated damages a sum not exceeding £100 (One Hundred Pounds) per month, the total amount of damages enforceable however not exceeding £1,200 (One Thousand Two Hundred Pounds) in any one year, and such damages shall be recoverable against the purchase price of the line should the Government exercise its rights in this respect herein provided for under section twenty-one, provided always:

That the payment hereinbefore provided for shall be as and for liquidated damages sustained by the said Government and shall not be considered to be in the nature of a penalty or subject to the ordinary rules regarding the recovery of penalties for breaches of contract.

Company may sell or lease line.

25. The Company shall without prejudice to the rights of the Government under section twenty-one hereof have the

rights of letting the said railway upon lease, or of selling or assigning all or part of its rights to the said railway and to the powers and privileges conferred by this Act.

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26. In this Act, save where such meaning shall be inconsistent with the context, the word "Company" shall mean "The Durbanville Railway Company, Limited," and the word "directors" shall mean the directors for the time being of the said Company, the words "private railway" and "private line of railway" shall mean the branch line of the Bradford and Poole Railway Syndicate.

Interpretation Clause.

27. This Act may be cited for all purposes as "The Durbanville Railway Company Act, 1903."

Short title.

FIRST SCHEDULE.

First Schedule.

MEMORANDUM OF AGREEMENT made and entered into on the twenty-sixth day of July, 1901, between Thomas Rees Price, in his capacity as General Manager of Railways (hereinafter styled the General Manager and as such acting for and on behalf of the Colonial Government of the one part, and George Bradford and Edward Poole trading as Bradford and Poole (hereinafter styled the applicants) of the other part :

Whereas the said applicants contemplate constructing a short branch line of railway about two miles in length from Durban Road Station, and whereas they have requested the said General Manager to construct the necessary siding connection with the main line of the Western System of Railways at a point at or near Durban Road Station as shown on plan No. 3094, and whereas the Colonial Government has agreed to construct partly on land belonging to the Railway Department and partly on land provided by the said applicants, a siding and loop capable of meeting the requirements upon certain terms and conditions hereinafter set forth :—

Now therefore these presents witness :

First.—That the said General Manager hereby undertakes and agrees to construct a railway siding and loop with the necessary points and signals at a point leading off the main line of railway at Durban Road Station as shown on plan No. 3094, partly on land belonging to the Railway Department and partly on crown land. The said applicants agree to pay to the said General Manager a nominal rental of twenty shillings per annum for the ground belonging to the Railway Department upon which the said siding and loop are to be constructed. The said applicants further agree that the construction of the said siding loop and branch line across certain crown land situate between the Railway Department property at Durban Road

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- (a) That they shall pay in advance an annual rental of £25 (Twenty-Five Pounds), payment to commence from the First July, 1901.
- (b) That the permission shall be terminable upon three months' notice given at any time when they shall be bound to remove the rails forthwith.
- (c) That they shall not have the right to sublet or lease the land without the sanction of the Government.
- (d) That the permission does not convey to them any claim to a grant of the land or to compensation for any improvements effected thereon.

Second.—That said siding and loop which are estimated to cost £750 (Seven Hundred and Fifty Pounds) shall be constructed by the Colonial Government at the expense of the said applicants, payment to be made in advance on the understanding that should the actual cost exceed the estimated amount the applicants shall pay such excess, and if the actual cost is less, the difference shall be refunded.

Third.—The said siding and loop shall be maintained in good order and repair by the Railway Department at the expense of the said applicants.

Fourth.—The Railway Department shall not be required to do any shunting in connection with the working of traffic to and from the brickfields to the siding and loop. Full trucks shall be placed in the siding or loop as the case may be, ready for removal by the Railway Department and the empty trucks shall be removed from the siding or loop by the said applicants. The said applicants shall load and unload the trucks used in connection with their traffic at their own expense.

Fifth.—The said General Manager reserves the right to use the siding and loop for general traffic purposes, but not so as to interfere with the reasonable use of the said siding and loop by the said applicants.

Sixth.—The Railway Department shall have running powers over the said branch line on reasonable terms and the Department shall also have the right to transfer these running powers to any Company duly authorised by Parliament to construct a railway line in the direction of Durbanville from Durban Road Station.

Seventh.—The Railway Department shall have the right to take over the siding, loop and branch line at actual cost, less a reasonable deduction for wear and tear at any time during the existence of this agreement on giving not less than three months' notice of its intention so to do.

Eighth.—Should it be necessary to vary the position of the said siding and loop in any respect the General Manager shall

be at liberty to do so, but at the Railway Department's own cost and subject to such alterations being as convenient as practicable to the said applicants.

Ninth.—The said General Manager reserves the right to sever the connection with the said siding and loop should the same be at any time no longer required by the said applicants on giving three months' notice.

Tenth.—The construction of the said siding, loop and branch line shall not be considered as a vested interest nor as increasing the value of the land adjoining them should it be necessary for the General Manager to expropriate the land for railway purposes in future.

Eleventh.—The said applicants shall be responsible for the safe keeping of all trucks or other property of the Colonial Government used on the said siding, loop or branch and in case the Colonial Government shall sustain any loss or damage or be put to any expense by reason of the neglect of the said applicants or their servants to adopt reasonable care and precaution in connection with the said trucks or other property, the said applicants shall make good such loss or damage or pay such sum or sums as the Colonial Government may pay or expend through their default.

Twelfth.—All trucks placed in the siding or loop shall be loaded or unloaded as the case may be by the said applicants within twelve ordinary working hours of their arrival at the siding, failing which the said applicants or other consignors or consignees will be liable to a charge for demurrage at the rate of 4s. (four shillings) per short truck and one shilling per sheet for every day or part of a day thereafter during which the trucks or sheets may be detained; a bogie truck to be calculated as two short trucks.

Thirteenth.—This agreement shall be terminable by either party giving the other in writing three months' notice to that effect.

IN WITNESS whereof the said Thomas Rees Price and the said Bradford and Poole hereto set their hands on the 26th day of July, One thousand nine hundred and one.

(Sigd.) T. R. PRICE.
" BRADFORD & POOLE.

WITNESSES :
(Sigd.) H. ASPINALL.
" C. H. MAASDORP.

SECOND SCHEDULE.

BE IT HEREBY MADE KNOWN :

That on this the 26th day of July, One Thousand Nine Hundred and One, before me Charles Hermanus Maasdorp of

Second Schedule.

No. 7—1903.

Cape Town, Notary Public, duly sworn and admitted, and in the presence of the subscribed witnesses personally came and appeared Sybrand Johannes van der Spuy of Oakdale in the Cape Division, who declared that :—

Whereas an agreement for the construction of a short branch line of railway about two miles in length from Durban Road Station, had this day been entered into between Thomas Rees Price in his capacity as General Manager of the Cape Government Railways and as such representing the Colonial Government, and Bradford and Poole with the contents of which the Appearer declared himself to be acquainted and

Whereas, upon certain facilities by way of compensation granted by Bradford and Poole to the said Appearer, the Appearer has agreed to the said branch line of railway running over the said farm Oakdale to a certain extent, and

Whereas at some future time it may be deemed necessary that the Colonial Government or some company or firm of which the Colonial Government may approve, undertaking the work, should take over the said branch line of railway and to extend the same across the whole length of the farm Oakdale in the direction of Durbanville, from any point on the said branch of railway.

Now therefore the said Appearer for himself and the future owners of Oakdale in consideration of the facilities aforesaid accruing to him under the aforesaid agreement and of a siding being laid on to his gravel pit in the vicinity of the brickfield about to be worked and at a cost not exceeding three hundred pounds (£300) to the said Colonial Government or Company hereby grants in favour of the Colonial Government as a perpetual servitude on his farm Oakdale all rights required for the purpose of laying down the branch line aforesaid and the extension thereof as aforesaid and binds himself and the future owners of the farm Oakdale to give transfer if required to the said Colonial Government of such portions of the farm Oakdale as may be required for the said branch line of railway and the extension thereof without any further compensation.

The Appearer further binds himself to place the Colonial Government in possession of his title deeds of the farm Oakdale, and all such other documents as may be required for the purpose of getting this deed registered in the Deeds Registry Office of this Colony against such title deeds.

Thus done and declared at Cape Town the day, month and year aforesaid, in the presence of George Samuel Oettle and Frederick John Street as witnesses, who together with the Appearer and me the Notary, have duly subscribed the original hereof now remaining in my protocol.

(Sgd.) C. H. MAASDORP,
Notary Public.

No. 8.—1903.]

[August 14, 1903.]

ACT

To Amend "The Railway Refreshment Catering Act, 1902."

[Assented to 11th August, 1903.]

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

Preamble

1. In addition to the powers and authorities conferred upon the Commissioner of Public Works by the "Railway Refreshment Catering Act, 1902," it shall be lawful for the said Commissioner at any time and from time to time to authorise, in manner hereinafter mentioned, the Commissioner or other Officer for the time being vested with the control of the Central South African Railways, to provide for and undertake the supply of Liquor and Refreshments in Refreshment Cars attached to any passenger trains belonging to the said Central South African Railways while such trains are in transit over the Railway lines of the Cape Government, and thereupon it shall be lawful, anything in any law to the contrary notwithstanding, for the said Commissioner or other Officer of the Central South African Railways to provide and supply in such Refreshment Cars at any time during the day or night any Liquor or Refreshments within the meaning of the said terms as defined by Section One of the said Act.

Refreshment cars on Central South African Railway in transit over Cape Railway lines.

2. The authority hereinbefore provided for shall not be exercisable by such Commissioner or other Officer until the Governments of the Transvaal Colony and the Orange River Colony respectively have legally granted to the Commissioner of Public Works of this Colony identical powers and privileges in respect of the supply of liquor and refreshments in refreshment cars attached to any passenger train belonging to the Cape Government Railways while in transit over the lines of the Central South African Railways, and shall be subject to such conditions and rules as may be agreed upon between the Commissioner of Public Works and the said Commissioner or other Officer of the Central South African Railways."

Condition.

The authority under this Act shall only be exercisable by the Commissioner or other officer aforesaid when and so long as the Governments of the Transvaal Colony and Orange River Colony or either of them, as the case may be, have or has undertaken the supply of liquor and refreshments in the cars, in respect of which such authority is granted, in the same or similar manner as such supply has been undertaken by the Government of this

Authority limited to cars in which catering is undertaken by Government concerned, and may on conditions, be

No. 9—1903. Colony under and by virtue of the provisions of the Act aforesaid; and on any other British South African Government similarly conferred on other Governments. undertaking the supply of liquor and refreshments in railway cars, the like authority may be granted, subject to all and several of the conditions and provisions in this Act contained, to such other Government in respect of such cars.

Short Title. 4. This Act may be cited as "The Railway Refreshment Catering Act Amendment Act, 1903."

No. 9.—1903.]

[August 18, 1903.

ACT

To Regulate the Sale and Exposing for Sale of Imported Meat.

[Assented to 17th August, 1903.]

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

Interpretation Clause. 1. For the purpose of this Act the term "fresh meat" shall mean the flesh of animals slaughtered in South Africa, and the term "frozen imported meat" shall mean the flesh of animals not slaughtered in South Africa, which has been reduced to a frozen or a chilled condition by artificial means, and the term "person" shall include any body of persons, corporate or incorporate.

Frozen meat to be kept separate from fresh meat. 2. Every person exposing meat for sale shall keep frozen imported meat separate from fresh meat, and shall indicate by means of a written or printed notice, in clear characters and placed in a prominent position in the shop or place in which the meat is exposed for sale, what meat so exposed is frozen imported meat, and any such person failing to comply with the provisions of this Section shall be liable to a fine not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for not exceeding three months.

Penalty for selling or exposing for sale, frozen imported meat as fresh meat. 3. Every person who shall sell or expose for sale "frozen imported meat" as being fresh meat, shall be liable to a fine not exceeding one hundred pounds or in default of payment to imprisonment, with or without hard labour for not exceeding three months.

Defence of ignorance. 4. Where any person is charged with an offence under this Act, it shall be a sufficient defence if he shall prove to the satisfaction of the Court trying the case that he used due diligence to enforce the execution of this Act, and that the offence in question was committed through the act of some other person without his knowledge, consent or connivance.

Short Title. 5. This Act may be cited for all purposes as "The Sale of Meat (Frozen Imported) Act, 1903."

No. 10—1903.]

[August 18th, 1903. No. 11—1903.]

ACT

To Amend the "Railway Injuries Compensation Amendment Act, 1897."

[Assented to 17th August, 1903.]

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

Preamble.

1. From and after the date of the taking effect of this Act, the amount payable as compensation under the "Railway Injuries Compensation Act, 1889," in respect of any mule shall be any sum not exceeding £20, and the same amount shall be likewise payable per head in respect of neat cattle; and from and after the said date the Railways Injuries Compensation Amendment Act, 1897, shall be read as if the amount "£20" was inserted in the place of £12, as the limit of the sums of money payable in respect of mules and neat cattle per head respectively, as compensation as aforesaid.

Increased Compensation for Mules and Neat Cattle injured, &c.

2. This Act may be cited as "The Railway Injuries Compensation Act, 1903."

Short Title.

No. 11—1903.]

[August 28th, 1903.]

ACT *Repealed by Sect. 1 of Act 23/1934*

To Amend the Incorporated Law Society's Act, 1883, and the Law relating to the admission of Attorneys, Notaries Public and Conveyancers.

[Assented to 25th August, 1903.]

WHEREAS it is expedient to amend the law relating to the admission to practise as Attorneys of persons already admitted to practise as Advocates of the Supreme Court of this Colony:

Preamble.

And whereas it is further expedient to provide that only such persons as have been admitted to practise as Attorneys should be qualified to be admitted to practise as Conveyancers; and only such persons who have been admitted to practise as Attorneys should be qualified to be admitted to practise as Notaries.

And whereas it is further expedient that the seventeenth section of Act No. 27, 1883, relating to the admission as Attorneys of persons exempted under the provisions of the Solicitors' Act, 1877, of the Imperial Parliament should be repealed:

No. 11—1903. Be it enacted by the Governor of the Cape of Good Hope with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :

Act 27, 1883, section 17 and inconsistent laws repealed. 1. The seventeenth section of Act No. 27, 1883, together with any other law or rule of Court repugnant to or inconsistent with the provisions of this Act is hereby repealed.

Interpretation Clause.

2. The following terms in this Act shall have the meanings assigned to them hereunder, to wit :

“ Advocate ” shall mean a person duly authorised to practise as such by any competent Court.

“ Attorney ” shall mean a person duly authorised to practise as such by any competent Court.

“ Notary ” shall mean a person duly authorised to practise as a Notary Public by any competent Court.

“ Conveyancer ” shall mean a person duly authorised by any competent Court to draw and prepare transfer deeds and deeds of hypothecation entitled to registration in a Deeds Office within this Colony.

“ Competent Court ” shall mean the Supreme Court, the Court of the Eastern Districts and the High Court of Griqualand within their respective jurisdictions.

Admission of Conveyancers and Notaries.

3. From and after the 31st of December, 1903, no person other than an Attorney shall be admitted and enrolled as a Conveyancer, or as a Notary, provided that nothing in this Act contained shall be taken to interfere with or to affect the provisions of the eighth section of Act No. 12, 1858.

Admission of Advocates as Attorneys.

4. It shall be competent for any person admitted as an Advocate of the Supreme Court to be admitted and enrolled as an Attorney, provided that such person shall have served for a period of eighteen months under articles of clerkship to an Attorney practising in this Colony, and shall have passed the examination for Attorneys required by Rule of the Supreme Court, No. 293, promulgated under Government Notice No. 243, 1877 ; provided further that no such person shall be entitled to be article to an Attorney unless and until his name shall have been removed from the roll of Advocates of the Supreme Court.

Jurisdiction over Conveyancers.

5. The Incorporated Law Society of the Cape of Good Hope shall have the like jurisdiction and powers over Conveyancers as over Attorneys and Notaries practising in this Colony.

Solicitors and Procurators placed on same footing with Writers to the Signet.

6. Wherever the expression “ Writer to the Signet ” occurs in any Law, such expression shall be read and construed as including any solicitor or procurator enrolled as a legal practitioner in the Court of Session.

Short title.

7. This Act may be cited for all purposes as “ The Incorporated Law Society Amendment Act, 1903.”

No. 12—1903.]

[September, 2, 1903.

ACT

To Authorise and empower the Mayor, Councillors, and Burgesses, of Kimberley to enter into an agreement with the Kimberley Waterworks Company, Limited, granting to the said Company for a period of twenty-one years, dating from the 20th May, 1905, the sole and exclusive right of supplying water to and within the Borough of Kimberley, subject to certain conditions and stipulations.

[Assented to 31st August, 1903.]

WHEREAS, by an agreement, dated the 20th May, 1880, made and entered into between the Mayor, Councillors, and Ratepayers of Kimberley, of the one part, and Thomas Lynch for and on behalf of the Griqualand West Railway and Waterworks Company, Limited, of the second part, the said party of the second part was granted and did acquire the sole right to supply the township of Kimberley with water from the Vaal or other rivers for a period of twenty-five years, reckoned from the aforementioned date, upon certain terms and conditions mentioned in the said agreement, being annexure A in the Schedule hereto ;

Preamble

And whereas the said agreement, with the rights and liabilities thereunder, was on the 25th October, 1880, ceded to and acquired by the Kimberley Waterworks Company, Limited, which is registered in England and which, by and with certain rights and powers granted to it by the Kimberley Waterworks Company (Limited), Ordinance, 1880, of Griqualand West, has for some years been and still is carrying out the terms of the said agreement by supplying water to the said township of Kimberley ;

And whereas the said agreement will lapse and expire on the 20th May, 1905, and the said Kimberley Waterworks Company, Limited, has approached the Borough Council of Kimberley with a view to obtaining an extension of the said agreement for a further term of twenty-one years dating from the expiration of the said agreement ;

And whereas the Borough Council, deeming such a course desirable in the interests of the said Borough of Kimberley and the Burgesses thereof, is willing to contract for and agree to such an extension of the agreement of the 20th May, 1880, as aforementioned, subject to certain alterations and amendments therein and to further conditions, all of which are detailed and set forth in an agreement provisionally made and entered into between the Mayor, Councillors, and Burgesses of Kimberley, of the one part, and the

No. 12—1903. Kimberley Waterworks Company, Limited, of the other part,
being annexure B in the Schedule hereto ;

And whereas doubts have arisen as to whether it is within the powers of the said Mayor, Councillors, and Burgesses to finally enter into and make an agreement for such extension as above set forth, and it is desirable and expedient that such doubts shall be dispelled and set at rest, and that such powers be granted ;

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

Agreement
may be con-
cluded with
Kimberley
Waterworks
Company,
Limited.

1. The Mayor, Councillors, and Burgesses of Kimberley are hereby authorised and empowered to finally execute and conclude the agreement provisionally made and entered into between them and the Kimberley Waterworks Company, Limited, according to the terms and conditions thereof as set forth in Annexure B in the Schedule hereto : Provided always that the Kimberley Waterworks Company, Limited, undertake and agree to supply (subject to the bye-laws and regulations of the said Company) to the Cape Government Railway Department, at its Watering Station at Kimberley, water in sufficient quantities to meet the reasonable requirements of the said Department at Kimberley, and at a reasonable charge which shall not in any case exceed the maximum charge payable by the consumers of the said Company under the provisions of the said agreement : Provided further that, notwithstanding anything contained in this Act, or in the Schedule B thereof, or in the Annexure A to the said Schedule, the Government of this Colony shall have full right, independently of the Kimberley Waterworks Company or its assigns, to make and carry out any such lawful arrangements and to construct any such works on Government property as the Commissioner of Public Works shall sanction for the supply of such water in the Township of Kimberley as the Colonial Government Railway Department may there at any time require.

Rights of
the Govern-
ment defined.

Costs of this
Act may be de-
frayed by Bo-
rough Coun-
cil.

2. The said Mayor, Councillors and Burgesses may defray any costs, charges, and expenses, incurred in and for the passing of this Act out of the ordinary revenue of the Borough.

Short title.

3. This Act may for all purposes be cited as "The Borough Council of Kimberley Additional Powers Act, 1903."

Schedule.

SCHEDULE.
ANNEXURE A.

MEMORANDUM OF AGREEMENT made and entered into by and between the Mayor, Councillors, and Ratepayers of Kimberley, in the Province of Griqualand West, of the first part, and Thomas Lynch of Kimberley, for and on behalf of the Griqualand West Railway and Waterworks Company, Limited, of

No. 2, Suffolk Lane, Cannon Street, in the city of London, No. 12—1903.
of the second part.

Whereas under and by virtue of the provisions of the Ordinance No. 7, of 1877, constituting the Town of Kimberley a Municipality and entitled "The Kimberley Municipality Ordinance," the parties of the first part are empowered *inter alia* to construct works for supplying the Municipality with water or to grant leave to a person or company of persons to lay down pipes or execute such works.

And whereas the parties of the first part have for some time considered the desirableness of constructing the necessary work for the purpose of supplying the township of Kimberley and neighbourhood with water from the Vaal or other rivers in the district of Kimberley aforesaid.

And whereas the parties of the first part have made proposals to the said parties of the second part that they should construct certain works with the object above stated, and the parties of the second part have acceded to such proposal.

Now, therefore, this agreement witnesseth that they, the parties of the first part, for themselves and their successors in office, and the said Thomas Lynch, for and on behalf of the parties of the second part, for themselves, their heirs, executors, administrators, or assigns, have made, entered into, and concluded the following agreement, to wit:—

I. That the parties of the second part shall make and construct such works within the township as defined by clause 1 of the Ordinance No. 7, 1877, viz. within a radius of two miles from the District Magistrate's Court House in the cases hereinafter mentioned to supply a quantity of water from the Vaal or other rivers not less than four hundred million gallons per annum.

II. That the parties of the second part shall, for the purpose of conserving a necessary supply of water for the purposes in the preceding section mentioned, make, construct, and provide a suitable reservoir or reservoirs at or about the spot as pointed out on the township of Newton to Messrs. Cooke and Buchanan within the limits of the Municipality, one of such reservoirs to be fitted with filtering beds capable of filtering so as to supply a sufficient quantity of filtered water to the inhabitants of the township of Kimberley according to their requirements, and all the necessary outlets for the distribution of the water from reservoirs and for the purpose of supplying the township with the water, shall lay down good and sufficient pipes, valves, etc.; in the roads and streets within the township of Kimberley, to the extent shown on the plan hereunto annexed marked A, it being agreed upon that after the requirements of the inhabitants of the township shall have been supplied the parties hereto of the second part shall be empowered and allowed to dispose of the surplus water (if any) in any other way they may think fit.

No. 12—1903.

III. The parties of the second part shall provide, at their own cost, the necessary land for the reservoirs, filtering beds, engine-houses, dwellings, settling tanks, and for laying the pipes, valves, etc.; either within or beyond the boundaries of the Municipality, and the parties hereto of the first part shall give the parties of the second part full and free rights for entering upon or using any such unoccupied lands either belonging to or acquired by the parties of the first part, for the purpose of the works to be constructed by the parties of the second part, within the municipal boundary or limits hereinbefore named and they shall also, within the said limits, grant to the parties of the second part all such rights of breaking up roads for laying in pipes, valves, etc., in them, and for repairing the said pipes, valves, etc., as they the parties of the first part, possess or have the power to grant: Provided that all breaking up of roads, as herein mentioned, and the repairs of the same by the parties hereto of the second part, shall be done and performed by the parties hereto of the second part, under the direction and supervision of the Town Surveyor, or such other officer as shall from time to time be appointed for that purpose by the parties hereto of the first part.

IV. That the parties hereto of the first part shall be at liberty, and they are hereby empowered and authorised, to purchase and take over the hereinbefore-mentioned works at any time after the completion of the same, at a price to be mutually agreed upon: Provided they shall have first given to the parties of the second part six clear months' notice in writing of their intention to do so.

V. That up to the time of the purchase of the works (constructed under this agreement) by the parties hereto of the first part, should they purchase, the parties of the second part shall have power to sell and dispose of the water brought in by them to the inhabitants of the township of Kimberley and neighbourhood, either within or beyond the municipal boundary, on such terms as they shall think fit (save and except that the maximum price or sum to be charged by them for the water supplied within the municipal limits shall not in any case exceed the sum of One Shilling and Three pence sterling per one hundred gallons), and generally to carry on the business of a Waterworks Company, and for that purpose the parties of the first part shall afford to the parties of the second part all the assistance in their power, and, in particular, shall give to the parties of the second part the full and free right of entering upon and using any lands of the Corporation, and breaking up roads and laying and maintaining pipes and other works in connection therewith, subject nevertheless to the conditions contained in clause 3 of this agreement with reference to the right of breaking up roads; it being agreed upon further that should no purchase be made of the works to be constructed under this agreement, as hereinbefore mentioned, they the parties hereto of the second part shall have the sole and exclusive right and

privilege to supply the township of Kimberley with water brought in by them from the Vaal River or any other rivers for a period of twenty-five years reckoned from the date of these presents: Provided, however, that no right or privileges regarding the sale of water from wells or otherwise at present existing, or which may hereafter be created, save and except the right to supply water brought into the township from the Vaal River or other rivers, shall be prejudiced or interfered with, by or under this contract.

VI. The parties of the first part bind themselves and their successors in office, during the subsistence of this contract and until the works shall be purchased and paid for by them, under the provisions of clause 4, not to construct or promote or assist in the construction or promotion of waterworks, or permit any other waterworks having for its object the introduction or supply of water to the township of Kimberley and the neighbourhood from the Vaal River or other rivers in this province.

VII. The parties of the second part thereby undertake and bind themselves to commence the construction of the works not later than one year from the date of this agreement: Provided that they, the parties of the second part, shall previous to the expiration of that period be allowed to withdraw from this Agreement, by giving notice thereof to the parties of the first failing which notice or on failure to commence the works as herein provided at the date abovementioned, this Agreement shall be considered null and void.

VIII. That in the event of the parties of the second part commencing the work hereby undertaken, they hereby bind themselves, their heirs, executors, administrators, and assigns that the works so to be constructed shall be carried on and prosecuted in a *bona fide* manner, and be completed in such a manner that the pipes shall be laid and be in full working order between the Vaal River or any other rivers and the reservoirs at Kimberley; that the various steam engines, pumps, and other apparatus necessary for raising or forcing the water, as well as the necessary pipes, valves, etc., laid in the roads and streets, to the extent shown in the accompanying plan, shall be in full working order and at work, and shall be proved to be capable of filling the reservoirs at Kimberley in such a time and to such an extent as shall insure the full yearly supply of water agreed to be given, and in proportion to its equal distribution over each day of the year, at a date not later than three years, reckoned from and after the date of these presents: provided, however, that if the parties of the second part during any stage of the works find them impracticable, and in consequence thereof wish to discontinue them, they shall be obliged forthwith to give notice thereof to the parties of the first part, and in that case the parties of the second part shall be released from these presents, and all obligations thereunder to the parties of the first part and neither party shall have any claim

No. 12—1903. the one against the other of them, in damages or otherwise howsoever: provided always that should any obstructions arise to the construction of the works through any accident at sea, by which any materials, plant, or machinery required for or to be used in the works are damaged or lost, or from any accident to the said materials, plant, or machinery, arising from any causes whatever, occasioning delay, hindrance, or damage to the works or to the said materials, plant, and machinery, or from any increased cost of carriage of goods arising from any long-continued drought, or from any inclemency of the weather, or difficulty of any kind, to such an extent as to increase the cost of carriage of goods, plant, and materials required for the works to a sum of or above twenty-two shillings and sixpence for every one hundred pounds in weight from the point at which such goods, plant, and materials are delivered to the point at which they are required on the said works, then the said period for completion shall be deferred and extended for a period the same as that during which the effect of such delay, damage, accident, hindrance, or the said increased cost of carriage shall continue.

IX. Either party to this agreement shall respectively execute, and do or cause to be executed and done, any deed or thing which may be necessary thereafter for themore complete fulfilment of the above agreement or any part thereof.

In Witness whereof the parties hereto have hereunto set their hands and seals at Kimberley aforesaid, on this the Twentieth Day of May, in the Year of Our Lord One Thousand Eight Hundred and Eighty, in the presence of the undersigned witnesses :

Seal of the
Kimberley Town
Council, 1878.

(Sgd.) J. B. ROBINSON,
Mayor.

(Sgd.) T. LYNCH.

This seal affixed in our presence :

Sgd.) R. W. MURRAY,
(Sgd.) JOHN BIRBECK,
Councillors.

JNO. H. BOAG.

As Witnesses :

(Sgd.) JNO. HACKNEY,

(Sgd.) ALFRED NEWHAM TURNER.

Declared before me a true copy.
Kimberley, 20th May, 1880.

(Sgd.) RAMSEY STEUART, J.P.

(Sgd.) JNO. H. BOAG, Town Clerk.

MEMORANDUM OF AGREEMENT entered into at Kimberley in the Colony of the Cape of Good Hope on this the 25th day of March, in the year of Our Lord One Thousand Nine Hundred and Three, between the Mayor, Councillors and Burgesses of Kimberley, Cape Colony, acting for themselves and their successors in office (hereinafter called the Council), of the one part and the Kimberley Waterworks Company, Limited (hereinafter called the Company), of the other part, witnesseth.

Whereas by an agreement dated the 20th (Twentieth) day of May, One Thousand Eight Hundred and Eighty (1880) made and entered into by and between the Council of the one part, and Thomas Lynch on behalf of the Griqualand West Railway and Waterworks Company, Limited, of the other part, copy of which said Agreement is hereunto annexed marked A, and is hereinafter referred to as the said Agreement, the Griqualand West Railway and Waterworks Company Limited, acquired the sole right to supply the township of Kimberley with water from the Vaal or other rivers for a period of twenty-five years reckoned from the date of the said Agreement.

And whereas the Kimberley Waterworks Company Limited, did, on or about the Twenty-fifth (25) day of October, One Thousand Eight Hundred and Eighty (1880) acquire the said Agreement from the Griqualand West Railway and Waterworks Company Limited, and are therefore now the legal holders thereof.

And whereas the said Agreement expires on the Twentieth (20th) day of May, One Thousand Nine Hundred and Five (1905.)

And whereas the Council and the Company did on the ninth (9th) day of August, One Thousand Eight Hundred and Eighty-Nine (1889) enter into a further or supplementary agreement having reference to the supply to the Council of certain unfiltered water for the purposes and on the conditions in the said agreement contained which agreement is hereby declared to be cancelled and the provisions in regard to such unfiltered water herein contained are declared to be substituted in lieu thereof.

And whereas the Company has approached the Council with a view to obtaining an extension of the said agreement of the Twentieth (20th) day of May, One Thousand Eight Hundred and Eighty (1890) and negotiations have taken place between the Council and the Company in regard thereto, and the Council has agreed to grant an extension of the said agreement to the Company on the terms and conditions hereinafter set forth.

Now therefore these presents witness :

That the Council, for itself and its successors in office and the Company have entered into and concluded the following agreement, namely :

No. 12—1903.

I. The said agreement dated the twentieth (20th) day of May, one thousand eight hundred and eighty (1880), is hereby extended (subject to the terms and conditions hereinafter set forth) for a period of twenty-one (21) years commencing on the twentieth (20th) day of May, one thousand nine hundred and five (1905) and terminating at noon on the twentieth (20th) day of May, one thousand nine hundred and twenty-six (1926).

II. The maximum price or sum to be charged by the Company for filtered water shall in no case exceed the sum of eightpence per one hundred gallons.

III. The Company undertakes to supply filtered water at sixpence (6d) per hundred gallons to be used in any public bath or public washhouse belonging to or under the control of the Council and carried on for public purposes only.

IV. It is agreed that freedom of contract shall be continued as at present with consumers having or desiring to have non-meter contracts for the supply of water. The Company however guarantees and undertakes that the present policy of the Company in regard to the supply of water to all such consumers shall be continued during the existence of this contract. In pursuance of such policy the Company undertakes that every such consumer shall be entitled to receive monthly from the Company at least forty-five per cent (45%) more water than he would be entitled to for the same price if he was supplied by meter at the sum mentioned in section 2 hereof.

V. The Company undertakes, immediately after the completion of the final contract, to carry out all such extensions and make such additions to their plant as may be necessary to ensure the supply of water to consumers at an improved pressure throughout the Company's town service, especially in the higher portions of the Borough, and the Company agrees to expend on such improvements, extensions and additions not less than Twelve Thousand Five Hundred Pounds (£12,500).

VI. The hereinbefore recited Agreement made between the Council and the Company on the ninth (9th) day of August, One Thousand Eight Hundred and Eighty-Nine (1889), is hereby cancelled and declared to be of no further effect as and from the date of the completion of the final contract, the conditions hereinafter contained regarding the supply of unfiltered water to the Council being substituted in lieu thereof.

VII. The Company undertakes to supply to the Council free of any charge whatsoever one million (1,000,000) gallons of unfiltered water per annum, after the coming into effect of this clause of this contract, and the Company further undertakes to supply the Council with such additional quantity of unfiltered water as the Council may require at 4d. per one hundred (100) gallons, provided that the unfiltered water supplied, as aforesaid, shall be used exclusively for municipal purposes such as watering,

making and repairing streets, squares and thoroughfares, in the erection of municipal buildings, flushing of drains or pipes, and like purposes only. The Company undertakes to supply such unfiltered water at the following points, namely .—

1. New Main Street.
2. Pniel Road.
3. Corner of Wade Street and De Beers Terrace.
4. Corner of Graham Street and West Circular Road.
5. Wesleyan Chapel, Tucker Street.
6. Police Station, Tucker Street.
7. Barkly Road.
8. Corner of Pniel Road and Tyburn Street.
9. Corner of Bean Street and De Beers Road.
10. Court House.
11. Town Hall.
12. Market House.
13. Public Works, Transvaal Road.
14. Reynolds' Waggon Works, Transvaal Road.
15. Junker's Bar, Transvaal Road.
16. Otto Street.
17. Corner De Beers Road and Merriman Street.
18. South Circular Road.
19. Corner of Hull Street and De Beers Terrace.
20. Corner of Bean Street and Villiers Street.
21. Opposite to Dr. Fuller's Residence, Du Toits Pan Road.
22. Near Masonic Temple, Du Toits Pan Road.
23. Opposite Kimberley Hospital, Du Toits Pan Road.
24. Corner of Woodley Street and Chapel Street.
25. At the Advertiser Office, Stockdale Street.
26. Corner of Taylor and Innes Street, De Beers.
27. Near Junction of Scholtz and Posno Streets.

Provided that other situations may from time to time be substituted in lieu of any of the above by mutual consent.

VIII. The Company shall not charge any sum to the Council by way of rent or otherwise in respect of any hydrants, meters, valves and other fittings and connections between the main pipes and the hydrants in and about the streets and thoroughfares of the Borough ; all meters, valves and other fittings and connections between the hydrants and the main pipes as now are or may hereafter be laid down by the Company shall remain the property of the Company and be under its sole control.

IX. The Company shall, whenever requested so to do by the Council, lay down and connect with the Company's main pipes at such places in the Borough as the Council may require, such additional hydrants as the Council may decide upon and for such hydrants the Council shall pay to the Company the sum of One Pound Ten Shillings (£1 : 10 : 0) each in addition to the actual cost of the labour of laying down such hydrants and connecting

No. 12—1903. the same with the Company's Pipes. Provided that in the event of it being found necessary in connecting any such additional hydrant with the Company's main pipe for the Company to lay a new pipe for a greater distance than fifty yards then the cost of any such pipe beyond the said fifty yards shall be borne by the Council.

X. It is hereby agreed that the supply of unfiltered water during the continuance of this contract as hereinbefore in clause VII provided shall be taken and accepted by the Council in lieu of and in full discharge for, any rate, tax, impost or other similar burden which the Council may during the continuance of this contract be or become entitled to levy or impose and which the Company might otherwise be bound to pay in respect of any pipes, conduits, mains, meters or other similar fittings or appliances for the supply of water either filtered or unfiltered now or hereafter to be laid down made or constructed by the Company within the Borough.

XI. The Council shall have the option to purchase on the Twentieth (20th) day of May, One Thousand Nine Hundred and Twelve (1912), the First (1st) day of December, One Thousand Nine Hundred and Thirteen (1913), or the Twentieth (20th) day of November, One Thousand Nine Hundred and Fifteen (1915), the whole undertaking of the Company as a going concern for the sum of Two Hundred and Seventy-Five Thousand Pounds (£275,000) Sterling, plus the cost of any and all extensions and additions to plant, additional works including railways and tramways to connect the pumping stations of the Company with the main line of the Colonial Government Railway System made or constructed by the Company in connection with the extension or facilitation of the business of the undertaking subsequent to the signing of this contract, less an amount for depreciation equal to one per cent. (1⁰/₁₀₀) per annum reckoned on the cost of such extensions or additions, reckoned from the date of the final construction or erection thereof; it being understood that in arriving at the total amount to be paid, no amount shall be included for any sum which the Company may expend in the maintenance of plant. The Company shall be bound to keep and maintain all its plant in good order and repair:

Provided that the words "whole undertaking of the Company" shall not include investments, securities or rights of the Company not connected with their Waterworks' undertaking in the Division of Kimberley, cash belonging to or debts due to the Company or any other assets not attached to or forming part of the undertaking in the Division of Kimberley, and that the Company shall pay and discharge all its creditors and liabilities. And provided further that the right of the Council to exercise the option of the Twentieth (20th) day of May, One Thousand Nine Hundred and Twelve (1912), shall be subject to the consent of the De Beers Consoli-

dated Mines Limited being obtained to the Council taking over an agreement entered into between the Company and the De Beers Consolidated Mines Limited, on the Sixth (6th) day of November, One Thousand Eight Hundred and Eighty-Eight (1888).

XII. The Council shall also have the option to purchase on the Twentieth (20th) day of May, One Thousand Nine Hundred and Twenty-two (1922) or the Twentieth (20th) day of May, One Thousand Nine Hundred and Twenty-six (1926), the whole undertaking of the Company as defined in the preceding Section as a going concern, for the sum of Two Hundred and Fifty Thousand Pounds (£250,000) Sterling plus the cost of extensions and additions as previously defined and subject to the stipulations set forth in the last preceding section.

Provided however that as regards the option to purchase on the Twentieth (20th) day of May, One Thousand Nine Hundred and Twenty-six (1926), the Council shall have the right, should they so think fit, instead of purchasing at the price before mentioned to have the purchase price for the said "whole undertaking," including the good will, if any, thereof fixed by reference to arbitration of two arbitrators, one to be appointed by the Council and one by the Company, with the right to such arbitrators to choose an umpire. The award of such arbitrators or that of their umpire shall be conclusive. In the event of a reference to arbitration the proceedings shall be conducted in terms of the provisions of the schedule to the Arbitrations Act, 1898.

XIII. The Council shall have the right before deciding as to whether or not to exercise any of its options on giving to the Company previous notice of not less than eight months or more than twelve months before the due date of any option to appoint an expert to inspect the works, plant, pipes, and other property of the Company with the object of ascertaining the value thereof. The cost of such inspection shall be borne by the Council. The Company undertakes to grant every facility for such inspection. Provided that any information obtained as the result of such inspection shall be used for municipal purposes only.

XIV. In the event of the Council deciding to exercise any of the options to purchase, it shall be bound to give notice of such its intention to the Company in writing at least six months prior to the date on which any such option is exercisable, and in the case of the option of the Twentieth (20th) day of May One Thousand Nine Hundred and Twenty-six (1926), the notice shall state whether the Council has decided to purchase at the price mentioned in Section 12 or has elected to purchase at a price to be fixed by reference to arbitration, as mentioned in the said section.

XV. And whereas differences have arisen regarding the true interpretation of Section 6 of the said Agreement of the Twentieth (20th) day of May One thousand eight hundred and eighty (1880).

No. 12—1903. Now, therefore, it is hereby agreed that on the Twentieth (20th) day of May One thousand nine hundred and five (1905) Section 6 of the said Agreement of the Twentieth (20th) day of May, One thousand eight hundred and eighty (1880) shall be deemed to be cancelled and of no further effect and the following section substituted in lieu thereof, namely : The Council covenants and agrees not to construct or promote or permit or assist in the construction or promotion of any waterworks having for its object the introduction or supply of water to the Borough of Kimberley from the Vaal River or other rivers in Griqualand West during the continuance of this contract, provided that nothing herein contained shall be deemed to prevent the Council from constructing or promoting any such waterworks before the expiration of this contract so long as such water is not used by the Council or supplied to consumers or others before noon on the 20th (Twentieth) day of May, One Thousand Nine Hundred and Twenty-Six (1926).

XVI. That anything contained in the said agreement of the twentieth (20th) day of May one thousand eight hundred and eighty (1880) which may in any way be contrary to the terms of this contract shall be taken to be cancelled as from the twentieth (20th) day of May one thousand nine hundred and five (1905) but in any other respect the said Agreement shall be deemed to have been extended up to and until the twentieth (20th) day of May one thousand nine hundred and twenty six (1926).

XVII. This contract is conditional on the Burgesses of the Borough at a meeting duly convened and held passing a resolution approving of the terms hereof and also to the shareholders of the Company at a meeting or meetings duly convened and held passing a resolution approving of the terms hereof. The Council and the Company agree to submit this contract for such approval at an early date.

XVIII. The Council undertakes to notify the Company in writing when the approval of the Burgesses has been obtained and the Company undertakes to notify by cable to the Council the decision of its shareholders not later than twenty-ninth (29th) day of April one thousand nine hundred and three (1903) provided the approval of the burgesses has been obtained prior to that date.

XIX. On the Company intimating the approval of its shareholders provided the burgesses shall also have duly approved of this contract all legal proceedings pending between the Company and the Council shall be suspended until the signing of the final contract between the Council and the Company when such proceedings shall be abandoned and each party shall pay their own costs.

XX. It is expressly declared and agreed by and between the parties hereto that the stipulations, agreements, and conditions contained and set forth in clauses 2, 3 and 4 hereof, shall only

THE BOROUGH COUNCIL OF KIMBERLEY ADDITIONAL 4605
POWERS ACT.

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become operative on the Twentieth (20th) day of May, one thousand nine hundred and five (1905), and not before.

XXI. The Company shall not be entitled to assign this contract unless the consent in writing of the Council to such assignment shall be first obtained, provided that the Council shall not withhold such consent if it be satisfied that the Company or person to whom such assignment is proposed to be made is in a position and able in every respect to carry out and fulfil all the terms of the contract.

XXII. And whereas doubts have arisen as to whether or not the Council has power to enter into this contract.

Now it is hereby agreed that in order to set all doubts at rest the Council shall in the event of the burgesses and shareholders duly approving of the terms of this contract as hereinbefore provided as soon as possible thereafter apply to Parliament for and use their best efforts to obtain all such powers as may be necessary to enable the Council to finally conclude and enter into this contract.

XXIII. That this provisional agreement is conditional on such powers being obtained by the Council and on the promulgation of the Act containing such powers then the Council and the Company undertake and agree to sign and finally complete this contract.

As Witness the hands of the parties hereto at Kimberley aforesaid, the day, month, and year first aforesaid in the presence of the undersigned witnesses.

Seal of the
Kimberley Town
Council, 1903.

This seal affixed
in our presence.

(Sgd.) R. H. HENDERSON,
Mayor.
(Sgd.) W. H. FOLEY,
(Sgd.) A. STEAD,
Councillors.
(Sgd.) C. K. O'MOLONY,
Town Clerk.
(Sgd.) F. S. LYNCH,
General Manager.

AS WITNESSES :

(Sgd.) J. DENOON DUNCAN,
(Sgd.) P. W. MALLET.

g.g. The Kimberley Waterworks
Company, Limited.

No. 14—1903. No. 13.—1903.] [September 2, 1903.

ACT

To Provide for Reducing the Extent of Land authorised to be expropriated for the purposes of the line of railway between Border Siding and Vryburg.

[Assented to 31st August, 1903.]

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

Expropria-
tion of land
for Railway,
Border Siding
to Vryburg.

1. Notwithstanding anything to the contrary contained in Act No. 13 of 1890, Proclamation No. 231 of 1895 of British Bechuanaland, or any other law, the extent of land expropriated for the purposes of the line of railway from Border Siding to Vryburg shall be deemed not to exceed one hundred feet in width throughout along the said line, and any expropriation of any such land, exceeding one hundred feet in width as aforesaid, shall be deemed to be void and of no effect, and the land so expropriated shall be deemed to be in the same position in all respects as if not so expropriated, subject however to the provisions of the next succeeding section.

Rights of
the Govern-
ment.

2. Notwithstanding anything to the contrary contained in the previous section, it shall be lawful for the Governor, if at any time it shall seem to him expedient so to do, to exercise all or any of the rights of expropriation vested in him by the said Proclamation, in respect of such portion or portions of the land by this Act declared to be unexpropriated, as shall be required for the purposes of junctions, sidings, stations, buildings, and all other works and approaches in connection with the said line of railway, without the payment of any compensation whatsoever.

Short Title

3. This Act may be cited for all purposes as "The Railway Lands (Border Siding to Vryburg) Act, 1903."

No. 14—1903.] [September 2nd, 1903.

ACT

To Authorise a Company, styled "The Kommetje Estates, Limited," to construct and work a line of railway in the Cape Division between Fish Hoek and "The Kommetje."

[Assented to 31st August, 1903.]

Preamble. WHEREAS a Company with limited liability, styled "The Kommetje Estates, Limited," has been formed and registered under the Companies' Act, 1892, with the object, among other

purposes, of constructing, equipping, maintaining and working a line of railway from a point on the Cape Government Railways at or near Fish Hoek Station, to a point on the farm Slangkop, the property of the said Company, called the Kommetje, situate within the Cape Division: And whereas plans and sections of the line of railway proposed to be constructed have been deposited in the office of the Clerk of the House of Assembly:

And whereas it is expedient that the said Company should be authorised and empowered to construct, equip, maintain and work the said line of railway, and also to construct, maintain and work lines of telegraph and telephone along or near to the said line, in accordance with the provisions of this Act:

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

1. The Company styled "The Kommetje Estates, Limited," shall be and are hereby authorised and empowered to construct, equip, maintain and work a railway similar to railway lines already constructed in this Colony on a gauge of three feet six inches wide, with no gradient steeper than one in eighty feet and with curves of not less than seven chains radius, commencing from a point at or near Fish Hoek Station on the Cape Government Railways line or such convenient junction point in the vicinity as the Commissioner of Public Works shall approve, and thence to a terminus at or near the cottage at the Kommetje situate on the farm of said Company called Slangkop within the limits of deviation shown on the plans lodged with the Clerk of the House of Assembly, save and except in so far as the said plans may be inconsistent with any of the provisions of this Act or with any alteration as hereinafter provided. The said Company being empowered to require the Government to make and maintain connections in such manner as the Commissioner of Public Works may approve between the line upon the Company's property and the up and down lines of the Government Railway; such connections, together with all buildings, signals and other works necessary and proper for the construction thereof, shall be laid, built, and constructed at the expense of the Company by the Government: Provided always that nothing in this section contained shall be deemed or taken to give to the Company any right, title or interest in or to, or any servitude over any land or building the property or in the occupation of the Government: and provided further that should it at any time hereafter become necessary to sever the said connections between the said line upon the Company's property and the said lines of Government railway, the Company shall not have the right to remove any rails or appurtenances thereto which may have been laid upon or over any land the property or in the occupation of the Government: and provided further that the Fish Hoek Station shall be and

Name of
Company,
authority to
construct, etc.,
a line of rail-
way.

No. 14—1903. remain under the sole control of the Government, and any increased cost in the working thereof, consequent upon the said connections as well as the cost of working and maintaining the said connections, buildings, signals and other works aforesaid, shall be borne by the Company and the Government in equal proportions. СВЪЮИ СВЪЮИ СВЪЮИ СВЪЮИ

Line of railway defined.

2. The said railway shall commence at such a convenient junction point with the Cape Government Railway at or near Fish Hoek Station as may be hereafter agreed upon between Government and the directors; thence across the Divisional Council road, thence in a westerly direction across the farm Visch Hoek, the property of Hester Sophia de Villiers, thence over Crown land styled Schildergatskop, thence over the farm Brakkloof, the property of Mr. Van der Poll, crossing the Divisional Council road on the said farm, thence over the farm Poespaskraal, now known as Sunnysdale, the property of the widow R. A. J. de Stadler, thence over a portion of the remainder of the farm Noord Hoek, the property of the widow Smit and the said farm Poespaskraal, thence over the Salt Pan, the property of Thomas Riddell and the said farm Poespaskraal, thence over the farm Slangkop or Imhoff's Gift, the property of the said Company to a point at or near Chapman's Bay, thence in a south-westerly direction to a point on the said farm Slangkop at or near the cottage situate at the Kommetje: provided that it shall be lawful for the directors of the said Company to deviate from and vary the line of the said railway as shown by the said plans with the consent of any owner or owners through whose land the said line may pass, or in the case of Crown land, to such extent as may be sanctioned by Government upon the request of the directors.

Powers of entry upon land subject to compensation to occupier.

3. The directors may, by any persons thereto duly authorised in writing, enter upon any land for the purpose of surveying the same, and of probing and boring in order to ascertain the nature of the soil, or of setting out the line of railway, making full compensation to the occupier of the said land for any damage thereby occasioned, such damages to be recoverable, in the absence of agreement, by arbitration under the Lands and Arbitrations Clauses Act, 1882, and in default of an award of arbitrators within three months from the date when such damages shall be alleged to have been sustained, then to be recoverable by action brought in any competent court.

Free entry and occupation of waste crown lands with permission of Government.

4. The directors may, with the permission of the Government enter upon, take possession of, and hold and retain for the purposes of this Act free of charge, so much of any waste Crown lands as shall be required for the construction and maintenance of the said railway or for any other purposes relating to the execution of this Act, and also enter upon any waste Crown land lying convenient to the said railway, and dig for, excavate, and

carry away free of charge all stones, clay, or other material required for the purposes of the said railway : provided :— No. 14—1903.

- (a) That nothing in this Act contained shall establish any servitude in favour of the Company upon any such land, not being land reasonably required for the actual working of the said railway, which may hereafter be sold or leased by the Colonial Government to any purchaser or lessee thereof ; and
- (b) That the term " Waste Crown land " shall not be taken to apply to land which has been or may be acquired by the Colonial Government, or by any public body representing the Colonial Government by purchase or otherwise, for any special purpose.

5. For the purposes of construction, maintenance and working of the said line of railway, the Directors are hereby authorised and empowered to enter upon, compulsorily acquire, take and use any land required for the said purposes, and lying within the limits of deviation as shown upon the plans deposited with the Clerk of the House of Assembly, and may enter upon any land lying convenient to the said railway, and may there dig, get and carry away any stone, gravel or other material which may be required or necessary for the purposes of this Act : provided always :— Powers of directors as to taking, etc., lands and materials, subject to conditions as to extent to be taken and method of calculating compensation.

- (a) That the extent of land so taken for the railway shall not exceed in width thirty feet for the formation line, and such additional width required for the slopes, drainage, stations, approach roads and approaches to bridges over the said railway at the crossing of main or divisional roads, and all other works, matters, and things which may be requisite or necessary for the efficient construction, maintenance, and working of the said line of railway ; and
- (b) That the owner of any such land or materials shall be entitled to receive compensation therefor from the directors, which shall include all damage caused to him by the construction of the said railway across his said land or the removal of the said material, and failing agreement between the directors and the said owner as to the amount to be paid as such compensation, the said amount shall be determined by arbitration in manner provided by the Lands and Arbitration Clauses Act, 1882, and the Arbitration Act, 1898 ; and
- (c) That the owner of any land which shall have been compulsorily acquired and taken as hereinbefore provided, and for which compensation shall have been paid, shall be bound and obliged to pass transfer of the said land in due form of law to the directors, and

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- (d) That no land be taken or materials be raised or carried away as aforesaid, without previous notice to the proprietor thereof; and
- (e) That where fences exist and the directors are desirous to obtain an entrance through such fences, such directors shall have the power to make such entrance, but the directors shall be bound to erect gates with locks and with keys, to be kept by the owner or occupier of the land and by any person authorised by the directors, and such gates shall be kept locked when not required to be opened for use.

Sections 205 and 206 of Act No. 40 of 1889 apply, *mutatis mutandis*, to this railway.

6. The provisions of the two hundred and fifth and two hundred and sixth sections of the Divisional Councils Act, 1889, shall, *mutatis mutandis*, extend and apply to the said railway as though the same were a public road, the Company being deemed and taken to be referred to in the said sections in place and stead of the Divisional Council.

Method to be adopted in crossing streets or roads.

7. At all places where the lines of the said railway or any deviation thereof shall intersect or cross the line of any street or road, it shall be lawful for the directors to make and carry the said railway across such street or road, either by means of a level crossing or by means of a convenient or sufficient bridge or viaduct over or under such street or road: provided that the said directors shall be bound:—

- (a) To make all such cuttings, embankments, and approaches, with all such culverts and drains, and all such repairs, as may be requisite to make good the street or road across or over or under the said railway, at gradients not exceeding one foot in twenty feet; and
- (b) To maintain and keep in repair all such crossings, bridges, viaducts, cuttings, embankments, and approaches, culverts, and drains as aforesaid.

Provision for crossing of railway by new streets and roads.

8. Nothing in this Act contained shall prevent any street or public road hereafter to be constructed under lawful authority from being made and carried across or under the said railway at all requisite and convenient places or shall prevent the erection of such gates or the construction of such level crossings as may be necessary for the above purposes: provided that the said authority shall be liable to make good all damage occasioned by such works.

Railway may not be opened till satisfactorily fenced.

9. The said railway, or any portion thereof, shall not be opened for traffic until the Directors shall have properly and sufficiently fenced the said railway.

Powers may be exercised by agent.

10. It shall be lawful for the directors to exercise all and singular the powers by this Act conferred upon them by or through an agent or agents, duly authorised in writing.

Roads and crossings.

11. The levels of the crossings over the main road at Fish Hoek and over the divisional road from Fish Hoek to Noord

Hoek shall at all times correspond with the levels of the said roads so that the surface of the said line shall be level with the surface of the said roads and the said railway shall cross the said roads at right angles, provided further:—

- (a) That the Company shall for the purpose of maintaining the said roads and the lines of rails crossing the said roads at their own cost pave that portion of the said roads between the said rails and three feet beyond each line of rail with hard wood-sets and shall keep the same in a proper state of repair.
- (b) That the Company shall provide at each of the said crossings over the said roads guard rails of not less than thirty feet in length.
- (c) That at no time shall any engine, truck, carriage or vehicle belonging to the Company running on the said lines of rails crossing the said roads be allowed to remain on the said crossings so as to impede public vehicular or other traffic.
- (d) That proper provision shall be made by the Company for carrying away of all storm-water which the construction of the said railway may cause to be accumulated so as to prevent any injury being done to the said roads.
- (e) That each and every approaching train shall be properly signalled by the due sounding of the whistle of the locomotive of the train before crossing the said road.
- (f) That all work connected with the undertaking and affecting the crossing of the said main roads shall be subject to the approval of the Cape Divisional Council, signified by certificate of the said Council's Engineer for the time being.
- (g) That the Company shall hold the said Council indemnified against any action which may be brought against it in respect of any of the said crossings over the said roads which may be occasioned by any fault or default of the Company or its servants.
- (h) That the Company shall provide proper and sufficient gates of not less than thirty feet in length and signal posts and a gatekeeper to take charge thereof at each of the said crossings over the said roads as well as a wicket gate on each side of the line of rails at each of the said crossings, the said thirty-foot gates to consist of two fifteen-foot swing-gates and to be fitted with "danger discs" for use by day and a lamp for use by night.
- (i) That should the increase in vehicular traffic over the said roads at any time become so great as in the opinion of the said Council to render overhead bridges across

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the said line of railway at the said crossings necessary, the Company or its assigns shall construct and maintain such overhead bridges across the said line, the bridge over the said main road from Fish Hoek to be not less than thirty feet in width and that over the said divisional road from Fish Hoek to Noord Hoek to be not less than twenty feet in width and the approaches thereto to be of a gradient not steeper than one foot in thirty feet, the road over such bridges to be constructed by the Company or its assigns and to be thereafter maintained by the said Council.

Directors may issue Debentures.

12. The directors may from time to time, as occasion may require, take up by way of loan to be secured by debentures a sum or sums of money not exceeding in all an amount equal to one-half of the subscribed capital of the Company, and such debentures shall be duly registered in the Deeds Office as a debt owing by the Company, and when so registered shall constitute a first charge upon the property, undertaking, and assets of whatsoever nature of the Company, and shall be subject to such terms and conditions as to interest and as to repayment of capital as the Directors shall determine.

Provisions for fixing tariff of rates and fares.

13. A tariff or tariffs of passenger fares and goods in all classes shall be framed by the Company with the approval of the Governor before commencing to work the said railway, and the said tariff or tariffs shall be liable to adjustment from time to time at intervals of not less than three years, at the instance of the Company or of the Governor respectively: Provided that such readjustment shall be subject to the approval of the Governor: and provided further that the rates of carriage of passengers and goods set forth shall be charged equally to all persons whatsoever.

Material to be used in construction.

14. All material and workmanship used or employed in and about the construction of the said railway shall be equal in quality to the material and workmanship of the railways constructed by the Colonial Government, and such material shall in every way satisfy the requirements of the Engineer-in-Chief of the Cape Government Railways.

Plant or material to be inspected.

15. All plant or material obtained in Europe or America shall, before shipment, be submitted for inspection to the Consulting Engineers for the Cape Government Railways, and shall be by them approved or rejected, and no such material shall be brought upon or used in the construction of the said railway unless so approved.

Railway: when to be opened for traffic.

16. The said railway, or any portion thereof, shall not be opened for traffic until it shall have been certified to the Governor, by some officer to be by him appointed, that the same is sufficiently completed for the safe conveyance of passengers.

17. Upon the completion of the said railway, or any portion thereof, the directors shall enjoy all the privileges and be subject to all the conditions conferred and contained in "The Regulations of Railways Act, 1861," or any general Act now in force or hereafter passed for the regulation of railways.

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Application of Act 19 of 1861 to railway when completed.

18. If three years after the taking effect of this Act the railway shall not be completed, the Governor may at any time thereafter give the Company notice to complete the railway within twelve months, and should the Company not so complete, then all rights conferred by this Act shall cease and determine.

Governor may give Company notice to complete railway.

19. The directors are hereby further authorised and empowered to construct, erect, and work for the purposes of the said railway and no other purposes, a telegraph and telephone, or either of them, along or near the said line of railway, subject to the provisions of the Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs" and of Act No. 36 of 1895, entitled the "Railway Regulations Amendment Act, 1895."

For railway purposes telegraph and telephone may be constructed.

20. The Company shall, subject to the provisions of the "Railway Regulations Amendment Act, 1895," make provision for the conveyance to or from any station by any of the ordinary or special trains of the Company of such mails, letter-bags, and articles ordinarily conveyed by the post as the Postmaster-General may from time to time require, and the Company shall be responsible for the safe conveyance of such mails, and shall observe all such regulations respecting the taking up and delivery of the same as the Postmaster-General shall reasonably make.

Company to make provision for conveyance of mails.

21. The Company shall and may be sued within this Colony by the name or style of "The Kommetje Estates, Limited," and the service of process upon the agent of the said Company, at his office or place of business in this Colony, shall for all purposes be deemed and taken to be good service upon the Company.

Company : how sued, and process, how served.

22. At any time after the date of opening for public traffic the said railway, the Colonial Government shall have the right, if so disposed, to purchase from the Directors, on giving six months' notice to this effect in three consecutive issues of the *Gazette* of the Colony, and the directors shall be bound, six months after date of the first publication of the said notice, to sell to the Colonial Government the said railway and also all buildings and plots of land acquired by the Company and used in connection with the working of the said railway, together with all rolling stock, engines, carriages, plant, machinery, and every matter or thing belonging to or connected with the said railway, as also any telegraph or telephone and apparatus, wire, instruments, and every matter or thing connected with the working therewith, in the possession of the Company under this Act, upon such terms as may be agreed upon between the Company and the Colonial Government, and, failing such agreement, at a price to be settled

Right of Government to purchase railway.

No. 15—1903. by arbitration in manner provided for under the “Lands and Arbitration Clauses Act, 1882”: provided that:—

- (a) Such price shall not be less than the actual cost of the work, but the arbitrators shall not be entitled to award as such actual cost an amount in excess of the sum of three thousand seven hundred pounds (£3,700) sterling per mile of railway (exclusive of engines, rolling stock and plant) and an amount equal to twenty per cent. of the said actual cost so ascertained to cover interest on capital expended during construction as well as profit to which the Company may be entitled.
- (b) The price of the said engines, rolling stock and plant shall, in the event of the Colonial Government and the Company failing to agree thereupon, be determined by arbitration.

Meanings
of terms.

23. In this Act, save where such meanings shall be inconsistent with the context, the following terms shall have the following meanings:—

- (a) “The Company” shall mean the Company styled “The Kommetje Estates, Limited.”
- (b) “The Directors” shall mean the Directors for the time being of the said Company.
- (c) “The Government” shall mean the Colonial Government.

Short title

24. This Act may be cited for all purposes as “The Kommetje Railway Act, 1903.”

No. 15—1903.]

[September 2, 1903.]

ACT

To Authorise the construction, equipment, maintenance and working of an Electric Tramway from Somerset West to Somerset West Strand, and to supply Electrical Energy for lighting and other purposes.

[Assented to 31st August, 1903.]

Preamble.

WHEREAS a certain Syndicate styled “The Lourens River Estates, Limited,” has been formed and registered as a company in accordance with the provisions of the Company’s Act, 1892, for the purpose, amongst others, of constructing and working certain lines of tramway from Somerset West in the division of Stellenbosch to Somerset West Strand, in the said division:

And whereas it is expedient that certain rights and powers be granted to the said Syndicate to enable it to construct, equip, maintain and work the said lines of tramway and to operate such tramway by electrical energy:

And whereas it is expedient further that the said Syndicate should be empowered to construct works to generate electrical energy and to employ such energy for its undertakings, subject to certain provisions :

And whereas plans and sections of the said lines of tramway have been lodged with the Clerk of the House of Assembly and with the Civil Commissioner for the division of Stellenbosch :

And whereas it is expedient that provision should be made to empower the Syndicate to enter upon and break up certain roads and lands for the purpose of constructing the said tramways :

And whereas it is expedient to authorise the said Syndicate to sell, assign and make over its rights and undertakings to a company with power to raise money by means of shares, stock, debentures and debenture stock, or any of them :

And whereas it is advisable that the Company should be empowered to levy tolls and charges for the conveyance of passengers and goods and the supply of electric energy :

And whereas it is expedient that due provision be made for the public safety and convenience and certain powers be given to local and other authorities :

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

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

Interpretation clause.

“Syndicate” and “Company” shall mean, respectively, the Lourens River Estates, Limited, and such Company as shall acquire the rights, powers and undertakings of that syndicate. “Local authority” shall mean within the Municipality of Somerset West Strand, the Council of that Municipality as duly constituted, and beyond the limits of that Municipality shall mean the Divisional Council of Stellenbosch or such other Council or body as shall be duly and legally constituted the local authority charged with the control of such area.

“Officers and servants of the Company” shall mean all servants and other persons employed by the Company in the construction, equipment, working and maintenance of the tramways, and shall embrace the servants of contractors and sub-contractors employed by the Company in and about the construction, equipment, working and maintenance of the said tramways.

The expressions, “the tramways” and “the undertaking,” shall mean respectively the tramways and works undertaken and authorised by this Act.

No. 15—1903.

“The plans” shall mean the plans and sections deposited by the Company with the Clerk of the House of Assembly in connection with this Act.

“Unit” shall mean the energy contained in a current of one thousand amperes flowing under an electro-motive force of one volt during one hour.

Company
may erect
works.

2. The Company is empowered subject to the provisions of this Act to erect, upon such sites as it may own or acquire within the municipality and neighbourhood as shall be found most suitable for the purposes of its undertaking, power stations and other buildings for the generation of electrical energy by means of water, steam, mechanical or other power for traction, lighting, industrial, mechanical or other purposes; and, for the purpose of transmitting electrical energy from the said power station and buildings, to erect poles, stretch overhead wires, lay underground cables, construct transforming stations, maintain street boxes and distributing apparatus, and do all other necessary acts across, through, over, beneath, and along, any land or buildings in the line of the proposed tramways as shown on the plans deposited with the Clerk of the House; and, for the purpose of maintaining in a state of repair its works, buildings, apparatus and other materials, to enter upon land vested in any local authority, open up streets, break through culverts, sewers and drains, shift pipes, and do all other necessary acts; provided that the Company shall make good any damage thereby done to municipal or other property; provided also that, before entering upon any land vested in any local authority, the Company shall serve a notice upon the municipality or other local authority specifying the nature and extent of the proposed works or repairs and shall submit plans and specifications thereof to such local authority for its approval, but such approval shall not be unreasonably withheld; provided further that the Company shall not enter upon any land before the consent of the local authority has been given, unless such local authority shall delay its decision for fourteen days.

Authority
to construct
and work
tram lines.

3. The Company is hereby empowered, subject to the provisions of this Act, to construct, lay down, equip and maintain the tramways hereinafter described, to be operated by electrical power, with all necessary and proper tracks, embankments, walls, slopes, banks, cuttings, bridges, viaducts, culverts, drains, rails, plates, bonds, sheds, offices, warehouses, tubes, overhead and other wires, ropes, chains, poles, standards, cables, sidings, depots, car houses, power and other stations, points, junctions, passing places, loops and other adjuncts and conveniences connected therewith or for the purpose thereof, and may work, alter, vary, enlarge and use the same, that is to say:

TRAMWAY No. 1.

From terminus at a point in Victoria-street, Somerset West, close to its junction with Main-street, thence along Victoria-street, across the railway line by means of an overhead bridge or subway to a point of intersection of that street by Church-road.

TRAMWAY No. 2.

From the last-mentioned point along Church-road and along continuation thereof up to its intersection by Station-road or the continuation thereof.

TRAMWAY No. 3.

From the junction of Tramways Nos. 1 and 2 in Victoria-street as above, along Victoria-street and Victoria-avenue to a point in same nearly opposite Lourens-road.

TRAMWAY No. 4.

From the last-mentioned point by a road and bridge to be constructed by the Company across the Lourens River into Lourens-road in the Municipality of Somerset West Strand and thence along the latter road to the point of its intersection by Scholtz-road, thence along Scholtz-road and Saltpan road to the junction of the last-mentioned road with Shortmarket-street, Somerset West Strand.

TRAMWAY No. 5.

From the last-mentioned point along Shortmarket Street to the north-west corner of Market Square.

TRAMWAY No. 6.

From the last-mentioned point along the West side of Market square, and thence in a straight line over land belonging to the Wesleyan Mission into the Main Road from Strand Halt.

TRAMWAY No. 7.

From the north-west corner of Market Square at the terminus of Tramway No. 6 along the north side of Market Square to the north-east corner of same, thence along the east side of same, and thence in a straight line along the street formed by the continuation of that side to the point of the intersection of such street with the Main Road from Strand Halt and thence along the said Main Road to the terminus of Tramway No. 7 therein, as above.

TRAMWAY No. 8.

From the common terminus of Tramways Nos. 7 and 8 in the said Main Road from Strand Halt along the said Main Road and thence along Michau Road to the final terminus at a point fifty yards beyond the south-east corner of the White House Hotel.

No. 15—1903. The above Tramways will be single lines, throughout, with passing places, and the length of the respective tramways will be :

Tramway No. 1.—32·8 chains.
 „ No. 2.—13·8 chains.
 „ No. 3.—1 mile, 31·83 chains.
 „ No. 4.—1 mile, 24·62 chains.
 „ No. 5.—23·12 chains.
 „ No. 6.—8·36 chains.
 „ No. 7.—16·4 chains.
 „ No. 8.—35·9 chains.

or a total length of 4 miles and 26·83 chains.

Company to keep works in efficient repair. 4. The Company shall be bound in or about the construction of the overhead bridge or subway in the last preceding section mentioned, to conform in every respect to all the reasonable requirements of the Commissioner of Public Works, and shall construct the said overhead bridge or subway, together with all necessary cuttings, embankments, bridges, culverts and drains appertaining or necessary thereto, to the satisfaction of the said Commissioner, and provided further that the Company shall be bound to maintain and keep such bridge or subway together with the said cuttings, embankments, culverts and drains in efficient repair to the like satisfaction.

Compulsory acquisition of land and buildings. 5. For the purpose of this Act the Company is empowered to enter upon, take possession of, compulsorily acquire, and use any land or buildings required for its undertaking in the line of the proposed tramways, as shown on the plans, saving to lawful owners or possessors of such land or buildings any right by which they may be entitled to claim and recover compensation in consequence of such action on the part of the Company. In the event of any difference between such owner or possessor and the Company, the amount of such compensation shall be determined by arbitration as provided for by section forty-one of this Act.

Powers of Company. 6. The Company is hereby authorised for the purposes and subject to the provisions of this Act to do all and each of the following acts :—

(a) To dig, make and maintain in and upon any land, road, street, public square or thoroughfare required for its undertaking in the line of the proposed tramways shown upon the plans all necessary excavations, cuttings, slopes, embankments, walls, tracks, bridges, viaducts, culverts, curves, points, passing places, sidings and crossings, and to construct, lay down, place, equip, work and maintain the proposed lines of tramway with all necessary slopes, rails, points, tubes, conduits, poles, standards, wires, cutouts, signals and other works, adjuncts, conveniences, matters, appliances and things

necessary or incidental to or connected with constructing, placing, erecting, making, laying down, equipping, maintaining and working the said tramways or any of them or any other portions of its undertaking: Provided that the poles and standards shall be of iron, steel or other approved material of neat and good appearance, and the design, colour and height above the roadway shall be subject to the approval of the local authority.

- (b) To enter upon, break up, widen, deviate, and alter the levels and curves of any road, street or thoroughfare where such is required for the purpose of the said tramways or works or undertaking in the lines of the proposed tramways as shown in the plans, provided, however, that the Company shall not without the consent of the local authority open or break up at any one time any section or sections each of a greater continuous length than one hundred and fifty yards of any road, street or thoroughfare nor any two sections separated from each other by a less distance than one hundred yards, all the said lines of tramway shall, as nearly as is practicable, be laid down in the centre of any streets or roads traversed, and in such manner as to permit of the free passage of vehicles on either side of the cars, between the cars and the kerbs, except upon such streets or roads, wherein, with the consent or by the direction of the local authority, the line may or shall be located on one side of the street or road.
- (c) To construct, erect, build, equip, maintain, alter, enlarge, vary, modify, and demolish, as may be found necessary, power stations, car houses, depôts, stables, waiting-rooms, shelters, offices and structures of all kinds necessary or incidental to or connected with the said tramways or undertaking, subject to and in compliance with the bye-laws and regulations of the local authority in whose district such structures may be situate.
- (d) To construct, erect, and work subject to the provisions respectively of the Electric Telegraph Act 1861, and the Railway Regulations Amendment Act 1895, telegraphs and telephones for the immediate purposes of its undertaking.

7. The Company shall lay and maintain its rails to a gauge of four feet eight and one half inches, and on a level with the surface of the road, street or thoroughfare in which they are placed, and shall construct and maintain the space between the rails and between the double lines at crossing places in good and sufficient repair, to the reasonable satisfaction of the local authority, with macadam, gravel or other good materials not inferior to that of which the remainder of the road, street or

Laying and
maintenance
of rails.

No 15—1903. thoroughfare is constructed and shall pave the sides of each rail with a tothing course extending alternately six and nine inches from the rail and formed of blocks of good wood, stone, or other approved materials, or shall protect the sides of each rail otherwise than by such a paving course in such manner as may be sanctioned by the local authority, and shall construct and maintain in good order such crossings as the local authority may from time to time consider desirable, provided that the Company shall not be compelled to construct such crossings of a greater width than four feet and six inches.

Use of rails for return electric current.

8. The Company shall be entitled to use the rails of any of the said lines of tramway as a part of its system of conductors for the return electric current.

Powers of Local Authority.

9. The local authority shall, subject to the provisions of this Act, have the right :

- (a) To determine, before any construction, building or other work authorised by this Act is commenced by the Company, where the rails, poles, apparatus or other material shall be placed in or at the side of any road, street or thoroughfare.
- (b) To claim and require that the Company shall give to such local authority not less than fourteen days before opening or breaking up any street, notice in writing of their intention so to do, and specifying the date when the company proposes to commence such work.
- (c) To require that all or any work done by the Company shall be carried out according to the approved plans, specifications and sections, and under the supervision and to the satisfaction of the local authority and thereafter maintained to the like satisfaction and to have the works, buildings and other apparatus of the Company inspected by proper and duly qualified persons from time to time, and to recover reasonable expenses in respect of such supervision as aforesaid from the Company.
- (d) To require the Company to make good within a reasonable time after receipt of notice in writing from the local authority any damage caused by its works, wire or other apparatus, and in default thereof themselves to undertake the work necessary to repair the said damage, and to recover the cost thereof from the Company.
- (e) To inspect and test or cause to be inspected and tested in accordance with the provisions of the Electric Lighting Power Act, 1895, from time to time all meters supplied by the Company to consumers of electric light or energy, and to compel the substitution of new and approved meters for any that may be found defective.

- (f) To open or break up any road, street or thoroughfare along, or across which, any tramway authorised by this Act is laid, and to exercise all powers vested in the municipality or other local authority of laying down, repairing, altering or removing any sewer or drain, or any pipe for the supply of gas or water, or any tubes, wires or apparatus of any kind vested in the municipality or local authority, or controlled by it, without in any way being liable to the Company for compensation for loss of traffic caused by the exercise of these powers: provided, however, that the municipality or other local authority shall, in doing any work in exercise of these powers, cause as little detriment or inconvenience to the Company as the circumstances admit, and shall permit the Company to put down a temporary loop round any place where such work is being done of such a nature as to cause a stoppage of the tramway traffic: and provided further that the local authority shall, except in cases of great urgency, give notice in writing to the Company at least forty-eight hours before commencing work, of their intention to commence any work contemplated by this sub-section, specifying in such notice the time at which they will begin: and provided lastly that the local authority shall be entitled to call upon the Company to pay the cost of re-laying and re-paving the rails, if necessary, wherever they have been disturbed by the exercise of the powers referred to in this sub-section:
- (g) To require the Company whenever the track passes any place of public worship, to pave the track to a width of eighteen inches on either side of each rail, with good wood for the distance opposite such place of worship, and continuously for twenty yards before reaching and after passing the same.
10. If the Company enters upon, breaks up, opens up, or otherwise deals with any road, street, bridge, sewer, drain, culvert, pipe, wire, or other property vested in the local or road authority, without giving notice as aforesaid, or in any manner different from that which shall have been approved of or determined by the local or road authority, except in such cases where the Company is authorised to perform such works without any notice, superintendence or instruction, or if the Company makes any unnecessary delay in completing any such works or reinstating or making good any municipal property interfered with by it, or in carrying away the rubbish occasioned by its works, or if it neglects to take proper precautions against accident, or neglects to carry out substantially not only the terms of this section but also every provision of this Act, it shall forfeit to the

No. 15—1903.

Breaking
up of roads,
streets, brid-
ges, &c.

No. 15—1903. local or road authority affected thereby such sum not exceeding five pounds as such local or road authority may impose for every such offence or breach and an additional two pounds for each day during which any such delay as aforesaid shall continue after it has received notice thereof: Provided always that the right to penalties in the Act given to the local or road authority shall not in any way debar the local or road authority in its option from taking other legal action for the enforcement of the terms of this Act or from exercising any other legal remedies.

Use of motive power other than electricity.

11. In the event of any break-down, accident or other cause necessitating or rendering desirable a temporary stoppage of the electrical energy hereinbefore referred to the Company shall have the right to substitute and use animal, mechanical or other power for the purpose of continuing the working of the tramway lines until such time as the original motive power can be completely re-established: Provided always that if the aggregate of such stoppages in any one year shall amount to three months, the Municipality of Somerset West Strand shall have the like right to remove the rails or to acquire the undertaking as provided in section twenty of this Act.

Description of cars.

12. The Company shall use on its tramways properly constructed cars with flanged wheels. Those employed in passenger traffic not to exceed seven feet and six inches in width, and those employed for goods not to exceed the width of a Cape Government Railway truck. Wherever there is a double line of tramway or crossing place, a space of not less than two feet shall be left between passing cars.

Yearly rental.

13. The Company shall pay to the Council of the municipality of Somerset West Strand for the use of the streets, roads and public places upon which the tram lines shall run, and for the rights and privileges granted, a rental at the rate of Fifty Pounds Sterling (£50) per annum. The Company shall further pay a like rental to any Municipality which may hereafter be established at Somerset West. The said rental shall accrue as from the first day, and shall be payable on the last day respectively of any year during which any length of road was first broken up.

Tolls and charges authorised.

14. The Company, in respect of tramways authorised by this Act, may demand and take subject to the regulations set out in Schedule A. tolls and charges not exceeding the sums therein mentioned.

Number of cars to run daily.

15. The Company shall at all times after the completion and opening of the tramways, or of any part thereof, run cars for passenger traffic at least ten times a day each way.

Company empowered to provide electric energy for lighting and other purposes.

16. The Company is hereby authorised to supply the municipality and other local authorities with electrical energy for lighting purposes on such terms and in such quantities as may be agreed upon. The Company shall also furnish a reasonable

supply of electrical energy for lighting or motive purposes to any inhabitants of the municipality applying for the same, at a price not exceeding one shilling and ninepence per unit in addition to a charge not exceeding two shillings and sixpence per month in respect of the use of each necessary meter: provided however that whenever the output of the Company shall exceed three thousand units per month, the maximum price per unit shall be reduced to one shilling and sixpence per unit, and in like manner whenever the output exceeds five thousand units per month, then the price shall not exceed one shilling and threepence per unit, and whenever the output shall exceed seven thousand units, then one shilling per unit, and provided further that it shall not be incumbent upon the Company to supply any such applicant if the place to which the electrical energy is to be transmitted for use be at a greater distance than one quarter of a mile from the nearest supply wire of the Company, unless such applicant shall agree to be supplied upon such special terms as the Company may deem reasonable in the circumstances.

17. The Company shall be bound if and when required by the Colonial Government so to do, to supply to the Colonial Government at a reasonable charge which shall in no case exceed the charge agreed upon between the Company and the Municipality of Somerset West Strand under the provisions of the last preceding section electrical energy in quantities sufficient for the purpose of lighting the Railway Stations together with the buildings, sheds, yards, platforms and other appurtenances thereto the property of the Colonial Government and known as Somerset West and Strand Road respectively.

Government
to be supplied
with electric-
city.

18. For the purposes of the foregoing section the Company shall lay the cables, erect the poles and suspend the wires required for the supply of electrical power along such routes and in such positions in or beside the streets and thoroughfares as the municipality or other local authority shall have prescribed before the commencement of the work; and the connections and leadings from the main supply wires or cables of the Company to the premises of any applicant shall be effected by the Company, but the cost of any section of such connections and leadings constructed over into or across any private property shall be recoverable from the consumer by the Company, and the consumer shall be responsible for any defects faults or leaks which may be found in such section, and the Company may discontinue the supply to such consumer until all such defects faults or leaks have been rectified, provided such defects faults or leaks are not due to the quality of the material supplied by or the workmanship of the Company in making such connections or leadings.

Company
may erect
works neces-
sary for trans-
mitting elec-
tric energy.

19. If the Company after having commenced to supply electric light to the municipality or other consumers shall fail for the space of twenty-four hours to supply same, it shall be liable to

Penalty for
failure to sup-
ply light for
24 hours.

No. 15—1903. pay to the municipality a fine at a rate not exceeding one shilling for each street lamp which they shall so fail to supply for every lighting hour after the said time during which they shall so be in default and shall be liable to pay to each consumer a fine not exceeding three pence for each lamp of sixteen candle-power or its equivalent belonging to such consumer which they shall so fail to supply for every day after the aforesaid time during which they shall so be in default.

Neither penalty where default beyond Company's control.

Penalty for failure to work tramways or supply electric light for 30 days.

Power to appoint inspecting engineer where tramways and electric light not properly worked.

Powers of inspecting engineer.

20. The Company shall not be liable to pay the penalties provided by the preceding two sections where the default shall be due to strike of its servants or some cause beyond its control.

21. If the Company shall fail to work the tramways for a period of thirty consecutive days after they are in full and proper working order or if the Company shall fail for a like period to supply electric light to the Municipality and other consumers the Municipality of Somerset West Strand shall have the right to purchase the undertaking in like manner as if they had become entitled to purchase through effluxion of time as hereafter provided, subject however to notice in writing of the exercise of this right being given to the Company, or the local authorities may in such contingency if they think fit require the Company at its own cost to remove the rails, poles and wires and to restore the road or other place to a condition fit for traffic and in the event of the Company failing to comply with such order, the local authorities may do the work themselves and recover the costs thereof from the Company.

22. If the Company shall improperly or inefficiently work any of the tramways or the electric light works, the local authorities shall be entitled to call upon the Company forthwith to work such tramway or electric light works properly and efficiently, and if within seven days from the giving of such notice the Company shall fail to comply with such requirements, may appoint an independent engineer selected by the local authorities and the Company jointly or failing such selection then one chosen by the Governor, who shall investigate the irregularities complained of and report thereon in writing, and the Company shall within the time to be fixed in such report comply with the requirements therein set forth to the satisfaction of such engineer, and failing so to do, shall pay to the local authority concerned, such sum not exceeding two pounds sterling per day as such local authority may determine, for every day after the time fixed as aforesaid during which the Company shall be in default.

23. The engineer appointed under the provisions of the preceding section shall be entitled to ask and receive all information which he may require from the Company, and may take evidence and obtain expert advice, and do all things which may be necessary to enable him to ascertain whether the complaint of

the local authority is well founded; and his decision shall be final and binding upon all parties concerned, and his costs and his charges shall be paid by the local authority or the Company or both as and in such proportions as he may determine. No. 15—1903.

24. If the local authorities shall fail to avail themselves of the powers provided in the section last but one preceding, the Governor may appoint an engineer with the like powers and duties as those provided in the preceding two sections. Governor may appoint inspecting engineer.

25. The Company shall commence the works sanctioned by this Act within a period of eighteen months from the date of the promulgation of this Act, and shall complete the said works within a period of two years from the date of such commencement, failing which all and singular the powers and privileges conferred upon the Company by the provisions of this Act shall cease and determine: provided that if any necessary delay shall occur from strikes of operatives or any other cause beyond the control of the Company the said delay shall not be taken into consideration in estimating the periods above mentioned. When works to be commenced, etc.

In the event of the tramways authorised by this Act not being completed within the required period the local authorities shall, upon giving one month's notice in writing to the Company, have the right to purchase the undertaking in like manner as if they had become entitled to purchase through effluxion of time as hereinafter provided, or in their option to call upon the Company to remove the rails and other plant and restore the roads to a condition fit for the traffic, having regard to the material of which such road is constructed. Should the Company fail to do so the local authority may remove the rails and do all things necessary to the restoration of the road as aforesaid, and demand and recover the cost incurred thereby from the Company.

26. The local authority for any district may, subject to the provisions of this Act, make regulations from time to time as to the following matters, namely:— Local Authorities may make regulations.

For regulating traffic and the supervising of the tram cars.

Rate of speed, and distance between tram cars.

The coupling of tram cars and trailers.

The appointing of stopping places and the stopping of tram cars.

Provision for brake power.

Obstruction of traffic.

Conduct of guards and motormen.

Carriage of infected, filthy or intoxicated persons.

Safety of passengers.

The lighting of cars.

The use of alarm signals.

The prevention of nuisance from unnecessary noise arising from working the tramways.

No. 15—1903.

The provision of mechanical appliances for lifting cars when derailed.

The conduct of passengers.

The conveyance of luggage and animals.

The custody of lost luggage.

The numbering and inspection of cars.

The exhibition of tables of fares.

The obliteration of notices and the like.

The carrying of badges by guards and motormen.

The protection of officials.

The sanitary condition of the cars.

The exhibition and enforcement of regulations.

Bye - Laws,
&c., regula-
tions

27. The bye-laws and regulations framed under this Act may impose penalties for any breach thereof and may also impose different penalties in case of successive breaches thereof, but no single penalty shall exceed twenty pounds. After any bye-law or regulation shall have been passed by any local authority under this Act a copy of the same shall be posted at the office of such local authority, and a notice published in one or more of the local newspapers calling attention thereto; and three weeks after such notice shall have been advertised it shall be submitted for the approval of the Governor, and if approved shall be published in the *Gazette* and thereupon shall have the force of law within the area of such local authority. A copy of the *Gazette* containing such bye-laws or regulations framed under the provisions of this Act shall be evidence of the due making of such bye-laws or regulations and of the contents thereof.

Officials may
not sit on Loc-
al Divisional
Councils or
Municipal
Councils.

28. No director, shareholder, official or servant of the Syndicate or Company shall be capable of being elected or of sitting as a member of the Divisional Council for the Division of Stellenbosch or any Municipal Council through whose jurisdiction the tramways authorised by this Act, run.

Penalty for
carriage of
firearms.

29. No person shall be entitled to carry, or to require to be carried, on any tramway any loaded firearms or any goods which may be of a dangerous nature, and if any person sends by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise without giving notice in writing to the official or servant to the Company with whom the same are left at the time of such sending, or shall carry or shall bring upon any tramway or carriage of the Company any such goods, he shall be liable to a penalty not exceeding twenty pounds (£20), or to imprisonment for not more than three months, for every such offence, and it shall be lawful for the Company to refuse to take any parcel suspected to contain goods of a dangerous character, or to require the same to be opened to ascertain the fact.

Right of
Company to
make Bye-
Laws

30. The Company shall have the power to make bye-laws and regulations as to the stopping of the cars for taking up and

setting down passengers, the space in the cars to be occupied by passengers, penalties for attempting to avoid payment of lawful charges, the conditions upon which persons shall be allowed to travel upon or use the cars, the conditions upon which goods will be carried by the Company, and upon which explosives may be brought on any car or property of the Company and all other matters relating to the working and regulating of the traffic upon the tramways, and as to the penalties to be imposed by any Court upon any person convicted of a breach of the said bye-laws and regulations, and from time to time to add to and vary such bye-laws and regulations. Such bye-laws and regulations and any additions thereto or alterations thereof shall be submitted to the Governor for approval, copies of the same being first approved by the local authorities, and upon the Governor's approval being obtained and proclamation made in the *Gazette*, such bye-laws and regulations shall have the force of law.

31. The Company shall be answerable for all accidents, damages, and injuries happening through the act or default of the Company, its servants or agents, or through non-compliance with the regulations proclaimed under section twenty-six of this Act, and shall make good all loss, damage, or expense sustained by the Colonial Government or any other body or person in respect to any water-pipe, electric lighting plant, or other works, and caused by electrolysis due to any electric current from any of the plant or works, the property, or in the occupation of, or used by the Company.

Company answerable for accidents.

32. If any person or persons shall drive or lead any wagon carriage or other vehicle, or any horse or other animal upon the tramway lines in such manner as wilfully to obstruct and hinder, or shall in any other way wilfully obstruct and hinder any car or conveyance belonging to the Company, or shall refuse to remove such obstruction, it shall be lawful for any officer or employé of the Company, or any person whom he may call to his assistance to remove such obstruction; and any person who shall be guilty of such hindrance or obstruction shall for every such offence be liable to a penalty not exceeding five pounds, and in default of payment to imprisonment with or without hard labour for any term not exceeding one month unless such fine be sooner paid.

Penalties for obstruction.

33. The Company shall so construct, lay down, equip, maintain, and work the tramways as not to unduly interfere with the ordinary traffic upon any public road, street or thoroughfare, or to endanger the safety of the public, and the cars shall travel at a rate of speed which unless otherwise agreed with any local authority shall not exceed seven miles an hour in any business street or ten miles an hour in any residential street, but nothing in this Act shall limit the powers of any local authority to regulate the passage of traffic along or across any public road,

Rate of speed of cars.

No. 15—1903. street, or thoroughfare, along or across which any such tramways are laid, and such authority may exercise such powers as well on as off the tramway and with respect as well to the traffic of the Company as to the traffic of other persons.

Company to carry goods over tramways. 34. The Company shall be bound to accept at least once in every day, and at a fixed and reasonable hour, goods and parcels for carriage over the said tramways or any portion thereof.

Company may enter into contracts and do certain things in accordance therewith. 35. The Company shall be entitled to enter into contracts and agreements with local, road, and other authorities and bodies, companies, and persons, and in order to duly execute such contracts and fulfil such agreements shall be empowered and entitled to lay down and provide mains, wires, tubes, and other apparatus for supplying electric light and energy for all purposes to consumers, save in so far as any portion of the same may be in conflict with the provisions of this Act, the agreement entered into between the Municipality of Somerset West Strand and the Syndicate, and forming Schedule B to this Act, shall be of full force as if same had been inserted herein.

Company subject to general Tramway Act if any passed. 36. The Company shall be liable and subject to the provisions of any general Act which may be in existence, or which may hereafter be passed dealing with and regulating tramways generally, or with electric or other power used by the Company on its tramways and other works, unless and then so far only as specially exempted by any such Act from such liability.

Security to be deposited. 37. The Syndicate shall, within one month after the promulgation of this Act, deposit with the Treasurer liquid security to his satisfaction to the amount of One Thousand Pounds, which security, together with any interest which may have accrued thereon, the Syndicate shall be entitled to withdraw upon due completion of the undertaking in accordance with the provisions of this Act.

Company may sell, lease, or otherwise dispose of undertaking. 38. The Syndicate is empowered to form and register a Company and to raise money by the issue of shares, stock, debentures and debenture stock or any of them and shall have full power and authority to sell, lease, or otherwise dispose of the undertaking or any part thereof to any such or other company, syndicate, person, or public body, to amalgamate with or to enter into working arrangements with any other company having similar objects and powers, and may cede and assign all its rights and powers under this Act to any other person or body having sufficient power under its memorandum of association to carry out the undertaking of the company, and such cession shall carry with it, and impose upon the company, person, or body purchasing the rights, powers, and assets of the Company, all its duties and obligations under this Act or otherwise.

Municipality may purchase tramways. 39. The Municipality of Somerset West Strand shall be entitled, at the expiration of twenty-five years from the date of the promulgation of this Act, to purchase the whole of the property and

plant of the undertaking of the Company sanctioned by this Act within and without the limits of the said Municipality. The said Municipality, if it decides to acquire the undertaking as above, shall give notice in writing six months before the expiration of such period of twenty-five years of its intention so to do, and if such option be not exercised upon the notice given as above the rights and powers granted under this Act shall continue for a further period of five years, at the expiration of which period the said Municipality shall have a like option and similarly at every successive period of five years, unless and until at the expiration of any such term the said Municipality shall exercise the option so reserved to it. In the event of such option being exercised the price to be paid, failing agreement, shall be submitted to arbitration, but the arbitrator or arbitrators, in fixing the purchase price, shall not take into account any goodwill but shall assess the fair value of the works and plant, taking into account the capital expended on the undertaking. In the event of the Municipality of Somerset West Strand failing to exercise the powers conferred by this section, it shall be lawful for a Municipality in Somerset West to exercise the rights by this section granted to the Municipality of Somerset West Strand.

40. The expression "capital expended in the undertaking," used in the last preceding section shall mean the money expended in or upon the construction and equipment of the tramways, the acquisition of all land directly used for the purposes of the tramways, and all buildings, works, materials and plant of the Company, suitable to or used by it for its purposes as a Tramway Company; and in obtaining parliamentary powers and for engineering and surveying services in connection with the laying down and construction of the tramways, but not renewals, repairs or maintenance. A record of the capital expended on the undertaking, supported by vouchers to the satisfaction of the auditors of the said Municipality, shall be furnished to the said Municipality upon the completion of the works. Should the said Municipality consider that the purchase price of any land acquired by the Company for tramway purposes is unduly high they shall be entitled at any time within six months of such vouchers being furnished as above, to have such land valued by a sworn appraiser, whose valuation shall thereupon constitute the value to be taken into account upon taking over of the undertaking by the Municipality aforesaid.

Particulars of capital expended to be furnished to Municipality.

41. For the purpose of arbitration under this Act, the provisions of the "Lands and Arbitration Clauses Act of 1882," and of the "Arbitrations Act, 1898," are hereby incorporated and shall apply. The arbitrator or arbitrators in fixing any compensation to be paid by the Company for the acquirement of any land shall take into account the betterment of the balance of the land due to the introduction of the undertaking.

Arbitrations—how to be conducted.

No. 15—1903.

Carriage of
mails and parcels
on Company's Cars.Difference
to be decided
by arbitration

Short title.

42 The Company shall, if and when required thereto by the Colonial Government, and subject to the provision of the Railway Regulations Amendment Act, 1895, make proper provision for the conveyance to or from any of its stations of such mails, letter bags, and the like as the Postmaster-General may from time to time require.

43. Any difference arising between the local authority and the Company shall be decided by arbitration.

44. This Act may be cited for all purposes as the "Somerset West Strand Tramways Act, 1903."

SCHEDULE.

A.

Schedule A.

MAXIMUM TOLLS AND RATES OF CHARGE.

Passengers.

The maximum rate of charge to be made for the conveyance of any adult passenger on any unbroken journey between Somerset West and Somerset West Strand, or between the terminal point of Tramway No. 7 at Somerset West Railway Station and Somerset West Strand at the terminal of Tramway No. 8, shall not exceed ninepence. The fare for shorter trips shall be at the rate of not exceeding twopence for each mile or portion of a mile—between points to be fixed by agreement between the Company and the local authority, but in no case shall the Company be bound to a stage the fare for which shall be less than threepence.

Children under twelve years of age shall be charged half price, but any fraction of a penny shall be counted as one penny.

Nothing herein contained, however, shall be taken to prevent the Company from running any special car or carriage, for any special purpose or upon any special occasion upon such terms as it may agree with any person or persons interested, or for purposes connected with the working of the Company, so long as the ordinary tramway service for the convenience of the public is not interfered with.

Goods.

The tolls or rates to be charged by the Company in respect of goods and parcels for carriage thereof for the distance between the termini of the said tramways shall not exceed :—

For any parcel not exceeding twenty pounds in weight, three pence.

For any parcel exceeding twenty pounds in weight and not exceeding thirty-five pounds in weight, four pence.

For any parcel exceeding thirty-five pounds in weight and not exceeding fifty pounds in weight, six pence.

For any parcel exceeding fifty pounds in weight and not exceeding seventy-five pounds in weight, nine pence. No. 15—1903^a

For any parcel exceeding seventy-five pounds in weight and not exceeding one hundred pounds in weight, one shilling.

Parcels exceeding one hundred pounds in weight, such reasonable sum as may be fixed and provided by and under a tariff to be agreed upon between the Company and the local authority.

The Company may demand and take in addition to the tolls and rates of charge in the above tariff authorised, a reasonable sum for delivery and collection of goods and other services incidental to the business of a carrier, where the delivery, collection of goods and other services shall be performed by the owners of the tramway elsewhere than on the premises of the tramway or the property or works of the Company.

Every passenger shall be entitled without payment therefor, to take with him on any car ordinary luggage not exceeding twenty pounds in weight. Should any passenger be allowed to take with him on any car luggage in excess of 20 pounds in weight, he shall be liable to pay to the Company for such excess weight under the above tariff, but nothing herein contained shall be taken to impose any obligation on the Company to carry luggage over twenty pounds in weight on any car used for the conveyance of passengers, or which, notwithstanding its weight being less than twenty pounds, is unreasonably bulky or of an undesirable character.

B.

Schedule B.

This Memorandum of Agreement, made and entered into, by and between the Commissioners of the Municipality of Somerset West Strand (hereinafter referred to as "the Municipality"), of the one part, and the Lourens River Estates, Limited (hereinafter referred to as "the Syndicate"), of the other part,—

WITNESSETH :—

That Whereas the Syndicate is promoting a Bill before Parliament for authority to construct, equip, maintain and work certain lines of tramway between Somerset West and Somerset West Strand, to operate such tramway by electrical energy and to authorise the Syndicate and its Assigns to supply electrical energy for lighting or motive purposes to inhabitants of the Municipality and for other purposes.

And Whereas the Syndicate has sought the consent and approval of the Municipality to such Bill.

And Whereas the consent and approval of the ratepayers of the said Municipality in public meeting was duly given on the 30th day of May, 1903, and the Municipal Council authorised to execute this Agreement.

No 17—1903. Now Therefore these Presents witness that it has been agreed between the parties as follows :—

First: The Municipality shall consent to and approve of the Bill as printed subject to the introduction in Select Committee of certain amendments which have been separately agreed upon, and the Promoters of the Bill shall apply to the Select Committee thereon for leave to call a witness or witnesses authorised to give evidence, and to give the final assent of the Municipality to the Bill after the amendments agreed upon shall have been introduced in such form and subject to such modification as the Select Committee may approve.

Second: The Syndicate shall introduce the Bill during the 1903 Session of the present Parliament, and should it fail to obtain the necessary Parliamentary authority during such session, shall introduce the Bill at latest during the next then ensuing session of Parliament.

Third: The Syndicate shall float and register in this Colony not later than one year from the date of promulgation of the Act, a Company or Companies with sufficient working capital to carry out the undertakings authorised by the Act, and shall, within such period of one year, assign to the Company or Companies all its rights and powers under the said Act.

Fourth: The Syndicate undertakes that the Company will supply, and the Municipality agree to utilise, electric energy sufficient to light not less than twenty (20) lamps of not less than twenty candle power each for the purpose of street lighting, on sites to be selected by the Municipality, within reasonable reach of the Syndicate's main supply wires or feeder cables.

Fifth:—The Syndicate agree that the Company will supply electrical energy required by the Municipality for street lighting during an average of not less than 19 days per calendar month, to be turned on not later than 30 minutes after sunset, and to be switched off at midnight, at the minimum rate charged by the Company; but in no case to exceed the rate of 9d. per lamp of 20 candle power for each street light.

Sixth:—If the Municipality requisition for street lighting on any night when it is not ordinarily provided, the Syndicate undertakes that the Company will supply same upon receiving a not less than six hours' notice of such requirement.

Seventh:—The Municipality shall be entitled at any time after the expiration of ten years from the date of this Contract by notice in writing to the Company to determine that part of this Agreement which provides

that the Municipality shall be bound to utilise electrical energy for street lamps as above. No. 15—1903.

Eighth :—The Syndicate shall, during the months of October, November, December, January, February and March, except during or soon after rain, water the surface of the roadway between the rails and for three feet on either side at least once in the morning and once in the afternoon; and shall also water the like surface in dry weather during the months of April and September if called upon to do so by the Municipality, upon six hours' notice. The Municipality shall supply water for the purpose of watering the streets at stand pipes placed at convenient points.

Ninth :—The Company shall have the exclusive right of using the poles, wires, cages and other apparatus erected by them for the purpose of supplying electrical power for lighting, traction, telephonic or other purposes, but the Municipality shall be entitled free of charge to use the poles for the affixing of notices or to carry telephone or other wires, provided that the poles be not materially damaged thereby.

Tenth :—Any difference, dispute or question arising between the Syndicate and Municipality in connection with this Agreement or regarding the meaning or intention thereof, shall be determined by arbitration in terms of the Arbitration Law at that time in force.

THUS done, contracted and agreed and passed at Somerset West Strand, this 13th day of June, 1903.

In Witness whereof the Seal of the Municipality has been affixed to duplicate copies hereof, together with the signature of the Chairman of the Syndicate.

The Seal of the Municipality of Somerset West Strand was hereunto affixed this — day of June, 1903, pursuant to Resolution of the Council this day passed.

As Witnesses :

C. J. VAN DER MERWE,
S. P. DENYSSEN.

Somerset West Strand

Seal.

Municipality.

In our presence,

J. J. MICHAU, Mayor.

W. B. SHAW, Jr., Town Clerk.

The Seal of the Lourens River Estate Limited was hereunto affixed this 15th day of June, 1903, pursuant to resolution of the Board of Directors passed on the said date.

In our presence,

The Lourens River

Seal.

Estates, Limited.

M. MOLONY,
Chairman.

V. KOTZE,
Secretary.

No. 16.—1903.]

[September 2, 1903.

ACT

To Provide for permitting the Increase of the
Number of Members of Village Management
Boards.

[Assented to 1st September, 1903.]

Preamble.

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

R.M. to call meeting of voters to consider question of increasing number of members of Board.

1. Upon the request to that effect of the Board of Management of any Village or community under the "Villages Management Act, 1881," the Resident Magistrate of the District in which such Village or Community is situated, shall, by notice, call a meeting of those persons entitled to vote for members of the said Board, to consider the question of whether the number of members of such Board shall be increased to five.

Publication of Notice.

2. The said notice shall be published in some newspaper circulating in the District, shall be posted on the door of the Court of the Resident Magistrate and in such other prominent place as the Resident Magistrate may deem expedient, and shall set forth the place, day and hour of the said meeting, provided that not less than seven days shall elapse between the date of such publication and the day of the meeting.

Resolution by majority of voters present to be transmitted to Minister.

3. If at the said meeting a resolution in favour of such increase shall be passed by the majority of such voters present, the said resolution shall be transmitted by the Resident Magistrate to the Minister.

Publication of Notice authorising increase; effect of

4. Upon the receipt of any such resolution duly carried as aforesaid it shall be lawful for the Governor by notice in the *Gazette* to authorise the increase in the number of members of the said Board, from three to five, and at all meetings of such Boards of five members, three shall form a quorum: and for the purposes of the first annual election after such notice and of all subsequent elections after the said first annual election, the "Villages Management Act, 1881" shall be read and construed as if in section seven thereof the word "five" were substituted for the word "three."

Short title.

5. This Act may be cited for all purposes as the "Village Management Boards' Permissive Increase Act, 1903."

No. 1—1904.]

[March 25, 1904.]

ACT

To Apply a Sum not exceeding Six Thousand Two Hundred and Ninety-Four Pounds, Eighteen Shillings and Eight Pence Sterling for the purpose of meeting and covering certain unauthorised expenditure.

[Assented to 24th March, 1904.]

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

Preamble.

1. The public revenue of this Colony is hereby charged with the sum not exceeding Six Thousand Two Hundred and Ninety-Four Pounds Eighteen Shillings and Eightpence sterling, to meet unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended the 30th June, 1902, described on page 265 of the "Report of the Controller and Auditor General, with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope for the financial year 1901—1902." (G.1—1903.)

Revenue charged with £6,294 18s. 8d. unauthorised expenditure ended June, 1902.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1904."

Short Title

No. 2—1904.]

[March 23, 1904.]

ACT

To Enable the Governor to raise loans temporarily by means of Debentures or Treasury Bills in anticipation of the raising of permanent loans authorized by Acts of Parliament.

[Assented to 23rd March, 1904.]

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

Preamble.

1. Notwithstanding any law to the contrary, it shall be lawful for the Governor to raise and take up temporarily upon Debentures or Treasury Bills, to be issued in this Colony or in England, all or any of the loans authorized by the Acts mentioned in the Schedule hereunto annexed to the extent therein set forth, but stating on each such Debenture or Treasury Bill specifically under what Act of Parliament the said Debenture or Bill is issued.

Raising of loans temporarily upon Debentures or Treasury Bills.

2. Such Debentures or Treasury Bills shall bear interest at a rate to be agreed upon by the Governor, and the Capital Sum

Interest.

No. 2—1904.

- and Interest shall be charged and chargeable on and payable out of the general revenue of the Colony.
- Date of payment. 3. Such Debentures or Treasury Bills shall be payable at par at such time or times, or after such notice, and at such places as the Governor shall, before issue thereof, fix and determine.
- Agent for signing Debentures or Bills. 4. It shall be lawful for the said Governor, acting by and with the advice of the Executive Council, to employ and appoint a duly accredited agent or agents of this Colony, to sign the said Debentures or Treasury Bills to be issued by them to persons taking the same under the terms of this Act; and the said Debentures or Treasury Bills signed as aforesaid shall be as fully and effectually charged on the revenues of this Colony as if the same had been signed by all or any of the executive officers of the Government for the time being by command of the Governor acting as aforesaid.
- Saving clause as to permanent loans. 5. Nothing in the terms of this Act contained shall be taken to prevent the Governor from hereafter raising permanent loans under the Acts referred to, subject only to the proviso that any Debentures or Treasury Bills raised under the provisions of those Acts and at that time outstanding shall form a first charge upon the proceeds of such permanent loans when raised.
- Return to be laid before Parliament. 6. An account showing the amounts of all such Debentures or Treasury Bills issued under the authority of this Act and the moneys realized thereby and the expenditure thereof, or of so much as shall have been expended, vouched by the Controller and Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof.
- General Loans Acts, 1881, 1883, 1888, not to apply. 7. The provisions of the Cape of Good Hope General Loans Acts, 1881, 1883 and 1888 shall not apply to temporary loans raised under this Act.
- Short title. 8. This Act may be cited as "The Temporary Loans Act, 1904."

Schedule.

SCHEDULE.

Act 40 of 1898	...	...	...	£10,850
„ 19 „ 1900	...	...	...	659,839
„ 17 „ 1902	...	...	...	1,250,000
„ 19 „ „	...	...	...	142,462
„ 31 „ „	...	...	...	278,000
„ 38 „ „	...	...	...	2,240,397
„ 42 „ „	...	...	...	985,900
Harbour Boards .-				
Act 20 of 1900	...	...	...	39
„ 33 „ 1902	...	...	...	1,396,300

£6,963,787

No. 3—1904.]

[March 26, 1904.]

ACT

To Indemnify the Governor and others in respect of the issue of certain Warrants and Advances of Public Money made thereunder.

[Assented to 25th March, 1904].

WHEREAS by reason of Parliament having been prorogued and subsequently dissolved before the passing of the Appropriation Act, 1903, Parliamentary authority was not granted for the issue from the Exchequer of sufficient public money to meet the ordinary and annually recurring expenditure necessary for carrying on the Public Service of the Colony during the period 1st September, 1903, to 29th February, 1904; And whereas the Governor, acting upon advice of the Executive Council, issued certain warrants addressed to the Assistant Treasurer, in his capacity as Paymaster-General, authorizing him to make temporary advances to meet such expenditure; And whereas it is necessary to indemnify the Governor and all other persons concerned in the issue or acting in pursuance of the warrants aforesaid and all persons acting under directions relative to the said warrants, which warrants the Governor was not authorized by Law to issue and to provide for the expenditure incurred thereunder during the said period: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The Governor and all other persons concerned in the issue of the Warrants summarised in the Schedule hereunto annexed and all persons in good faith acting in pursuance of or under directions relative to such warrants, and all persons in good faith concerned in the appropriating or expending of the sums of money set forth in the said Schedule shall be and are hereby indemnified for and on account of the same as fully and effectually as if the said warrants had been authorized by law and duly and legally issued.

Governor is indemnified in respect of certain Warrants illegally issued.

2. This Act may be cited as the "Financial Indemnity Act, 1904."

Short Title.

SCHEDULE.

Schedule.

Governor's Special Warrants issued to meet Expenditure during the period 1st September, 1903, to 29th February, 1904.

Months.	Amount.
Financial Year 1903-1904.	
September and October, 1903	£1,500,000
November and December, 1903	1,600,000
January and February, 1904	1,900,000
Total	£5,000,000

No. 4—1904.]

[March 26, 1904.]

ACT

To Apply a sum not exceeding Two Million Pounds sterling towards the service of the year ending 30th June, 1904.

[Assented to 25th March, 1904.]

- Preamble. BE it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—
- Revenue charged with £2,000,000 towards service of year ending 30th June, 1904. 1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending 30th June, 1904, with a sum not exceeding Two Million pounds sterling (£2,000,000), which sum shall be applied towards the service of the said year in conformity with the Estimates of the Expenditure for the year ended the 30th June, 1903, which have been approved of by Parliament.
- Short Title. 2. This Act may be cited for all purposes as “The Appropriation (part 1903-'04) Act, 1904.”

No. 5—1904.]

[April 28, 1904.]

ACT

do. To Provide for Additional Representation in Parliament.

[Assented to 27th April, 1904.]

- Preamble. BE it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—
- Repeals. 1. All laws inconsistent with or repugnant to the provisions of this Act are, to the extent to which they are so inconsistent or repugnant, hereby repealed.
- Additional representation for certain Electoral Provinces. 2. The electors in and for each of the Electoral Provinces set forth in the First Schedule hereto shall, from and after the promulgation of this Act, be entitled to return to the Legislative Council one member in addition to the members at present returnable by such Electoral Provinces respectively.
- Additional representatives for certain Electoral Divisions. 3. From and after the promulgation of this Act the electors in and for each of the Electoral Divisions set forth in the Second Schedule hereto shall be entitled to return to the House of Assembly one member in addition to the members at present returnable by them respectively, and the electors in and for each of the Electoral Divisions set forth in the Third Schedule hereto shall be entitled to return two members in addition to the members at present returnable by them respectively.

4. The elections for the additional members herein provided for shall take place as soon as may be after the promulgation of this Act, and all and several the provisions of the law relating to bye-elections shall, *mutatis mutandis*, apply thereto.

5. This Act may be cited as the "Additional Parliamentary Representation Act, 1904."

Time within which additional members of Parliament are to be returned.
Short Title.

FIRST SCHEDULE.

First Schedule.

ELECTORAL PROVINCES.

Western Electoral Province.
South Eastern Electoral Province.
Eastern Electoral Province.

SECOND SCHEDULE.

Second Schedule.

ELECTORAL DIVISIONS.

East London.
George.
King William's Town.
Paarl.
Oudtshoorn.
Port Elizabeth.
Queen's Town.
Uitenhage.
Woodstock.
Wynberg.

THIRD SCHEDULE.

Third Schedule.

ELECTORAL DIVISIONS.

Cape Town.

No. 6—1904.]

[May 10, 1904.

ACT

To apply a Sum of Money for the Service of the Year ending the 30th June, 1904.

[Assented to 7th May, 1904.]

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

Preamble

1. The Public Revenue of the Colony is hereby charged towards the service of the year ending the 30th June, 1904, with a sum of Five Millions Six Hundred and Seventy-one Thousand

Public Revenue to be charged with £5,671,816.

No. 6—1904.

Eight Hundred and Sixteen Pounds sterling, in addition to the sum of Three Millions Five Hundred Thousand Pounds sterling, provided for by Acts No. 3 of 1903 and No. 4 of 1904.

How to be applied.

2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto, and more particularly specified and set forth in the Estimates and Supplementary Estimates of the Expenditure [G. No. 18 and 69, 1904, Second Print] for the year ending 30th June, 1904, with the notes of such Estimates, as submitted to both Houses of Parliament, and as amended by the Schedule of Withdrawals [G. No. 30, '04].

Not to be applied except as granted.

3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act, and the aforesaid Schedule, Estimates, Supplementary Estimates, and Withdrawals.

Short Title.

4. This Act may be cited for all purposes as "The 1903-'04 Appropriation Act, 1904."

Schedule.

SCHEDULE.

Summary of Recapitulations of Estimates, Supplementary Estimates and Schedule of Amounts withdrawn.	Establishments.	Service exclusive of Establishments.	Total.	Required to be provided for.
I. Ministerial Department of Prime Minister ...	£ 384,284	£ 228,411	£ 612,695	£ 607,445
II. Ministerial Department of Colonial Secretary	272,699	759,183	1,031,882	1,024,464
III. Ministerial Department of Treasurer ...	640,665	2,270,500	2,911,165	1,282,157
IV. Ministerial Department of Attorney-General ..	841,558	254,355	1,095,913	1,076,913
V. Ministerial Department of Commissioner of Public Works ...	488,748	4,353,701	4,842,449	4,840,949
VI. Ministerial Department of Secretary for Agriculture ...	159,190	182,198	341,388	339,888
Grand Totals ...	2,787,144	8,048,348	10,835,492	9,171,816
Less amount provided for by Acts No. 3 of 1903 and Act No. 4 of 1904 ...	...	...	...	3,500,000
Total required to be voted ...	...	...	...	5,671,816

No. 7—1904.]

[May 27, 1904.

ACT

To Empower the Municipal Council of Kalk Bay
to supply electricity for lighting and other
purposes within the Municipality.

[Assented to 25th May, 1904].

WHEREAS it is expedient that the Kalk Bay Municipal Council should be granted power to supply electricity for the purpose of lighting, heating, or applying power to public buildings, places of worship, places of entertainment, private residences and grounds, shops, warehouses, offices and such like, and for domestic and industrial purposes and for supplying consumers generally with electricity except for telegraphs, telephones, or other electric signals, or for electric traction, within the Municipality of Kalk Bay.

Preamble.

And whereas a plan has been lodged with the Clerk of the House of Assembly showing the area within which the said supply is to be furnished.

And whereas it is expedient that the said Council should have power and authority to borrow, subject to the premises of the Municipal Act of 1882, such sum of money as may be necessary for the said purposes.

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

1. The Kalk Bay Municipal Council shall have power and authority, subject to the provisions of the Municipal Act, 1882, from time to time to borrow such sum of money as may be required for the purpose of supplying electricity for the uses and purposes specified in section three hereof, within the area of the Municipality as shown upon the plan lodged as aforesaid, in accordance with the provisions of this Act, and the "Electric Lighting and Power Act, 1895."

Borrowing powers.

2. The necessary costs, charges and expenses of obtaining this Act, and of obtaining suitable plans, drawings, designs and specifications, and all costs of raising the loan or other expenses incurred in carrying out the provisions of this Act shall be paid by the said Council out of the moneys so to be borrowed as aforesaid.

Costs and expenses.

3. The purposes for which the supply or use of electricity above mentioned is to be applied are as follows: for lighting, heating, or the application of power to public buildings, works and places, places of worship, places of entertainment, private residences and grounds, shops, warehouses, offices and such like and for domestic and industrial purposes and for supplying consumers generally except for telegraphs, telephones, or other

Purposes of supply.

electric signals, or for electric traction, within the area aforementioned.

Laying of wires. 4. The said Council shall have full power and authority to do all things necessary for the laying of main and branch wires, in lines of pipes, to convey the electric current to be used for the purposes hereinbefore set forth, underneath the streets of the Municipality, and to connect the said wires, lines or pipes with any premises, at the request of the owners or occupiers thereof, in accordance with the Regulations published under the "Electric Lighting and Power Act, 1895," and such bye-laws as are in the sixth section hereinafter referred to.

Area of operations. Agreements for supply. 5. The said Council shall have full power and authority subject to the provisions of the "Electric Lighting and Power Act, 1895," to enter into agreements with any person, company or public body, for the supply of electricity to such places or premises and for such purposes as are hereinbefore set forth, and shall make charges for the said supply, in accordance with a tariff to be framed by the said Council with the approval of the Governor.

Charges. 6. The said supply of electricity shall be furnished in all respects in accordance with Part I of the Regulations framed under the provisions of the "Electric Lighting and Power Act, 1895," styled Regulations for securing the safety of the public in so far as the said Regulations are applicable to the said supply and in accordance with any additional bye-laws which the said Council may from time to time publish with the approval of the Governor, for securing the safety of the public, and regulating the supply of electricity.

Regulations for Public Safety.

General Powers.

7. The said Council may, subject to and in accordance with the powers and restrictions of this Act and of the aforesaid plan and of the "Electric Lighting and Power Act, 1895," and the Regulations made thereunder, and for the purpose of supplying electricity as aforesaid, acquire such lands by agreement, construct such works and enter into such contracts and generally do all such acts and things as may be necessary and incidental to such supply.

Power to alter position of pipes, lines and wires.

8. Subject to the provisions of this Act the said Council may alter the position of any pipes, lines or wires being under any street or place which may interfere with the exercise of their powers under this Act, on previously making or securing such compensation to the owner of such pipes, lines or wires, and on complying with such conditions as to the mode of making such alterations as may before the commencement of such alterations be agreed upon between the Council and the owners, or in case of difference as may be provided by arbitration.

Restriction on breaking up of private

9. Nothing in this Act shall authorise the said Council to break up any street or place which is not repairable by the said

Council, without the consent of the person, body or Company by whom such street or place is repairable, nor shall anything in this Act contained authorise or empower the said Council to lay down or place any wire, line or pipe or other works into, through or against any building or in any land or place not the property of or under the control of the Council without the consent of the owners and occupiers thereof.

streets and entering on private lands without consent.

10. In the exercise of the powers in relation to the execution of works given under this Act, the said Council shall cause as little detriment and inconvenience and do as little damage as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount and application of such compensation in case of difference to be determined by arbitration.

Compensation for damage.

11. If any Company or person neglect to pay any charge for electricity or any other sum due to the said Council in respect of supply of electricity, the Council may cut off such supply and for that purpose may cut or disconnect any electric wire, line or other work through which electricity may be supplied, and may until such charge or other sum together with any expenses incurred by the Council in cutting off such supply of electricity are fully paid, but no longer, discontinue the supply of electricity to such Company or person.

Recovery of charges, &c.

12. The said Council shall use every endeavour to furnish an efficient electric supply to every person or company within the limits of the Municipality, applying for the same, on compliance by such person or company with all provisions of this Act, and of any regulations lawfully in force.

Supply of electricity within Municipal limits.

13. Any person who maliciously or fraudulently abstracts, causes to be wasted, or diverted, consumes or uses any electricity shall be guilty of theft and punishable accordingly.

Stealing electricity.

14. The word "street" in this Act shall include any public square, court or alley, highway, lane, road, thoroughfare or public passage or place whatsoever.

Interpretation.

15. Any officer appointed for that purpose by the said Council may at all reasonable times enter any premises to which electricity is or has been supplied by the Council in order to inspect the electric wires, lines, meters, accumulators, fittings, works and apparatus for the supply of electricity belonging to the Council, and for the purpose of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required, or where the Council is authorised to take away and cut off the supply of electricity from any premises for the purpose of removing any electric wires, lines, accumulators, fittings, works, or apparatus belonging to the Council, repairing all damage caused by such entry, inspection or removal.

Power to enter lands or premises for ascertaining quantities of electricity consumed or to remove fittings, &c.

4644 THE KALK BAY MUNICIPAL IMPROVEMENT ACT
AMENDMENT ACT, 1904.

No. 7—1904.

Arbitration. 16. The provisions of "The Lands and Arbitration Clauses Act, 1882, and the Arbitrations Act, 1898," shall apply to any arbitration under this Act.

Governor's approval of works and plant. 17. All works and plant erected or installed by the Council, and all other works and plant of a like nature which may be erected, shall be subject to the approval of an officer appointed by the Governor and to such regulations as the Governor may from time to time make in accordance with the regulations for the time being of the Board of Trade of the United Kingdom; and nothing in this Act contained shall exempt the Municipal Council from the provisions of any general Act relating to electric light or power which may hereafter pass during any future Session of Parliament.

Council to be subject to provisions of any general Act. As to Regulations. 18. The said Council shall have full power to do all things authorised by this Act, notwithstanding that the conditions mentioned in the Regulations published under Government Notice No. 627, 1896, framed under the "Electric Lighting and Power Act, 1895," as to compliance with the provisions in connection with the application to Government for authority to supply and use electricity, have not been satisfied within the periods mentioned in the said Regulations.

Special provisions re Railway property. 19. Nothing in this Act shall be construed as entitling the Council to exercise any of the powers conferred by sections four, eight and nine of this Act upon, over or under any land or building being vested in the Colonial Government and appropriated for railway purposes, except with the written consent of the General Manager of Railways first had and obtained under such reasonable conditions and terms as may be imposed by him. All works carried on and things done in pursuance of this Act under, upon or over such Government property shall be carried on and done under the supervision of an officer to be appointed by the General Manager of Railways therefor and at the Council's expense; and the Council shall in addition bear the cost of such supervision.

Short Title. 20. This Act may be cited as "The Kalk Bay Municipal Council Electric Lighting and Power Act, 1904."

No. 8—1904.]

[May 27, 1904.]

ACT

To Amend the Kalk Bay Municipal Improvement Act.

[Assented to 25th May, 1904.]

Preamble. WHEREAS it is expedient to amend the fifteenth section of the Kalk Bay Municipal Improvement Act by correcting a manifest error therein.

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

1. In the fourth line of the said fifteenth section the word “eight” shall be inserted instead of the word “seven,” and the said section shall be and is hereby amended accordingly. Amendment of 15th section of Act No. 26 of 1897.
2. This Act may be cited as “The Kalk Bay Municipal Improvement Act Amendment Act, 1904.” Short Title.

No. 9—1904.]

[May 31, 1904.]

ACT

To Amend the “Bills of Exchange Act, 1893.”

[Assented to 27th May, 1904.]

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

Preamble.

1. For the purposes of the “Bills of Exchange Act, No. 19 of 1893,” the term “non-business days” shall include the day after Christmas Day, and, in case of any two such non-business days, as defined by the said Act and by this Act, falling on one and the same calendar day, the following day shall be a non-business day. Definition of non-business day.

2. This Act shall be read as one with the said Act, and may be cited as the “Bills of Exchange Act Amendment Act, 1904.” Short Title.

No. 10—1904.]

[May 31, 1904.]

ACT

To Amend the South African College Acts, 1878-1879.

[Assented to 27th May, 1904.]

WHEREAS it is expedient to amend the South African College Acts, 1878-1879, and to make provision for representation on the South African College Council of local bodies contributing to the funds of the said College.

Preamble.

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

1. (a) “Local body” shall for the purpose of this Act mean any divisional council, municipality, city corporation, town council or village management board. Definition.
- (b) “Commissioners” shall mean the duly elected members of any such local body.

4646 PORT ELIZABETH MUNICIPAL SINKING FUND ACT, 1904.

No. 10—1904.

Increase of
S.A. College
Council Mem-
bership.

2. Notwithstanding the provisions of the third or any other section of Act No. 15 of 1878 or of Act No. 12 of 1879, the number of the members of the South African College Council may be increased beyond nine by the addition of any member duly nominated by a local body that shall have contributed to the extent of one thousand five hundred pounds sterling per annum to the South African College.

And nomi-
nate members
on College
Council.

3. Every local body making an annual contribution to the South African College of not less than one thousand five hundred pounds sterling shall be entitled to nominate one of its commissioners to be a member of the South African College Council in the manner prescribed in the third section of Act No. 15 of 1878.

Retirement
and re-elect-
ion.

4. Every member of the South African College Council representing a local body shall, notwithstanding the provisions of the third and sixth sections of Act No. 15 of 1878, be nominated for one year only, and shall vacate his seat on the thirtieth day of September in each year, but he shall be eligible for re-nomination, and likewise shall vacate his seat upon his ceasing to be a commissioner of such local body, whereupon a successor shall be nominated in his stead, and shall take his place.

Ordinary
rules apply.

5. Save in so far as inconsistent herewith the provisions of Act 15 of 1878 and Act 12 of 1879 shall apply to representatives of local bodies having seats on the South African College Council.

Short Title.

6. This Act may be cited for all purposes as the "South African College Act, 1904."

No. 11—1904.]

[May 31, 1904.]

ACT

To Authorise and enable the Town Council of Port Elizabeth to adopt a uniform system for the establishment of a Sinking Fund for the repayment of moneys borrowed from time to time with the sanction of ratepayers under powers conferred upon the said Council by Act No. 27 of 1897.

[Assented to 27th May, 1904.]

Preamble.

WHEREAS the Town Council has by Act No. 27 of 1897 power from time to time to borrow and raise money, after having received the sanction of the ratepayers in manner prescribed by the said Act ;

And Whereas the said Council has already received the sanction of the ratepayers to borrow certain moneys under the

said Act, and may in future receive the necessary authority to borrow further sums of money thereunder ;

And whereas it is desirable that the said Council should be authorised to establish a uniform system for the provision of a Sinking Fund for the payment of all moneys from time to time so borrowed and for the gradual extinction of debts so incurred :

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

1. The Town Council of Port Elizabeth is hereby authorised and bound to set aside every year a sum of not less than one quarter ($\frac{1}{4}$) of a pound per centum on the total amount of all moneys that may have been borrowed before the 31st day of December in the preceding year, and that shall then be outstanding, which sum so set aside, together with all interest or income derived therefrom, shall form a Sinking Fund, and be annually invested, until the time shall arrive when any portion of such total amount is to be redeemed or paid off, when so much of the said Sinking Fund as shall be required to pay such portion shall be withdrawn from investment and applied to or towards the payment thereof, and such Sinking Fund shall be maintained and invested until the whole of all moneys so borrowed, together with interest thereon, shall have been paid, provided that if on the 31st day of December in any year the total amount of moneys so borrowed and outstanding shall not exceed £100,000, then in the following year the Council may resolve to suspend during such following year the operation of this clause as to setting aside such sum as aforesaid, and provided further that if at any time the amount of such Sinking Fund shall be equal to or exceed the total amount of such indebtedness then outstanding, the annual sum hereinbefore provided to be set aside shall not be so set aside unless or until the amount of indebtedness shall again exceed the amount of such Sinking Fund, and in the meantime the interest or income derived from such Sinking Fund shall be paid into the general revenue of the Municipality.

Formation of a Sinking Fund.

2. The said Council shall, subject to the provisions of the said Act, have power to enter into such contracts with the lenders of the money as to payment of interest and repayment of capital as may be mutually agreed upon between the said lenders and the said Council provided that such contract shall not be inconsistent with any resolution of ratepayers.

Council may enter into contracts with lenders of money for payment of interest and repayment of capital.

3. The Sinking Fund provided for by this Act shall take the place of the fund provided for by section 171 of the said Act, and anything in any law affecting the said Council which may be in conflict with or repugnant to any of the provisions of this Act

Sinking Fund provided by Section 171 of Act 27, of 1897, suspended.

4648 THE OUDTSHOORN MUNICIPALITY WATER SUPPLY
AMENDMENT ACT, 1904.

No. 11—1904.

is hereby repealed, and shall no longer have the force of law, except in so far as loans already raised are concerned including specially a certain loan authorised by Act No. 25 of 1902, which Act shall be unaffected by the passing of this Act.

Saving Clause

4. Nothing in this Act contained shall affect the provisions of section 116 of the Act No. 27 of 1897.

Short Title.

5. This Act may be cited as the "Port Elizabeth Municipal Sinking Fund Act, 1904."

No. 12—1904.]

[May 31, 1904.

ACT

To Amend the Oudtshoorn Municipality Water
Supply Act 1898.

[Assented to 27th May, 1904.]

Preamble.

WHEREAS it is expedient that the Council of the Oudtshoorn Municipality should be empowered to borrow a further sum of money not exceeding twenty thousand pounds sterling in connection with and for the purpose of completing and extending within the Municipality the supply and distribution of water authorised by "The Oudtshoorn Municipal Water Supply Act, 1898," and for the purpose of repayment of the amount already expended upon the said supply and distribution over and above the sum of seventy-five thousand pounds sterling already authorised by the said Act, and by Act No. 9, 1902, amending the same.

And whereas it is expedient that the said Council should be empowered to extend and complete the scheme for the supply and distribution of water authorised by the said Acts within the Municipality, by the laying of further pipes, mains, and the like works and the appurtenances necessary thereto :

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

Loan
Authorised.

1. The Council of the Oudtshoorn Municipality is hereby authorised and empowered to take up on loan by way of debentures or otherwise a sum or sums not exceeding twenty thousand pounds sterling for the purpose of completing and extending within the said Municipality the scheme for the supply and distribution of water authorised by Act No. 14 of 1898, as amended by Act No. 9 of 1899 and Act No. 9 of 1902, and by this Act ; and also for the purpose of the repayment of such amount as has been already expended in connection with the said scheme over and above the amount of seventy-five thousand pounds sterling already authorised by the said Acts.

Loan to be
subject to
Public Bodies'
Debt Act,
1867.

2. The aforesaid sum or sums authorised to be borrowed under this Act, shall, when borrowed, be deemed and taken to be a debt or debts within the meaning of the Public Bodies' Debts

Acts 1867 : provided that it shall be lawful for the said Council, and it is hereby empowered to raise the said sum or sums or any portion thereof by way of loan from Government under the provisions of Act No. 28 of 1879 and Act No. 24 of 1897 should the said Council so determine.

Methods of raising Loan Authorised.

3. The said Council is hereby authorised and empowered to extend and complete the scheme for the supply and distribution of water within the limits of the Municipality by the laying of such further pipes, mains, and the like works, and the appurtenances necessary thereto, as it may from time to time determine.

Extension of scheme for water supply authorised.

4. All the provisions of Act No. 14 of 1898, Act No. 9 of 1899, and Act No. 9 of 1902, shall refer and be applicable to the works authorised to be constructed in connection with the completion and extension of the said scheme for the supply and distribution of water, under this Act ; and this Act shall be read as one with the aforesaid Acts.

Provisions of previous Acts made applicable.

5. Nothing in this Act contained shall be taken to restrict or interfere with the powers of the said Council to levy any other rate or tax which is provided for by the said Act No. 14 of 1898, by Act No. 9 of 1902 or by any other law, but the powers conferred by this Act shall be exercisable in addition thereto.

Act not to affect borrowing powers under other Acts.

6. This Act may be cited as "The Oudtshoorn Municipality Water Supply Amendment Act, 1904."

Short Title.

No. 13—1904.]

[May 31, 1904.

ACT

To Vest in and confer upon the Council of the Municipality of Aliwal North certain rights, powers and privileges for the purpose of securing and providing a supply of water and electricity for the use and benefit of the inhabitants of the said Municipality.

[Assented to 27th May, 1904.]

WHEREAS it is desirable and expedient that the inhabitants of the Town of Aliwal North should be supplied with good water ;

Preamble.

And whereas surveys have been made and the Municipal Council of Aliwal North are advised that such supply can be obtained from the Orange River at or near a point near the Mill known as Greathead's Mill, between the said Mill and the junction point of the Kraai and Orange Rivers, within the Division of Aliwal North ;

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

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

And whereas it is expedient that the said Council be authorised to levy special rates for the purpose of defraying the interest on all sums borrowed in connection with or for the purpose of the works aforesaid, and for the works for the supply of electricity aftermentioned, and for providing a sinking fund for the redemption of the sums borrowed, and for the upkeep and maintenance of the said works ;

And whereas it is desirable and expedient that the Council be authorised and granted power to construct, equip and maintain works for the supply of electricity and to supply such for the purposes of lighting, heating and applying power to public buildings, places and streets, places of worship, places of entertainment, private residences and grounds, shops, warehouses, offices and such like and for domestic and industrial purposes and for supplying consumers generally with electricity, except for telegraphs, telephones or other electric signals, or for electric traction, within the Municipality of Aliwal North ;

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

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

And whereas plans and sections of the proposed undertakings have been lodged with the Clerk of the House of Assembly and with the Civil Commissioner of the Division of Aliwal North ;

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

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

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

2. The said Council shall be empowered to take, intercept, dam, impound, divert, appropriate and convey from the Orange River at or as near as practicable to a point near the Mill known as Greathead's Mill, between the said Mill and the junction point of the Kraai and Orange Rivers, in the Division of Aliwal North, such a supply of water as the said Council may from time to time require, and may from thence convey such water by a line of pipes or otherwise along the route or within the limits of deviation shewn on the said plan over, under or across the Crown Land known as the Commonage, along the extension of Queen's Terrace Street and Queen's Terrace Street, across Market Square, along Somerset Road, across Municipal Land to or as near as practicable to the terminus shewn on such plan, which terminus is situate partly on Municipal Land and partly on the Crown Land known as the Commonage, or within the limits of deviation thereon provided that if such taking, intercepting, damming, impounding, diversion, appropriation or conveyance shall deprive any person of any right of or to any water now vested in him or in any way shall interfere with or lessen any such right, such person shall be entitled to compensation; provided further that no person to whom any Government Land shall be sold or leased after the passing of this Act shall thereby acquire any right of or to any water for the interference with or lessening of which by the works authorised under the provisions of this Act he shall be entitled to claim any compensation.

Powers of acquisition, diversion, etc., of water, and position of Waterworks

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

Powers of construction and maintenance.

4. The said Council is hereby empowered to enter upon, occupy, enclose, take and use for the purposes of this Act any Crown land including portion of that part thereof known as the Aliwal North Commonage, in extent about eight acres, and any private lands which may be required for the construction and maintenance of any of the works aforesaid and of the works for the supply of electricity aftermentioned or for the protection of the source of the said water supply or for the laying down of pipes and other appliances or works for the protection, increase or improvement of the said water supply, and may enter into agreements for the purchase or hire of such lands or

Powers of entry upon and taking of Crown Lands and private lands; powers of purchase, hire agreements, etc.

portions thereof, or may take, carry away or use for the purposes of the said works any stone, clay, gravel or other material requisite for carrying out the said works and may break up or excavate any land for the purpose of constructing, laying down, repairing, inspecting, maintaining or removing any reservoir or reservoirs, pipe or pipes or other works whatsoever, and may either compensate the owner or owners of such private lands or enter into any contract relative to obtaining such lands, together with the water rights, if any, appertaining thereto, or materials, or for the laying down of any pipe or pipes or other works upon such terms and conditions as may be or have been mutually agreed upon.

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

5. For the purpose of the exercise of the powers in the immediately preceding section conferred, the provisions of "The Lands and Arbitrations Clauses Act, 1882," shall apply.

Powers to lay down pipes, etc., along public ways.

6. The said Council is hereby further empowered beyond as well as within the limits of the municipality of Aliwal North to lay down pipes or construct conduits under or along, and to attach hydrants upon, along and in any public road, street, thoroughfare, lane, square or open or public place, or any ground set apart in the diagram or conditions of sale of any sale of land as a road, street, thoroughfare, lane, square or open or public place, without making or being liable to make any compensation.

Authority to construct lines of telegraph and telephone.

7. The said Council is hereby further authorised and empowered to construct, maintain and work for the purposes of the said waterworks and works for the supply of electricity and for no other purposes, telegraph and telephone lines or either of them along or near the said line of works, subject to the provisions of Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs," or any law amending or extending the same, and to any regulations from time to time made under the provisions of such Acts, and may, in connection therewith, if they deem fit, use electric power supplied by the electric works aftermentioned.

Rights of access.

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

Power to contract.

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

10. Any person who shall wilfully and maliciously injure, damage, obstruct or interrupt any building, erection, conduit, reservoir, dam or watercourse, drain, ditch, pipe or pipes, or other work or works, or shall similarly obstruct, hinder or prevent the forming, constructing, completing or maintaining the works contemplated by this Act or any of them, shall, upon conviction, be liable for each offence to a fine not exceeding one hundred pounds sterling, or to be imprisoned with or without hard labour for any period not exceeding six calendar months, or to both such fine and imprisonment: Provided that nothing in this section contained shall be held or taken to exempt such person from any civil or criminal liability for any of the aforesaid acts to which he could have been subject if this Act had not been passed, but no person shall be prosecuted criminally both under this Act and any other law, for, or in regard to one and the same act.

Penalties for injuring Council's property and works.

11. Any person who shall bathe or wash in any dam or reservoir belonging to the said Council, or in any stream flowing into such dam or reservoir by means of any watercourse constructed by the Council, or shall wash, throw, or cause to enter therein any dog or other animal, or shall place or throw any rubbish, dirt or filth or other noisome thing in any such dam or reservoir or stream, or wash or cleanse therein any wool, leather or skin of any animal, or any clothes or other thing whatsoever, shall, for every offence, be liable to a fine not exceeding five pounds sterling, and in default of the payment of such fine, to be imprisoned with or without hard labour for any period not exceeding twenty-one days.

Penalties for defiling water.

12. The offences defined in the two last preceding sections of this Act may be prosecuted in the Court of the Resident Magistrate of Aliwal North.

Offences, how prosecuted.

13. All water secured or obtained by the said Council under the provisions of this Act may be distributed or divided direct from the works near the Orange River, or may be conducted to flow into and be collected and stored in such reservoir or reservoirs as the said Council may erect or construct on the aforesaid Commonage or elsewhere for the purpose of being thence distributed or divided in pursuance of the provisions of this Act.

Provision for service reservoir.

14. In order to pay the interest and instalments of capital hereinafter mentioned, and to provide for all claims arising by reason of any loan or loans raised or to be raised or money borrowed or to be borrowed for the purposes of the said water-works and of the works for the supply of electricity hereinafter mentioned and for the maintenance and upkeep of the said works for the supply of water and electricity, the Council shall be empowered to impose, levy and collect a sufficient annual rate or assessment over and above what the said Council is already empowered to impose and levy upon the immovable property within

Power to levy rate for payment of interest and principal of loan and for maintenance of water and electric works

the limits of the Municipality; and every rate or assessment so imposed and made by the said Council shall be of the same force and effect and be levied in the same manner as if it had been a rate imposed under the provisions of the Municipal Act, 1882, so far as the same are applicable. And all rates so imposed and assessed under the provisions of this Act shall be and be deemed to be a charge upon the property so assessed, and recoverable against the present or any future owner or occupier thereof: Provided that it shall be lawful for the said Council to apply for the payment of interest or principal or of both interest and principal of the moneys aforesaid any funds or moneys coming to the said Council from any source whatever and not specially appropriated or required for any other object.

Amounts on which rates shall be levied.

15. The amounts for assessment entered on the assessment roll in force within the Municipality of Aliwal North for each and every year shall be the amounts on which the rate shall be levied for the purposes of this Act so far as the properties included in such assessment roll are concerned, and for all properties not liable to assessment under the provisions of the "Municipal Act, 1882," the value shall be made and determined once every two years by some competent person or persons to be appointed by the said Council: Provided that such valuation shall be open for public inspection at the office of the Municipality for the space of one month prior to the levying of the said annual rate and the said Council shall give notice in one or more newspapers circulating within the Municipality that the same is so open for inspection, and the provisions of Sections 122, 123, and 124 of the said "Municipal Act, 1882," shall apply to the hearing and deciding upon objections to such valuations.

When rates shall become payable.

16. The provisions of sections 127 to 143, both inclusive, of the "Municipal Act, 1882," shall apply to such annual rate.

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

17. In addition to the powers already possessed by the said Council or conferred by the provisions of this Act, it shall be lawful for the said Council, and the said Council is hereby empowered to cause a valuation to be made of all the house property within the Municipality and to levy a tax upon all such property payable by the tenants or occupiers of the said houses, the said tax to be based upon the valuation of such houses, or according to such scale of charges as may be provided by a tariff to be approved of and published by the said Council at least once a week and for a period of not less than one month in one or more newspapers circulating within the Municipality. The said tax shall be payable whether the said houses are or are not in receipt of water supplied by the said Council, and the proceeds thereof shall be applied towards payment of the interest, and other charges and principal sum due arising from the moneys borrowed or to be borrowed for the purposes of the said waterworks:

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

18. The provisions of sections 116 to 124, both inclusive of the Act 45 of 1882, shall, *mutatis mutandis*, apply to the valuation to be made under the provisions of the preceding section of this Act; and the provisions of sections 127 to 143, both inclusive of said Act 45 of 1882 shall, *mutatis mutandis*, apply to the recovery of rates there-under. Provision of sections 116 to 124 and 127 to 143 of Act 45 of 1882 to apply *mutatis mutandis*.

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

20. Nothing in this Act contained shall be taken to restrict or interfere with the powers of the said Council to levy any other rate or tax which is provided for by the said Act No. 45 of 1882, or by any other law, but the powers conferred by this Act shall be exercisable in addition thereto. Act not to affect powers of Council to levy rates or taxes under any other law.

21. The said Council is hereby empowered from time to time to frame and publish a tariff of charges by which the supply of water by private or other water leadings for domestic or other purposes, shall be regulated within the limits of the Municipality, and the payment for such supply shall be in accordance with such tariff, and the said Council may specially agree with any person or body corporate for the supply to such person or body of water upon such special terms as it may be deemed suitable. Tariff of charges.

22. It shall be lawful for the said Council at any meeting to frame from time to time such regulations and bye-laws as they may deem requisite or necessary for the fixing, reading and regulating of meters, the taking out of water-leavings and the Council to frame necessary Regulations and Bye-laws, and to have right to cut off supply upon default of payment, etc.

connection thereof with the distributing mains ; for determining the nature, design and quality of all pipes, taps, fittings and appliances of every description used for the supply of water and all other matters and things connected with the supply of water to the consumer or for regulating the water supply to the town of Aliwal North, or beneficial for the purposes of this Act with special power to stop or cut off the supply of water to any person or persons for any breach of any such regulations and bye-laws in addition to any remedy or remedies given under this or any other Acts, regulation or bye-law, and notwithstanding that payment shall have been made in advance for the supply of such water, and it shall be competent for the Council by any such regulation or bye-law as aforesaid to provide for punishing the contravention thereof by a fine not exceeding £10: and in default of payment to imprisonment for any period prescribed by such regulation not exceeding three months. All such regulations and bye-laws shall be submitted for the approval of the Governor in manner provided for in Act No. 45 of 1882 entitled the "Municipal Act, 1882."

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

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

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

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

Cost of house connection and repairs borne by consumer.

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

Fund for payment of moneys borrowed, etc.

26. In order to provide a fund for the payment of all sums borrowed in connection with and for the purposes of the said

waterworks and of the works for the supply of electricity herein-after mentioned, and for the gradual extinction of the debt or debts thereby incurred there shall be set apart by the said Council out of any moneys which may be at its disposal each half year a sum equal to the interest on the amount of the debt remaining unpaid and the instalment of capital falling to be paid along with such interest, and such sums so set apart shall be applied to the payment of such interest and instalments of capital.

27. The said Council shall keep or cause to be kept separate and distinct accounts of all moneys borrowed for the purposes of the said waterworks and of the works for the supply of electricity hereinafter mentioned, and of all revenue received under this Act, and of all moneys expended or set apart in pursuance of the provisions of this Act, and such accounts shall until all sums borrowed as aforesaid shall have been repaid and the aforesaid debt or debts so incurred, extinguished, be annually prepared up to the 30th June of each year and shall be deposited and be at the Municipal Office for inspection at all reasonable times by any ratepayer of the Municipality.

Accounts to be kept of revenue and expenditure.

28. All moneys borrowed and debts lawfully incurred by the said Council for the purposes of this Act shall be subject to the "Public Bodies Debts Act, 1867."

Moneys borrowed and debts incurred to be subject to "Public Bodies' Debts Act, 1867."

29. The said Council is hereby empowered to construct, maintain and equip within the said Municipality near the Orange River, upon the Crown Land above described a plant or station for generating and supplying electricity as well as all such buildings and other works and appliances as may be by the said Council deemed expedient or necessary for the purpose of generating and supplying electricity for the purposes after mentioned, and to enter upon, occupy, enclose, expropriate, take and use for the purposes of this Act Crown Lands including the aforesaid portion of that part thereof known as the Aliwal North Commonage in extent about eight acres.

Power to construct and equip works.

30. The purposes for which the supply or use of electricity above-mentioned is to be applied are as follows:—For lighting, heating or the application of power to public buildings and places, streets, places of worship, places of entertainment, private residences and grounds, shops, warehouses, offices and such like, and for domestic and industrial purposes and for supplying consumers generally but not for the purpose of telegraphs, telephones or other electric signals, or electric traction within the Municipality of Aliwal North.

Purposes of supply.

31. The said Council shall have full power and authority to do all things necessary for the laying of main and branch wires, in lines of pipes or otherwise to convey the electric current to be used for the purposes hereinbefore set forth, underneath or along the streets, roads, squares and public places of the Municipality

Laying of wires, etc.

or under or along any ground set apart in the diagram or conditions of sale of any sale of land as a street, road, square or public place, or by means of overhead wires, and to connect the said wires, lines or pipes with any premises at the request of the owners or occupiers thereof, in accordance with the regulations published under the "Electric Lighting and Power Act, 1895" and such Bye-laws as are hereinafter referred to.

Agreements
for supply.

32. The said Council shall have full power and authority subject to the provisions of the "Electric Lighting and Power Act, 1895," to enter into agreements with any person, company, or public body for the supply by the Council of electricity to such places or premises and for such purposes as are hereinbefore set forth and shall make charges for the said supply in accordance with a tariff to be passed by the said Council.

Regulations
for public
safety.

33. The said supply of electricity shall be furnished in all respects in accordance with Part I of the Regulations framed under the provisions of the "Electric Lighting and Power Act, 1895" styled Regulations for securing the safety of the public in so far as the said Regulations are applicable to the said supply and consistent with the provisions of this Act and in accordance with any additional bye-laws which the said Council may from time to time publish with the approval of the Governor, for securing the safety of the public, and regulating the supply of electricity.

Authority
to erect posts,
etc., and to
provide for
lighting.

34. The said Council shall have power and authority to erect posts for the conveyance of the electric current in the streets, lanes, squares, courts, alleys, roads, public passages, thoroughfares and public places within the said Municipality as also without payment of compensation in all streets, lanes, squares, courts, alleys, roads, public passages, thoroughfares or public places shown upon the diagram or conditions of sale of any sales of lands as such, and to make provision for the lighting in a suitable manner of the whole streets, squares, courts, alleys, roads, public passages, thoroughfares and public places within the Town of Aliwal North, and to provide, erect and maintain, or grant leave to any person or persons, company or companies, to provide, erect and maintain, under such conditions as the Council may see fit, such a number of lamps, lamp-posts, lamp-irons, and other appliances and appurtenances as may be necessary for that purpose, and to light or cause to be lighted such lamps by electricity; and the said Council is hereby authorised to put or fix or cause to be put or fixed such lamp-posts, lamp-irons, and other appliances and appurtenances upon the sides of the pavements, footways, streets and roads, or upon or against the walks and palisades of buildings on the sides of the streets without being liable to any claim for compensation. And the said Council may also from time to time make such regulations on the aforesaid matter as they shall deem necessary.

35. The said Council may, subject to and in accordance with the powers and restrictions of this Act, and of the "Electric Lighting and Power Act, 1895," and the regulations made thereunder, and for the purpose of supplying electricity as aforesaid, acquire such lands by agreement, construct such works and enter into such contracts and generally do all such acts and things as may be necessary and incidental to such supply.

General Powers.

36. In the exercise of the powers in relation to the execution of works given under this Act, the said Council shall cause as little detriment and inconvenience and do as little damage as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount of such compensation in case of difference to be determined by arbitration in manner provided by "The Lands and Arbitrations Clauses Act, 1882."

Compensation for damage.

37. If any Company or person neglect to pay any charge for electricity or any other sum due to the said Council in respect of the supply of electricity, the Council may cut off such supply, and for that purpose may cut or disconnect any electric wire, line or other work through which electricity may be supplied, and may until such charge or other sum together with any expenses incurred by the Council in cutting off such supply of electricity are fully paid, but no longer, discontinue the supply of electricity to such Company or person.

Recovery of charges, etc.

38. Any person who unlawfully and maliciously cuts or injures any electric wire, line, pipe, or work shall be guilty of an offence against this Act, and shall be liable upon conviction to a fine not exceeding fifty pounds or to be imprisoned with or without hard labour for any period not exceeding six months.

Penalties for injuring works, etc.

39. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity shall be guilty of theft, and punishable accordingly.

Theft of Electricity.

40. The word "street" in this Act shall include any public square, court or alley, highway, lane, road, thoroughfare or public passage or place whatsoever.

Interpretation of word "Street."

41. Any officer appointed for that purpose by the said Council may at all reasonable times enter any premises to which electricity is or has been supplied by the Council in order to inspect the electric wires, lines, meters, accumulators, fittings, work and apparatus for the supply of electricity belonging to the Council, and for the purpose of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required or where the Council is authorised to take away and cut off the supply of electricity from any premises for the purpose of removing any electric wires, lines, accumulators, fittings, works or apparatus belonging to the Council, repairing all damage caused by such entry, inspection or removal.

Power to enter lands or premises for ascertaining quantities of electricity consumed or to remove fittings, etc.

Interest on loans and moneys borrowed to be met and paid as hereinbefore provided.

42. The interest on any loan or loans raised or to be raised or moneys borrowed or to be borrowed for the purposes of the scheme for the supply of electricity as well as the principal sum or sums shall be met and paid in manner hereinbefore provided.

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

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

In interpretation clause.

44. The word "Municipality" used in this Act shall mean the Municipality of Aliwal North, and the terms "the Council" "the said Council" shall mean the Council of the said Municipality, the term "house property" shall mean any landed property with buildings thereon, the term "dwelling-house" shall mean any building used as a residence.

Limitations

45. All and several the provisions of this Act shall be read and construed subject to the following limitations:—

- (1) None of the powers in this Act conferred on the Council shall be exercisable over, under, upon, or in respect of any Crown land other than land defined or described, expressly or by implication in any Act relating to Crown lands as "Waste Crown Land," except with the previous written consent of the Minister, and upon such reasonable terms and conditions as may be imposed by him.
- (2) All works, matters, or things that may be carried out within the boundaries of any property of the Railway Department shall be undertaken by the Department at the expense of the Council, or by the Council under the supervision of an officer to be appointed therefor by the General Manager of Railways, the cost of such supervision to be borne by the Council.
- (3) All buildings, houses, cottages, being the property of the Railway Department and appropriated to railway purposes shall be exempted from all rates imposed under this Act.
- (4) In the event of water being supplied to any buildings, houses, and cottages on such property, the necessary fittings shall be provided and put in by the Railway Department.
- (5) The said Council shall supply the Cape Government Railways Department for railway and domestic purposes with water up to a maximum quantity of fifty thousand gallons daily at the rate of ninepence per one thousand gallons, such water to be delivered in the Council's mains at Aliwal North Station.
- (6) All electric works and plant erected or installed by the Council, and all other works and plant of a like

nature which may be erected shall be subject to the approval of an officer appointed by the Governor, and to such regulations as the Governor may from time to time make in accordance with the regulations for the time being of the Board of Trade of the United Kingdom; and nothing in this Act contained shall exempt the Municipal Council from the provision of any general Acts relating to electric light or power which may hereafter pass during any future Session of Parliament.

- (7) The Council shall have full power to do all things authorised by this Act, notwithstanding that the conditions mentioned in the ninth, tenth and eleventh sections of Part II. of the Regulations contained in Notice No. 627 of 1896, under the "Electric Lighting and Power Act, 1895," as to compliance with the provisions in connection with the application to Government for authority to supply and use electricity, have not been satisfied within the periods mentioned in the said Regulations.

46. This Act may be cited as "The Aliwal North Municipality Water and Electricity Supply Act, 1904." Short Title.

[No. 14—1904.]

[May 31, 1904.]

ACT

To Amend "The Cape Flats and Suburban Railway Syndicate's Act, 1898" (Act No. 17 of 1898) and "The Cape Flats and Suburban Railway Syndicate's Amendment Act, 1900" (Act No. 4 of 1900) and to authorise the extension of the Railway referred to in the said Acts.

[Assented to 27th May, 1904.]

WHEREAS by section 13 of Act No. 17 of 1898, as amended by section 1 of Act No. 4 of 1900, it is provided that the Railway referred to therein shall be completed within two years from the taking effect of Act No. 4 of 1900, and that unless so completed all the powers and authorities conferred upon the Cape Flats and Suburban Railway Syndicate Limited by the above-mentioned Acts shall cease and determine. Preamble.

And whereas the said Railway has been constructed from Maitland to the Eastern boundary of Southfield, the property of the estate of the late Sir Richard Southey, within the Municipality of Wynberg (near Ottery Road), and the said Railway has been opened for traffic and is now being worked

by the Cape Government Railway Department on behalf of the Syndicate, although the said Railway was not completed within the time allowed by Act No. 4 of 1900.

And whereas certain negotiations were in the early part of 1903 carried on between representatives of the Syndicate and the Commissioner of Public Works with a view to the purchase by the Colonial Government of the said Railway, subject however to the condition that the width for the right of way should be increased from 30 feet as provided by section 5 of Act 17 of 1898 to 40 feet, and that the Syndicate should acquire and provide the Government with a strip of land of a minimum width of 40 feet from the present terminus of the line near Ottery Road, Wynberg, to a point on the Simonstown side of the Cape Government Railway Station at Diep River for the purpose of enabling the Government to extend the Railway to Diep River, and on 4th June, 1903, provisional conditions of sale were executed between the Syndicate and the Commissioner of Public Works for the purchase of the Railway and Land as aforesaid, which conditions of sale formed Schedule M of a Bill transmitted to the House of Assembly by his Excellency the Governor, and published in accordance with the Standing Rules and Orders of the House of Assembly, on pages 2146-2151 of the *Gazette* of 19th June, 1903, but owing to the said Bill having not been passed during the then Session of Parliament the said conditions of sale became null and void.

And whereas, in contemplation of the completion of the said purchase by the Government the Syndicate acquired an additional strip of ground, 10 feet wide, from sundry owners of land between Maitland and the present terminus near Ottery Road, Wynberg, and acquired certain lands between the said present terminus and a point near Diep River, for the purpose of the extension by Government as aforesaid.

And whereas it is desired by the said Syndicate to extend the said railway to Diep River at its own cost.

And whereas it is expedient to amend section 5 of Act No. 17 of 1898 so as to provide for an increase of the width of the line, and to provide that the powers conferred upon the Syndicate by Act No. 17 of 1898 and Act No. 4 of 1900 should be perpetuated and deemed to subsist and to have subsisted in favour of the Syndicate and its assigns, and to legalise, ratify and confirm all rights, agreements, acts, matters and things devolving upon, entered into, made or done by the Syndicate which, owing merely to the lapsing of the period provided in section 1 of Act No. 4 of 1900, may be void or illegal, and to indemnify the Syndicate, its directors, officers, servants, or contractors in connection therewith, and in other respects to amend and extend Act No. 17 of 1898, and in particular to authorise and empower

the Syndicate to continue the railway from its present terminus at the eastern boundary of Southfield, Wynberg, to a point of junction at or near Diep River Station, on the Cape Government Railway, and in respect of such extension to confer and impose upon the Syndicate all the powers and obligations (subject to certain modifications and amendment) conferred and imposed by Act No. 17 of 1898, in respect of the line as already constructed.

And whereas plans and sections of the line have been deposited with the Clerk of the House of Assembly.

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

1. In this Act the following terms shall have the following meanings, except where such meaning shall be inconsistent with the context. Meaning of Terms

- (a) "Syndicate" or company shall mean The Cape Flats and Suburban Railway Syndicate, Limited, and shall include its Directors, Agents and such assigns as may be approved of by the Government.
- (b) "Directors" shall mean the Directors of the Cape Flats and Suburban Railway Syndicate, Limited.
- (c) "Act No. 17 of 1898" shall mean "The Cape Flats and Suburban Railway Syndicate's Act, 1898," and "Act No. 4 of 1900" shall mean "The Cape Flats and Suburban Railway Syndicate's Amendment Act, 1900."
- (d) "Commissioner" shall mean the Commissioner of Public Works.
- (e) "Government," "Cape Government," or "Colonial Government" shall mean the Government of the Colony of the Cape of Good Hope.
- (f) "Line" or "Railway" shall include not only the Cape Flats Railway as already constructed and referred to in section 2 of Act No. 17 of 1898, but also the extension thereof to Diep River as hereinafter provided for.

2. Section 5 of Act No. 17 of 1898 is hereby amended, so that sub-section (a) thereof shall read:— Width of Line.

"That the extent of land taken for the Railway shall not exceed in width Forty Cape Feet for the right of way with such additional width required for Stations, Bridges, Culverts, Slopes, Drainage, Approach Roads and Approaches to Stations or Bridges over the Railway at the Crossing of any Divisional, Municipal or other public or private roads or streets or where running along such roads or streets, and all other matters or things which may be necessary for the efficient construction, maintenance and working of the line of railway whether as already constructed between Mait-

land and the Eastern Boundary of Southfield, the property of the estate of the late Sir Richard Southey, in the Municipality of Wynberg, or to be constructed from the last-mentioned point to a point on the Cape Government Railways at or near Diep River Station.

Perpetuation of Powers and Authorities conferred by Act 17 of 1898 and Act 4 of 1900.

3. Notwithstanding anything to the contrary in Act No. 17 of 1898, as amended by Act No. 4 of 1900, all the powers and authorities conferred upon the Syndicate by the said Acts or by Agreements between any person, Companies or Corporations, and the Syndicate shall be perpetuated and deemed to subsist and to have subsisted in favour of the Syndicate, and all rights, agreements, acts, matters or things devolving upon, entered into, made or done by the Syndicate, which owing merely to the lapsing of the time mentioned in Act No. 17 of 1898 and Act No. 4 of 1900 may be void or illegal, are hereby legalised, ratified and confirmed, and no suit, action, or proceeding of any kind shall be capable of being brought or maintained against the Syndicate, its Directors, Officers, Servants or Contractors for any illegality or invalidity merely arising from the expiry of the period aforesaid.

Indemnity to Syndicate.

Route of Railway already constructed.

4. The Line as already constructed, and in respect of which a strip of land 10 feet wide is required in addition to the width of 30 feet originally authorised by subsection (a) of Section 5 of Act No. 17 of 1898, hereby increasing the width to 40 feet, with such additional width as set forth in Section 2 of this Act, commences at the boundary of the property of the Colonial Government near Maitland Station, and proceeds thence through property of the Colonial Government, reserved for Railway purposes, and thence into property being portion of Nieuwe Molen, within the Maitland Municipality, whereof an extent of about 67 square roods has been acquired by the Syndicate from A. R. McKenzie, crossing two private roads, thence into property of the Colonial Government called Uitvlugt, here crossing three private roads, and one public road, thence into property of the Mowbray Municipality within the limits of that Municipality whereof an extent of about 161 square roods has been acquired for the purpose of the Railway under Agreement with the said Municipality, here crossing a private road thence through properties acquired by the Syndicate from Messrs. Tregidga & Co. and thence through property called Hazendal and adjoining property belonging to Mr. S. Kotze, and thence along a public road running past the properties of Tregidga & Co. and "The Suburban Estates Development and Building Company, Ltd.," and in this part of the route crossing the Divisional Road called Klipfontein Road and another public road, and thence through property acquired by the Syndicate from "The Suburban Estates Development and Building

Company, Ltd.," in which crossing a private road, thence across a public road, thence through property of the Syndicate, thence across the Divisional Road called Lansdowne Road, thence through property portion of Rompe Valley, acquired by the Syndicate, being portion of land transferred to Mr. Wm. Searle on 10th December, 1896, and here crossing a private road and thence across a public road, thence through property also part of Rompe Valley, acquired by the Syndicate from estate of late Maria Anderson, crossing a private road and thence across a public road called Wetton Road, thence through property part of Bamboos Vlei, acquired by the Syndicate from the estate of the late C. J. Rhodes, and thence crossing a public road, thence across property of the Colonial Government called the Rifle Range, and in this part crossing the Divisional Road called Ottery Road, thence over property acquired by the Syndicate from the Suburban Estates Development and Building Company, Ltd., within the Municipality of Wynberg, in extent about 300 square rods, on which crossing two private roads to the present terminus of the line at the Eastern Boundary of Southfield, the property of the Estate of the late Sir Richard Southey, within the Wynberg Municipality :

- (1) The Syndicate shall re-erect at their own expense all fences on Government property which they may remove, and shall likewise re-erect all buildings by them removed on such property or pay such compensation as may be agreed upon or settled by arbitration.
- (2) Nothing in this Section contained shall affect the Syndicate's right of junction at Maitland Station, as provided for by Section 2 of Act 17 of 1898.

5. The Syndicate is hereby authorised to construct and extend the railway from the eastern boundary of Southfield—the property of the estate of the late Sir Richard Southey in the Municipality of Wynberg, through property belonging to the Syndicate and other lands, to form a junction with the Cape Government Railways at such point at or near Diep River Station on the Cape Government Railways as shall be approved of by the Commissioner. Plans and sections of the said extension shall be submitted for the approval of the Engineer-in-Chief of the Cape Government Railways, and such approval shall be a condition precedent to the carrying on of any works for the purposes of the extension.

Authority of Syndicate to extend the Railway to Diep River.

6. The line of Railway so to be extended shall commence from the present terminus of the Railway at the eastern boundary of Southfield—the property of the estate of the late Sir Richard Southey in the Municipality of Wynberg—here crossing a public road, continuing in a southerly direction from the said eastern boundary through Southfield aforesaid, occupying an extent of about 400 square rods, thence across a public thoroughfare,

Route of Railway to be constructed.

thence across Lot 38B, the property of Colonel R. G. Southey, and thence across a public road, and thence across Lot 28 (also his property) in a south-westerly direction, in which it crosses a Divisional road, thence across Lot No. 9, the property of the Syndicate, thence across a public road, thence across Lot C, the property of the Syndicate, thence across a private road, thence across portion of Lot 13, the property of the Syndicate, thence across the property described as "Candasa of the Cape," belonging to the Syndicate, thence across Lot 19, the property of the Syndicate, crossing a public road and thence crossing a public thoroughfare, thence across the property of the Syndicate, thence through the property of Mr. Voigt, thence across Crown land reserved for railway purposes, there crossing a public road to a point on the Cape Government Railway at or near Diep River Station to be approved by the Commissioner as in the preceding section mentioned: provided that the route may be varied within the limits of deviation shown on the plans and sections deposited as hereinbefore mentioned with the Clerk of the House of Assembly.

7 Junction
with Cape
Government
Railways.

7. The junction of the said Railway with the lines of the Cape Government Railways at or near Diep River Station shall be in accordance with plans prepared by the Cape Government Railway Department, and all land necessary therefor shall be acquired by the Syndicate, and all connections together with all buildings, signals, and other works necessary and proper for the construction of the said junction shall be laid, built and constructed on behalf of the Company by the Cape Government Railway Department and the cost of all such connections, etc., shall be borne by the said Company who undertake to pay to the Cape Government Railway Department a sum equal to the estimated cost of the work before such works are commenced. Any difference to be adjusted when the final cost of the work is ascertained provided always that nothing in this section contained shall be deemed or taken to give to the Company any right, title, or interest in or to, or any servitude over any land or building the property or in the occupation of the Government, and provided further that should it at any time hereafter become necessary to sever the said connection between the said line upon the Company's property and the said lines of Government Railway the Company shall not have the right to remove any rails or appurtenances thereto which may have been laid upon or over any land the property or in the occupation of the Government, and provided further that the Diep River Station shall be and remain under the sole control of the Government, and any increased cost in working thereof consequent upon the said connection as well as the cost of working and maintaining the said connections, buildings, signals, and other works aforesaid shall be borne by the "Company."

8. The said extension shall be commenced within a period of eighteen months and completed within a period of two and a half years from the date of this Act respectively.

Two and a half years for the completion of the line.

9. Section Twenty of Act No. 17 of 1898 is hereby repealed, and the following substituted in lieu thereof: The Government shall have the right at any time, if so disposed, to purchase from the Company on giving six months' notice to that effect, and the Company shall be bound six months after receiving the said notice to sell to the Government the whole concern and undertaking authorised by this and previous Acts, whether completed or not, including also all buildings and land acquired by the Company for the purpose of the said Railway, and so much additional land as may be required by the Government, together with all the rolling stock, engines, carriages, which the Company may at any time acquire, and plant and every matter or thing belonging to or connected with the said railway, as also any telegraphs or telephone and apparatus, wire instruments, and every matter or thing connected with the working thereof in the possession of the Company under the Act, as upon the terms following:—

Right of Government to purchase.

(1) The purchase price shall not exceed the actual cost (not to be construed as including interest or promotion money) with the addition of ten per cent. thereon; provided that the actual cost of "construction"—in the case of the extension from Ottery Road to Diep River—shall not be taken to exceed five thousand pounds sterling per mile of through line, exclusive of work at Diep River Station and overhead bridges, the cost of which shall form part of the construction of the line, provided that:

- (a) Contracts and specifications which may have been required to be submitted for the approval of the Government have been so submitted.
- (b) The price of any rolling stock which may or may not be taken over, at the option of the Government, shall be determined by arbitration, and, provided further
- (c) In arriving at the price of the said railway, the Company shall only be entitled to charge the Government with the actual price which the Company paid for the land, and in cases where the Company acquired the land free of charge, no charge shall be made against the Government for such land.

10. All the powers and authorities and obligations, whether with regard to equipping, maintaining and working the said railway, or to the constructing, maintaining, and working of lines of telegraph and telephone in connection therewith, or to the taking of Crown lands or other lands and materials, or with regard to any other right, matter, or thing, or duty whatsoever, which, by

General Powers of and Obligations upon the Syndicate.

Act No. 17 of 1898, as modified and amended by this Act are or would be conferred and imposed upon the Syndicate or any person acting on its behalf in respect of the railway originally authorised, are hereby conferred and imposed upon the Syndicate in respect of the extension of the railway to Diep River and the said powers, authorities, and obligations subject to the modification aforesaid shall apply *mutatis mutandis* not only to the railway already constructed from Maitland to the Eastern Boundary of Southfield, Wynberg, but also to the extension thereof to be constructed from that point to Diep River, as aforesaid: and for the purposes of the said railway and the extension thereof, the Syndicate shall be and is hereby invested with all the rights and powers vested in the Government or any Public Body in respect of the taking or expropriation of land and taking of materials for roads, whether such rights and powers are reserved under Sir John Francis Cradock's Proclamation of 6th August, 1813 (relating to Quitrent Grants) or created by express stipulation or condition in any Title Deed or Transfer of Quitrent, Freehold, or other land, or by any servitude or arising in any other manner whatsoever, and if the Syndicate shall require for the said purposes to acquire any land or to obtain or take any materials from any land not subject to such rights or powers, the Syndicate shall be and is hereby empowered and authorised to take or expropriate any such land, or to take any such material for the said purposes, provided that no land or material shall be expropriated or taken without previous notice to the owner thereof, if with reasonable diligence he can be found, and provided further that reasonable compensation shall be payable to such owner in respect of land or material so expropriated or taken, which land has been substantially improved by cultivation, irrigation, fencing, or otherwise, or in respect of land or material expropriated or taken, which land is not subject to such rights or powers as aforesaid; and if the Syndicate and the owner do not agree as to the amount of such compensation the same shall be determined by arbitration under the provisions of "The Lands and Arbitrations Clauses Act, 1882."

Construction
of Bridges.

11. Sufficient land shall be acquired by the Syndicate to permit of the construction of bridges over the said extension of railway from Ottery Road to Diep River, at such places as may be determined upon by the Government within six months of the date of this Act. The necessity or expediency of construction of any such bridge shall be decided upon by the Government, whose decision shall be final.

Tariffs.

12. The line of Railway to be extended under the provisions of this Act and the line of Railway of which it is an extension shall, upon completion of the extension, be considered and dealt with

as one line of Railway, and shall, as such line, be subject to the following provision: The tariffs of fares for passengers and rates for goods in all classes shall be framed by the Company before commencing to work the said railway, and shall be approved by the Governor, and shall be liable to be similarly re-adjusted from time to time at intervals of not less than three years at the instance of the Company, or at the instance of the Governor; and the tolls, fares, or rates of charge to be taken or made for passengers shall be at all times charged equally to all persons and after the same rate in respect of all passengers travelling under the same conditions; and the tolls, fares or rates of charge to be taken or made for goods shall be likewise charged equally after the same rate, whether by ton or otherwise, in respect of all goods of the same description.

13. This Act may be cited for all purposes as "The Cape Flats and Suburban Railway Amendment and Extension Act, 1904," and shall be read as one with the amended Acts.

Short Title.

No. 15—1904.]

[May 31, 1904.]

ACT

To Amend, Consolidate and add to the Laws regulating the Municipal Corporation and Government of Uitenhage.

[Assented to 28th May, 1904.]

WHEREAS it is necessary and expedient to amend, consolidate, and add to the existing laws regulating the Municipal Corporation and Government of Uitenhage, and with that object to confer upon the Council of the said Municipality amended or increased rights, powers and privileges with regard to Municipal property, works, and undertakings, and with regard to the good, cleanly, healthy, and quiet order and condition of the said Municipality and inhabitants thereof, and with regard to maintaining and developing good Municipal Government in the Municipality, by means of suitable rules and regulations framed by the Council and approved of by the Governor; and to alter the provision respecting the number of wards of the said Municipality:

Preamble.

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

I.—PRELIMINARY.

1. The provisions of Acts No. 3 of 1867, No. 27 of 1874, No. 14 of 1876, No. 30 of 1877, No. 12 of 1883, No. 14 of

Repugnant laws repealed.

C 2

No. 15—1904

1890, and No. 21 of 1896, or of any other Act or Law, so far as repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Boundary of Municipality.

2. The Municipality of Uitenhage shall comprehend the town and township of Uitenhage, including all common lands and property within the area formed by the following boundary lines—namely: On the north by the farms Kruis River, Kamees, and Hiltwacht; on the south by the farms Cuyler Manor and Little Grass Ridge; on the east by the farm Sandfontein; and on the west by the farms Mimosa Dale and Narroes.

Creating a body corporate.

3. There shall be in the said Municipality a body corporate, which shall take and bear the name of "The Mayor, Councillors, and Ratepayers of Uitenhage," and by that name shall have perpetual succession, and shall have a common seal, and shall by that name sue and be sued, and shall, by the Council thereof, do all acts, and have and enjoy all the rights and privileges which bodies corporate, as such, may in this Colony do and have.

Constitution of Council.

4. The Council of the said Municipality shall consist of fifteen Councillors, one of whom shall be the Mayor.

Municipality divided into five Wards.

5. The said Municipality shall be divided into five wards, to wit:

- No. 1. An area bounded by a part of Caledon Street and the Cuyler Manor Road on the north-east; by Market Street and a line in continuation thereof on the north-west; and shall include the town commonage to the boundary of the Municipality in every other direction.
- No. 2. An area bounded by a part of Caledon Street on the north-east; by John Street and a line in continuation thereof on the north-west; by Market Street and a line in continuation thereof on the south-east; and shall include the town commonage towards and across the River Zwartkops, between the said lines to the boundary of the Municipality to the south-west.
- No. 3. An area bounded by a part of Caledon Street on the north-east, that is to say, from the upper end of John Street to the upper end of Gibbon Street, and thence by a straight line in continuation of Caledon Street, to the north-west boundary of the Municipality in that direction; and on the south-east by John Street, and a straight line in continuation of John Street across the River Zwartkops to the boundary of the Municipality in that direction; and shall include the town commonage to the boundary of the Municipality in every other direction.
- No. 4. An area bounded by a part of Caledon Street on the south-west; by the Cuyler Manor Road on the west and south-west; by Church Street and the old Graaff-Reinet Road on the north-west; and shall include the

town commonage to the boundary of the Municipality in every other direction.

- No. 5. An area bounded on the south-east by Church Street and the old Graaff-Reinet Road out to the boundary of the Municipality in that direction ; and on the south-west by a part of Caledon Street, that is to say, from foot of Church Street to Rains Road, and thence by a straight line in continuation of Caledon Street to the boundary of the Municipality in that direction : and shall include the town commonage to the boundaries of the Municipality in every other direction.

6. The said Council may, from time to time, if it shall think fit, alter the boundaries of the said wards, or may increase or reduce the number thereof : provided that the Council shall, before making any such alteration in the boundaries, or before increasing or reducing the number of wards, give in the *Government Gazette*, and in one or more of the newspapers published in Uitenhage, public notice of the intention to make such alteration in the boundaries, or to increase or reduce the number of the wards, respectively, as the case may be ; and such notice shall be published as aforesaid and copies of the notice shall be posted at the Town Hall and other conspicuous places of public resort within the Municipality for thirty-one days before the intended alteration in the boundaries or number of the wards respectively shall be made. It shall also be lawful for the Council, if it shall think fit, to increase or diminish the total number of Councillors, and to assign a certain number to each ward, and the above specified notice with regard to the wards shall *mutatis mutandis* apply to any proposed alteration in the number of Councillors : provided that no alteration in the number of wards or in the number of Councillors to represent each ward shall be carried into effect until first approved of by a public meeting held in accordance with the provisions of section eighty-four of this Act.

Boundaries and number of the wards may be altered

7. Three Councillors shall be elected for each of the five wards in manner hereinafter mentioned.

Each ward to elect three Councillors.

II.—QUALIFICATION OF VOTERS.

8. Every person of full age, who is the owner or occupier of any immovable property in any ward of the Municipality of the yearly value of ten pounds sterling shall be qualified and entitled to vote at such election in respect of such ward : provided that his name shall appear as a ratepayer in the assessment roll of such ward which shall have been made next or latest before the election at which such person shall be elected : Provided, also, that the assessment roll in existence at the time of the taking effect of this Act shall be deemed and taken to have been framed under this Act.

Qualification.

Every estate, society, association or company owning or occupying property in the Municipality shall be entitled to be enrolled on the voters' roll aforesaid with the same rights and subject to the same restrictions as are hereinbefore given to or imposed upon persons of full age, and shall be entitled to vote by an executor, director, manager, secretary or other official of the estate, society, association or company duly authorised to that end, whose name shall have been duly placed upon the said voters' roll as representative of the estate, society, association or company.

Disqualification.

9. The following persons shall be disqualified from voting at any such election: Persons who have been convicted of treason, rebellion, sedition, murder, rape, theft, fraud, perjury or forgery, and who shall not have received a free pardon.

III.—QUALIFICATION OF COUNCILLORS.

Qualification of Councillors

10. Every male person of full age who shall have been the owner or occupier of immovable property of the yearly value of twenty pounds sterling and upwards within the limits of the said Municipality, for a period of not less than twelve months next before such election, shall be eligible to be elected a Councillor: Provided that different premises or properties owned or occupied in immediate succession shall satisfy this section as fully and effectually as if they had been one and the same premises or properties. But no person having his affairs under liquidation or under arrangement with his creditors; no insolvent who shall not have obtained his rehabilitation, and no person who is disqualified to vote under this Act, shall be capable of being elected or of continuing a Councillor of this Municipality.

Requisition.

11. No person shall be deemed a candidate at any election, nor qualified to be elected a Councillor, for any ward, until he shall have been invited to become such candidate by requisition, signed by at least twenty qualified voters of such ward and shall have transmitted such requisition, with his acceptance thereof, addressed to the Town Clerk, and delivered at his office between the hours of ten a.m. and three p.m., on or before the day appointed for receiving nominations, which shall be at least fourteen days before such election is appointed to take place: Provided that no person shall be allowed to accept a nomination for more than one ward at one and the same election.

Disqualification.

12. No person holding any office or place of profit under or in the gift of the Council, or who is directly or indirectly by himself or his partner concerned in or participating in the profit of any contract with the Council, or concerned in, or in the profit of, any work to be done under the authority of the Council, shall be capable of being elected or continuing a Councillor: Provided that nothing in this section shall apply to any contract entered into by any company or association consisting of more

than thirty persons, or any incorporated company where such contract is entered into for the general benefit of such company or association: Provided that it shall be lawful for any Councillor to purchase at public sale any property or right which the Council shall offer to sell by public competition.

13. No person having his affairs under liquidation, or by arrangement with his creditors, no insolvent who shall not have obtained his rehabilitation, no alien who has not been naturalized, no person convicted of treason, murder, rape, theft, perjury, or other infamous crime and who shall not have received a free pardon, no person of unsound mind, and no person who is not qualified or who is disqualified by this Act, shall be capable of being elected or of continuing a Councillor of the Municipality.

Disqualifications of Councillor.

14. If any Councillor shall die, resign, or shall be absent without leave from the ordinary meetings of the Council for a period of three calendar months, his office shall be declared vacant, and another Councillor shall be elected in his place and stead, in manner hereinafter provided, who shall hold office for the remainder of the term for which the Councillor whom he succeeds would have held office.

How office of Councillor may become vacant.

IV.—MAKING OF VOTERS' ROLL.

15. The Council shall annually in the month of August cause a list to be made of all ratepayers in the Municipality whose names appear in the then existing assessment rolls or books, which list shall be sub-divided into as many parts as there are wards so as to show the names of the persons entitled to vote within the several wards, each of which parts shall respectively show the names of the voters of that ward in such order as may be deemed advisable, allot a certain number to each voter, and contain the full name, residence, qualification and occupation of each voter, and every ratepayer owning or occupying property in one or more wards shall be entitled to be registered in each such ward and to vote therein.

List of voters to be made annually.

16. The Town Clerk forthwith after the making of such list shall cause the same to be affixed in some conspicuous place in the Town Hall, and caused to be affixed thereto and published in one or more local newspapers a notice of not less than fourteen days that all objections and claims to be enrolled will be determined and heard at some time and place to be therein stated.

Notice of objections.

17. The Council shall hear and determine all claims and objections, and may enrol the names of any voters who have been omitted, and strike out the names of all persons not entitled to be enrolled: Provided that no name of any person shall be struck out until such person shall have had two clear days' notice of the investigation of his qualification, and shall be heard in regard thereto should he so desire.

Council to determine on objections.

Meetings of Council may be adjourned.

18. The meetings of the Council for hearing such claims and objections may be adjourned from time to time, and any decision may be brought under review of the Resident Magistrate of Uitenhage if notice of review be given by any interested person within two clear days after the declaration of such decision.

Roll to be in force till new one framed.

19. The list when so amended shall be the Voters' Roll for the Municipality until the next roll shall in like manner be completed, and such roll shall be deemed and taken to be the conclusive and only proof of the right of every person enrolled therein to act as a voter in the Municipality.

V. ELECTION OF COUNCILLORS.

Nominations of Council lora.

20. The Town Clerk shall, not less than twenty-one days prior to any election of a Councillor or Councillors, publish a notice of such election in one or more local newspapers, and in such notice specify the day of nomination, and shall require all candidates at such elections to be nominated in manner set forth in Section XI. hereof.

Names to be published.

21. The Town Clerk shall, at least ten days before the day appointed for the election in each ward, cause the names of the candidates for election thereat, together with the names of the persons who have signed such requisition, to be published in one or more local newspapers.

Day of election.

22. On the fourth Wednesday in the month of November in every year an election shall take place for the purpose of electing Councillors to replace an equal number of Councillors whose period of office expires by effluxion of time, and for the purpose of filling up such casual vacancies as may require to be filled up: Provided always that in the event of it being impossible for any reason to hold an election on the day prescribed by this Act, the Council shall appoint some other day for the election as nearly as may be to the prescribed date.

By whom polls to be taken.

23. The poll in every ward where the election is contested shall be taken by some person to be appointed by the Mayor, or, in case there shall be no Mayor, or in case the Mayor shall be absent or incapable of acting, then by the Deputy-Mayor.

Hours for Polling.

24. The poll shall commence at eight o'clock a.m., and shall finally close at five o'clock p.m. of the same day.

Returning Officer.

25. The Mayor, or in case there be no Mayor, or he decline to act, or be absent or incapable of acting, then the Deputy-Mayor, and if there be no Deputy-Mayor, or he be absent or incapable of acting, then the Town Clerk, and failing the Town Clerk, then such Councillor as the Council may appoint, shall be the returning officer at all Municipal elections: Provided always that no returning officer shall be or become a candidate for office at such election.

26. If the number of candidates nominated for any ward shall not exceed the number of Councillors to be elected for such ward, no poll shall be necessary for such ward, but the Candidates or Candidate so nominated shall be deemed and taken to be duly elected on the day of nomination. If, however, there be less than the required number of Candidates nominated in any ward, then fresh nominations to fill the vacancies shall be called for in the manner aforesaid, and as for casual vacancies.

Uncontested
elections.

27. When and as often as any casual vacancy shall occur in the Council, the Councillor or Councillors to be elected to fill such vacancy shall be elected in the manner provided for the election of candidates at the annual election. But if such vacancy or vacancies shall occur within three months of the ensuing annual election, then the vacancy or vacancies shall not be filled up at a special election, but shall remain until the holding of the annual election: Provided always that such vacancies do not exceed two in number, in which case they shall be filled up at a special election held for the purpose, and the Councillors so elected shall hold office for the remainder of the term for which the Councillors whom they succeed would otherwise have remained in office, the candidate in any ward receiving the highest number of votes succeeding the vacating Councillor in such ward with the longest term to serve, and he with the next highest number of votes succeeding the other vacating Councillor in such ward if there be a further vacancy and so on.

Casual
vacancies.

28. It is hereby provided that the Councillors in office at the time of the passing of this Act shall continue in office till the 31st December of that year.

Councillors'
term of office.

29. Three Councillors shall be elected for each ward, who shall enter upon their office on the 1st January following their election. At the first election after the passing of this Act, the Councillor who for each ward respectively shall have been elected by the smallest number of votes, shall vacate his seat at the expiration of one year, and the Councillor who for each ward respectively shall have been elected by the next smallest number of votes, shall vacate his seat at the end of two years; and the remaining Councillor who for each ward respectively shall have been elected by the greatest number of votes shall vacate his seat at the end of three years; and upon the retirement of such Councillors respectively they shall be succeeded by Councillors elected as hereafter provided, so that at every subsequent yearly election there shall be elected one Councillor for each ward, who shall continue in office for three years thereafter: Provided that if any two or more Councillors in any ward shall have been elected by an equal number of votes, or if the election shall have been an uncontested one, the Mayor shall decide by lot at the first meeting of Councillors the rotation in which such Councillors shall retire.

First elec-
tion of Coun-
cillors after
passing of
this Act.

Polling stations and arrangement thereat.

30. For the purposes of every election the polling station of the Municipality shall be at the Town Hall or such other places as the Council may determine. For all elections the returning officer shall provide such compartments, desks, ballot boxes, ballot papers, stamping instruments, copies of register of votes, and all other things, appoint polling officers, and do such other acts and things, and make such arrangements to facilitate the taking of the poll as he may deem advisable for effectually conducting the election; and everything done by the returning officer shall be at the expense of the Council.

Polling Officer to keep order and regulate voting.

31. The polling officer at the polling stations shall keep order thereat, shall regulate the number of voters to be admitted at a time, and shall exclude all other persons except the returning officer, the clerks, the candidates, the agents of the candidates, and the constables on duty.

If candidate retires, three days' notice required.

32. If after a poll has been appointed at any election any candidate nominated for election shall be desirous of retiring from the candidature, he may, not later than three days before the day of polling, sign and deliver a note of his retirement to the Town Clerk, who shall forthwith hand the same to the Returning Officer, who on receipt of such notice shall, if the number of candidates is by such retirement reduced to the number of persons to be elected at such election, declare the remaining candidates to be on that day duly elected, and if the said number is not so reduced shall omit the name of the person so retiring from the list of candidates, and such person shall not be capable of being elected at such election.

Candidates may appoint a representative and an agent

33. Every candidate may, if he think fit, appoint by writing under his hand, a person to represent him at the polling station to see that the votes are fairly taken, and may also appoint in writing an agent to represent him at the counting of the votes by the returning officer.

Questions that may be asked of voters.

34. No inquiry shall be made at any election as to the right of any person to vote except that the polling officer may himself, or at the request of the agent of any candidate, put to any voter the following questions, or any of them, and no other:—

(1) Are you the person whose name appears as A.B. on the voters' roll of voters in this ward?

(2) Have you already voted at this election?

And no person who shall refuse to answer any such question, or who shall not answer the first of such questions in the affirmative, and the second of such questions absolutely in the negative, shall be permitted to vote.

Penalty for false answers.

35. Any person who shall wilfully make a false answer to any of these questions shall be liable to a penalty not exceeding ten pounds, to be recovered in the Court of the Resident Magistrate, or in default of payment to imprisonment, with or without hard labour, for a term not exceeding three months.

36. All the acts enumerated as acts of bribery and corruption, personation, or undue influence in any Act for the time being in force regulating or in respect of election of members of Parliament shall, *mutatis mutandis*, be deemed to be acts of bribery, corruption, personation, or undue influence with reference to all elections under this Act. And every person committing any act forbidden or made punishable by any such Act relating to elections of members of Parliament, in reference to any elections under this Act, shall upon conviction incur and be liable to such penalty or punishment as is by such Act provided.

Acts of corruption same as in elections for Parliament.

37. Every voter coming to record his vote shall vote without undue delay, and any voter who delays unduly in recording his vote may, unless he shall forthwith proceed to vote upon being thereunto required by the polling officer, be removed from the polling station, upon the instruction of the polling officer and shall not be entitled to vote at the election.

No delay in voting.

38. The voting at all elections held under the provisions of this Act shall be by ballot, which shall be conducted in substance and as nearly as is material as follows:—

Voting by ballot and how carried on.

- (a) The polling officer shall ascertain that the name of the person coming to vote is a voter enrolled upon the voters' roll, and having ascertained that such person is so enrolled and his number on such roll, shall enter his number upon the counter foil in the voting ticket book, and shall then tear out the ticket corresponding to such counterfoil, and having stamped the same with a stamp provided for that purpose, shall hand it to the voter. And every voting ticket shall be in the form set forth in Schedule A hereto, with such printed instructions as the Council may approve.
- (b) When the voter has received such ticket, on which shall be printed in alphabetical order the names of all the duly nominated candidates at such election, he shall take the same to the compartment and desk provided for that purpose, and signify for whom he desires to vote by secretly placing a cross opposite the names of the candidate or candidates whom he wishes elected, not exceeding the number to be elected at such election. He shall then fold the ticket so that the stamp be visible, and having held up the ticket so that the polling officer can recognise the stamp, shall drop the ticket in the ballot box placed in front of the polling officer.
- (c) Should the voter either sign his name on the ticket or make any mark or word by which his voting paper could become recognisable, then such voting ticket shall be considered blank, and not taken into account.

39. If a voter inadvertently spoils a ballot paper he may return to the polling officer, who will, if satisfied of such inadvertent

Spoilt ballot paper.

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ence, give him another paper, and retain the spoilt paper, and the spoilt ballot paper shall be immediately cancelled, and the fact of such cancellation shall be noted upon the counterfoil.

Voter physically incapacitated, procedure.

40. Any polling officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, shall, before such agents of the candidates as may be present, cause the vote or votes of such voter to be marked on the ballot paper or papers in manner directed by such voter, and the ballot paper or papers to be placed in the ballot box, and the name and number on the voters' roll of every voter whose vote is marked in pursuance of the terms of this section, and the reason why it is so marked shall be entered on a list in this Act called the "List of votes marked by the polling officer."

Voter offering to vote in same name as previous voter.—Tendered ballot paper.

41. If a person representing himself to be a particular voter applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions, permitted by this Act to be asked of voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (hereinafter called a tendered ballot paper) shall not be put in the ballot box, but shall be given to the polling officer appointed for that purpose by the Council, and endorsed by him with the name of the voter and his number in the voters' roll, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter, and his number on the roll, shall be entered in a list in this Act called the "Tendered Voters' List."

Polling Officers, and procedure.

42. Every polling officer shall, as soon as practicable after the close of the poll, before such agents of the candidates as shall be present, make up into separate packets sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals:—

- (1) Each ballot box in use at his station unopened, but with the key attached; and
- (2) The unused and spoilt ballot papers placed together; and
- (3) The tendered ballot papers; and
- (4) The marked copies of the voters' roll and the counterfoils of the ballot papers; and
- (5) The tendered votes list, and the list of votes marked by him as polling officer, and a statement of the number of voters whose votes are so marked by the polling officer under the head "physical incapacity," and shall deliver such packets to the returning officer.

The packets shall be accompanied by a statement made by each polling officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, and the said polling officer shall deliver the same to the returning officer.

43. Upon receipt of the aforesaid packets by the returning officer, the latter shall take charge of the same, and shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare the candidate or candidates who are elected under the provisions of this Act according to the vacancies to be filled up. In the event of the number of votes being found to be equal for any two or more candidates, all of whom cannot be declared elected to fill an ordinary or casual vacancy in the Council, as the case may be, the returning officer shall by lot immediately determine the election. The decision of the returning officer shall be final, subject to reversal on petition to, or action in, the Supreme Court or Eastern Districts Court, questioning the election or return in like manner, *mutatis mutandis*, in which elections or returns of members of Parliament may by law be brought in question.

Duty of Returning Officer on receiving packets from Polling Officer.

44. The returning officer shall reject and not count any ballot papers which :

Which papers are to be rejected by Returning Officer.

- (a) Do not bear the official mark ;
- (b) Give votes to more candidates than the voter is entitled to vote for ;
- (c) Bear any writing or mark by which a voter can be identified otherwise than is in this Act prescribed ;
- (d) Are unmarked or void for uncertainty.

45. The returning officer shall endorse " rejected " on any ballot paper which he may reject as invalid, and shall add to the endorsement " rejection objected to " if an objection be in fact made by any agent to his decision.

Endorsement ballot papers.

46. The returning officer shall immediately after the declaration of the poll enclose in separate packets the counted and rejected ballot papers. He shall not open any sealed packet of tendered ballot papers, or marked copy of the Voters' Roll and counterfoils, but shall proceed before such agents of the candidates as are present to reseal after examination each of the sealed packets received by him from the polling officers. All the packets aforesaid, together with a certificate stating the names of the Councillors declared to be elected, shall be enclosed together in one sealed packet and delivered to the Town Clerk, who shall safely keep such sealed packet for six months, after the expiration whereof the said packet and all papers contained therein may be destroyed in the presence of two Councillors.

Returning Officer closes packets.

47. No such sealed packet as aforesaid shall be opened during the said period of six months, unless by order and in presence of the Council, or by order of the Resident Magistrate, the Supreme or Eastern Districts Court, or any Judge thereof; and if any person shall, contrary to the provisions hereof, wilfully break the

Sealed packets not to be opened for six months unless by order.

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seal, or open any such packet, he shall, upon conviction, be liable to a penalty not exceeding twenty pounds, which may be recovered in the Court of the Resident Magistrate, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months.

Council may
make regula-
tions *re* ballot.

48. The Council shall have power from time to time to issue instructions and make regulations for the purpose of more effectually carrying out the provisions of this Act, as to the proceedings for election by ballot, provided that such instructions and regulations are not inconsistent with its terms.

No election
invalid by
reason of mis-
take.

49. No election shall be declared invalid by reason of any mistake or non-compliance with the terms of this Act, if it appears to the Court having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such mistake or non-compliance did not affect the result of the election, and any question affecting any dispute or difference with reference to any election may be brought before the Resident Magistrate of the District of Uitenhage, or before any of the Judges of the Supreme Court.

VI.—ELECTION OF MAYOR.

Election of
Mayor.

50. On the Wednesday following every annual election under this Act, the Councillors shall choose from among themselves by a majority of votes the Mayor of the Municipality, who shall hold office for one year from January 1st following his election: Provided that in case of an equality of votes at any election of Mayor the question between the candidates so equal shall be determined by lot.

Mayor may
resign.

51. It shall be lawful for the Mayor to resign his office, provided that he shall give to the Council not less than one calendar month's notice of his intention so to do, whereupon the Council shall forthwith elect one of their own number as his successor in office for the remainder of his term of office.

How office
of Mayor
may become
vacant.

52. If any Mayor shall die, become insolvent, or compound with his creditors, or assign his estate for the benefit of his creditors, or shall be absent from the Municipality, without the permission of the Council, for one calendar month, or shall neglect to attend the meetings of the Council for the period of three calendar months without leave, such Mayor shall be held to have vacated office, and the Council shall forthwith elect out of their own number a successor for the remainder of the year.

Deputy
Mayor.

53. The Councillor who, at the time of the election of Mayor, shall last have held the office of Mayor prior to the then-elected Mayor, shall be Deputy-Mayor, and shall, during the absence or illness of the Mayor, do all acts which the Mayor, as such, might do. Failing any such Councillor, or in the event of the Deputy-Mayor declining to act or vacating office, then such other

Councillor as the Council shall elect shall be Deputy-Mayor. The fact of the absence or illness of the Mayor shall be notified by the Town Clerk or his Deputy to the first meeting of the Council after the illness or absence of the Mayor has happened, and shall be recorded in the Council's minutes. Such record shall be sufficient authority for all acts done within the scope of this Act by the Deputy-Mayor in lieu of the Mayor.

VII.—PROCEEDINGS OF COUNCIL.

54. All acts hereby authorised or required to be done by the Council, and all questions that may come before them, shall, except as hereinafter excepted, be done and decided by the majority of Councillors who shall be present at any meeting at which not less than five members of the Council shall attend: Provided that nothing herein contained shall extend to alter or affect the provisions of the eighty-fourth and ninety-third sections of this Act. Quorum.

55. An ordinary meeting of the Council shall take place at least once in every fortnight, and all such ordinary meetings shall be open to the public. Meetings of Council.

56. The Mayor or any four Councillors may at any time call a special meeting of the Council, provided that he or they cause a notice of the time and place of such intended meeting, specifying the object thereof, and signed by him or them or by the Town Clerk, to be notified to every Councillor, either personally, or at his usual place of abode, twenty-four hours at least before such meeting. Special meetings.

57. At every meeting of the Council, the Mayor, if present, shall preside. If the Mayor be absent then the Deputy-Mayor shall be Chairman. If neither the Mayor nor the Deputy-Mayor be present, then the Councillors present shall elect a Chairman from amongst themselves. In all cases of an equality of votes, the Mayor or Chairman shall have a second or casting vote. Chairman.
Casting vote.

58. Minutes of the proceedings of every meeting shall be entered in a book to be kept for that purpose, and shall after confirmation at the next succeeding meeting, be signed by the Councillor presiding thereat. Minutes of proceedings.

59. The minutes and other records of the Council shall not be open to the inspection of the ratepayers, but, upon written application being made, and the consent of the Council being obtained, any person may take copies or extracts therefrom between the hours of 10 a.m. and 3 p.m. on any day except Saturday, Sunday, and holidays. Inspection of minutes and other records.

60. All documents requiring to be executed for or on behalf of the said Council, unless otherwise specially provided for in this Act, shall be held as duly executed, if signed by the Mayor and the Town Clerk, and the corporate seal of the Municipality duly affixed. How documents to be executed.

Committees

61. It shall be lawful for the Council to appoint out of their own body such and so many Committees, either of a general or special nature, and consisting of such number of members as may seem fit, for any purpose which, in the judgment of the Council, would be better managed by means of a Committee: Provided always that the proceedings of no such Committee shall be binding until they are approved by the Council; except in those cases in which the Council shall by resolution have authorised a Committee to arrange or conclude any matter or thing without further reference to the Council; the Mayor to be, ex-officio member of all such Committees. The quorum of every such Committee shall be fixed by the Council, and every such Committee may appoint one of the members to be Chairman thereof.

Rules of order.

62. The Council may from time to time make rules of order, not inconsistent with the terms of this Act, for the regulation of their proceedings and business, and may vary or revoke the same; and, until they do so, the existing rules of order shall be and remain in full force excepting in so far as they may be opposed to the provisions of this Act.

VIII.—OFFICERS.

Town Clerk and other officers to be appointed.

63. It shall be lawful for the Council, from time to time, to appoint fit and proper persons (not being Councillors) to be Town Clerk, Treasurer, Market Master, Town Collector, Town Engineer or Superintendent of Works, Sanitary Inspector, Superintendent of Native Locations, and such other officers, clerks and assistants as it may think necessary for enabling the Municipality to carry into execution the provisions of this Act, and to pay all the officers, clerks, and assistants so to be appointed such salaries as the Council shall deem reasonable; and, unless it shall be otherwise stipulated in the contract of service, to remove all such officers, clerks, and assistants upon a notice of not less than three months, or, in the case of misconduct, without any notice.

Town Clerk, Treasurer and other officers to keep proper books and accounts.

64. Every Town Clerk, Treasurer, Market Master, Collector, Town Engineer or Superintendent of Works, Sanitary Inspector, Superintendent of Native Locations, and every other Municipal officer charged with the receipt, custody, or disbursement of Municipal monies, or with the receipt, custody, and disposal of Municipal stores or other property shall, in accordance with the directions and requirements of the Town Council, and in proper account books, pay sheets, schedules, and other documents to be provided by the Council for the purpose, keep true and perfect accounts in writing of all matters and things committed to his charge, and also of all monies which shall have been by such officer received by virtue of or for the purposes of this Act, or

in connection with the affairs of the Municipality, and of how much thereof shall have been expended, and for what purpose, together with proper vouchers for such payments. And all such books, accounts, pay sheets, schedules, vouchers and relative papers, being the property of the Municipality, shall be properly preserved by the officers concerned, in the manner prescribed by the Council, and shall be delivered up to the Mayor or the Town Council whenever he or they shall require them.

65. The Council shall require the Town Clerk, the Deputy or Acting Town Clerk, the Treasurer, and all officers charged with the collection or the administration of moneys or the custody of documents or property of the Council, to give such security as they think proper for the due execution of their offices, and may assign to every officer such duties and responsibilities as they may see fit.

Town Clerk and others to give security.

66. No officer appointed by the Council shall be engaged directly or indirectly in any other business, trade, or profession other than the business of the Council.

Officers appointed by Council not to be engaged in other business.

67. The said Council are hereby empowered from time to time to appoint and employ such number of able-bodied street-keepers, location constables, overseers, labourers, and others as shall be required for the protection of the inhabitants and property, streets and public places within the Municipality, and for the other purposes.

Street-keepers, constables, policemen, &c.

IX—AUDITORS.

68. On the Wednesday following every yearly election, the Council shall, after the election of Mayor, appoint two persons to be auditors of the Municipality, who shall continue in office from the 1st January following to 31st December; but no person shall be eligible as an auditor who shall be a Councillor, Treasurer, Clerk or other officer of the Municipality: Provided always that the Council shall give fourteen days' notice in one or more of the local newspapers of its intention to elect such auditors.

Appointment of Auditors.

Disqualification for Auditor.

69. If any auditor shall die, resign, or be declared insolvent, or shall assign his estate for the benefit of his creditors, or compound with his creditors, another auditor shall be elected in his stead, on a day to be fixed by the Mayor.

Death, resignation &c., of Auditor.

X.—AUDIT.

70. The auditors shall once every six months examine and certify to a return prepared by the Treasurer showing:—

Half-yearly Audit and return.—What return shall show.

- (a) The amounts of moneys voted by the Council during the preceding half-year for specific objects not mentioned in the Annual Estimates, with the date of such votes, and whether the same are payable out of loan account or from revenue;
- (b) The total amount expended to the last day of the preceding half-year in connection with all matters, objects,

or things contained in the Annual Estimates of Expenditure, and the balance remaining unexpended under each head of expenditure ;

- (c) The amounts recovered on account of revenue and the balances unrecovered under each particular head, inclusive not only of such items as were contemplated in the estimate of probable revenue prepared in terms of this Act, but also of sources of revenue which have occurred during the period under review.

Certificate as to vouchers and report on unauthorised expenditure.

71. The auditors on the occasion of each half-yearly audit shall, *inter alia*, certify that they have examined every voucher, that the books agree therewith, and that the amounts referred to therein have been correctly entered in the books in accordance with the votes of the Council. They shall further report, if so instructed by the Council, upon an account of all unauthorised expenditure, to be prepared by the proper officer of the Council, which shall set out in detail all the accounts in which the expenditure shall have exceeded the amount voted by the Council.

Auditors' Duties.

72. The auditors shall further conform to and carry out any instructions which from time to time they may receive from the Council: Provided the same be not in conflict with the provisions of this Act. The auditors shall receive such remuneration for their services as the Council shall decide from time to time.

Proper books to be kept.

73. The Council shall cause books to be provided and kept at the Town Hall, which shall not be taken thence, except by leave of the Council, or by process of some competent Court, in which shall be entered true and regular accounts of all sums of money received and expended for or on account of the purposes of this Act, and of the several articles, matters, and things for which such sums of money shall have been disbursed and paid and in connection with the control and general administration of Municipal affairs; and such books shall at all reasonable times be open to the inspection of the Councillors.

! In January, every year, account to be made up.

74. In the month of January in every year a true account shall be made in writing of all moneys received and paid by virtue of this Act, and in connection with the control and general administration of Municipal affairs during the preceding year ending on the 31st day of December, and a copy or duplicate of such account, verified by solemn declaration of the Treasurer and certified by the auditors, shall be deposited with the said Council, and an abstract thereof shall be advertised by the first day of March following in one or more papers published in Uitenhage.

XI.—MAKING OF VALUATIONS.

Valuation of all immovable property to be made

75. In order to ascertain the value of the rateable property within the Municipality for the purpose of assessing rates, the Council shall from time to time, but not less than once in every

three years, cause a valuation of all rateable immovable property within the Municipality to be made by one or more of its officers, or by one or more other competent persons duly appointed by the Council for the purpose. not less than every three years.

76. Every valuer shall, before entering upon the valuation entrusted to him, make before some Justice of the Peace a solemn declaration in the terms following :— Declaration to be made by valuator.

“I,, do solemnly and sincerely declare that I will to the best of my skill and knowledge, and without fear, favour, or prejudice, truly and impartially appraise and value all such property as I shall be required to value in the Municipality of Uitenhage, for the purpose of assessment, and that I shall conscientiously value the same at and for the full and fair price or sum which such property would, in my judgment, be likely to realise if brought at the time of valuation to voluntary sale and sold upon the usual terms and conditions. And I make this solemn declaration intending to fulfil the same.

“Declared at, this day of

“Before me”

And every such declaration shall be lodged with and preserved by the Council.

77. The valuer or valuers shall frame the valuation roll in such a manner as to show : What valuation roll shall shew.

- (a) The name and address of the owner.
- (b) The name of the occupier (or if unoccupied to be stated).
- (c) Description of the property valued.
- (d) Name and situation of property.
- (e) Rateable value.
- (f) Annual value or rental.

78. Notwithstanding anything to the contrary in this Act stated, the Council may at any time direct that a valuation be made of any property discovered to have been omitted from the valuation roll, or of any buildings erected or improved, or of any property sub-divided, or of portions of any property which are occupied by different persons after any general valuation of property made as aforesaid ; or may within three months after any general valuation of property, direct a valuation of any property which in the opinion of the Council is undervalued, and upon the making of any interim valuation, the same forms shall be observed as are in the preceding sections set forth with regard to general valuations, excepting that in the option of the Council the prescribed notice may be served, in writing, either upon the owners or occupiers of the property or properties affected instead of being published as aforesaid. Interim valuation may be made.

Valuator duly authorised may enter on premises.

79. Every valuer provided with written authority signed by the Town Clerk shall for the purpose of making any valuation as aforesaid have power to enter at all reasonable hours in the daytime into and upon any immovable property within the Municipality without being liable to any action on account thereof.

Valuation to be open for inspection, &c.

80. As soon as any valuation as aforesaid shall be completed, it shall lie in the office of the Town Clerk for the inspection of every owner or occupier of any property included therein, who may, upon all lawful days and at reasonable times, inspect the same and take extracts therefrom, and the Council shall, by public notice, announce for general information that it will, upon some day and at some hour and place to be fixed by such notice, hold a Court for the purpose of hearing and determining objections to such valuation: Provided that the notice shall be published fourteen days at least before the day appointed therein for the holding of such Court, and provided also that it shall not be necessary in any suit or action for the recovery of any rate to prove anything further, in the nature of due notice of any such valuation as aforesaid, than the publication of the notice aforesaid in one or more of the local newspapers.

Objections may be made.

Court to be held to hear objections.

81. Upon the day and at the place and hour mentioned in such notice the Council shall hold a Court, and shall hear all objections which may be urged to any valuation by any owner, or occupier, or other person on his behalf, and shall inquire into the merits of such objection, and shall confirm or correct any valuation objected to: Provided that the said Court may be adjourned from time to time upon the application of any person objecting who shall show reasonable grounds for not being ready with his proofs, or for the purpose of obtaining further evidence in regard to any case which shall have been partly heard.

Decision of Court to be final.

82. The decision of the said Court upon any objection to any valuation shall be final and conclusive, and shall not be capable of being reviewed or reversed by any Court or proceeding whatever.

XII.—RATES.

Who liable to be rated.

83. All persons owning or occupying property within the limits of the Municipality, excepting such property as is hereinafter excepted, shall be liable to be rated on account of such property to the Municipal rates in such manner and to such extent as is hereinafter provided.

Rates may be assessed for certain purposes.

84. For the purpose of raising the means for making new roads, streets, market places, bridges, drains, sewers, watercourses, reservoirs, aqueducts and other waterworks; for the purchase of such lands or erection of such buildings as may be required in or about the execution of the powers hereby given to the Council; for the purchase of water-pipes, fire-engines, and appurtenances; for providing good and sufficient lighting for the streets and

public places within the Municipality ; for the effecting of the removal of night soil ; and for the effecting of all other permanent public works and improvements within the Municipality ; for the purpose of raising the means for effecting the repairs of all such works as the Council are hereby empowered to make or to have made for the maintaining of waterworks, fire-engines, police establishments, markets and pounds ; for the payment of salaries and all other ordinary current expenses required to be borne by the Municipality, the Council shall have the power to impose, levy, and recover all such market dues, water rates and pound fees as shall be deemed necessary and reasonable, and shall be authorized by any such Municipal regulations as aforesaid ; and shall also have the power, as often as shall be deemed necessary, to make and levy, in manner hereinafter provided, a rate or assessment upon all immovable property within the Municipality, the value of such property to be ascertained in manner hereinbefore provided : Provided that no rate shall be made or levied by the Council unless there shall be present at the meeting, at which such rate shall be imposed, at least ten members of the said Council ; and provided also that no rate or assessment, excepting water rates, shall be imposed upon any immovable property belonging to His Majesty the King and used for Imperial purposes, nor on public prisons or police stations, almshouses or hospitals, nor on any buildings appropriated for public worship, nor upon burial grounds, nor upon buildings and lands attached thereto solely appropriated to the purposes of education : Provided that nothing in this Act contained shall in any way affect the provisions of Act 36 of 1891, as amended by Act 19 of 1892.

85. The Council shall annually, in the month of November, make an estimate of the amount of money required for Municipal purposes for the ensuing year, and shall assess the rates accordingly, and give public notice thereof in one or more of the newspapers within the Municipality ; and shall in like manner, if any further or unforeseen expenditure shall become necessary during the same year, make a supplementary estimate thereof, and assess a second or further rate, whereof they shall give public notice in like manner : Provided that it shall not be lawful for the Council in any one year to levy any rate or rates amounting in the aggregate to more than two pence in the pound on the value of the immovable property subject to such rates, without obtaining the consent of the majority of the ratepayers present and entitled to vote at a public meeting, to be called for the purpose of considering such rate or rates ; of the object and the time and place of holding such meeting, at least seven days' notice shall be given by publication in one or more of the Uitenhage newspapers : Provided, also, that it shall be lawful for any five ratepayers, entitled to vote at such meeting, to demand a poll, which poll shall be taken

Annual estimates to be framed.

2d. in the £ maximum rate leviable without consent of ratepayers.

on a day to be fixed by the Mayor, not later than seven days from the date of the meeting, of which day not less than three days' notice shall be given in one or more of the local papers, and which poll shall commence at eight o'clock a.m., and be closed at five o'clock p.m. of such day, and such poll shall be conducted as nearly as possible in the manner provided for taking the poll at the election of Councillors.

When rate
to become
due.

86. Every rate so assessed, as aforesaid, shall become due and payable upon a certain day, to be fixed by the Council, of which day and the amount of which rate the said Council shall give at least fourteen days' notice in one of the local newspapers: Provided that it shall not be necessary in any suit or proceeding for the recovery of any such rate to prove anything further as to due notice having been given than the publication of the announcement thereof in one of the newspapers aforesaid.

Payment of
rate.

87. When the Council shall have announced in one of the local papers the day on which any rate duly assessed under this Act will become due and payable, it shall be incumbent upon all such persons liable to such rate to pay the amount thereof so due to any person whom the Council may have authorised to receive the same, on or before the day fixed in the said announcement for the payment of the same, which shall on non-payment thereof be recoverable at the suit of any such Collector, by action in the Court of the Resident Magistrate of Uitenhage: Provided, also, that any occupier who shall have paid any such rate shall be entitled to recover the same from the owner, unless there be any agreement between them to the contrary.

Who may
be sued for
rate.

88. The Council may, in suing for the recovery of rates proceed against the owner, or in the case of his absence from the District of Uitenhage, his agent or the person receiving the rents for him, in any competent Court, and recover the same by the judgment and process of such Court: Provided that no owner of any immovable property shall be liable for any rate which had become due and payable thereon at any time before he became the owner thereof: and provided further that any person, who as owner may have become liable for any rate as aforesaid, shall continue to be liable for such rate, although he may have ceased to be the owner of the property in respect of which the rate had been imposed.

Interest on
arrear rates at
6 per cent.

89. Should any rates not be paid within six months from the date the same became due the Council shall be entitled to demand and recover interest thereon at the rate of six per cent. per annum, reckoned from the expiration of six months from the day on which the same were payable.

Statement
of arrear rates
to be pub-
lished.

90. The Council may once in every year publish in one or more of the newspapers of the Municipality a statement of every sum in arrear, and of the property in respect of which the same is due.

91. For the purpose of providing means for carrying into effect a more efficient sanitary service with regard to the removal and disposal of nightsoil, sewage, household, stable and other refuse, slops and filth, or any other scheme for the improvement of the Municipality the Council is hereby authorised and empowered to impose a tariff graduated according to the annual value of the immovable property or to levy annually a rate on the rental or annual value of all immovable property situated within the Municipality and liable to be rated for municipal purposes; Provided, however, that such rate shall not exceed in any one year the amount of sixpence in the pound on the rental or annual value of such immovable property.

Further
rating powers.

92. The said tariff or rate shall be styled "The Tenants' Rate," and shall be paid by the person who shall be in actual or legal occupation of the property rated on the day on which the Tenants' Rate shall be levied.

Payment of
rate.

93. No Tenants' Rate shall be levied except at a meeting of the Council at which two-thirds of the Municipal Councillors holding seats shall be present.

Levying of
rate.

94. It is hereby provided that the "Tenants' Roll" required for the assessing of the Tenants' Rate aforesaid shall be framed from the Municipal Valuation Roll for the year in which such Tenants' Rate shall be assessed.

Framing of
rate.

XIII.—POWERS AND DUTIES OF THE TOWN COUNCIL.

95. The Council shall have power and authority to do the following acts:—To make and keep in repair the roads, streets, dams, sewers, drains, and bridges within the limits of the Municipality; to excavate, construct, and lay water-courses, water-pipes, conduits, sluices, dams, reservoirs, aqueducts, and other works for supplying the Municipality with water, and to keep the same in repair, or to grant leave to any person, or company of persons, to lay down pipes or to execute any other like works, except on the property of the Railway Department unless permission has been first obtained from the General Manager of Railways, to take order for the prevention and extinguishment of fires, and for that purpose to provide and keep fire-engines with pipes and utensils; to order, establish, alter or remove markets, and to have or purchase any land, and to erect or purchase and keep in repair any building for the same; to assize weights and measures, and appoint an officer for that purpose; to grant permits and licences, and to levy tolls and dues as hereinafter provided; to regulate the time and places for slaughtering sheep and cattle, and the state and condition of slaughter houses, tanneries, and wool-washing establishments; to appoint one or more competent persons to examine meat and other

Powers of
Council.

provisions exposed for sale, and who in case such meat or other provisions be found unfit for food, shall be empowered to cause the same to be destroyed; to prevent and abate nuisances, and generally to devise and carry out all such measures as shall appear to be to the advantage and convenience of the Municipality; to make regulations for the management of the common pasture lands of the Municipality, and for fixing the number and description of cattle which each ratepayer shall be allowed to depasture on such lands; to establish and provide for the management of tolls and public pounds: Provided that no toll, due, or fee, or charge for any permit or licence or any punishment or penalty shall be imposed by reason of anything in this section contained, unless the same shall have been imposed by some such Municipal regulation as is in the 95th section mentioned.

Certain property vested in the Council.

96. All property, rates, assets, rights and claims which shall at the time of the taking effect of this Act be vested in the Town Council of the Municipality of Uitenhage, elected under and by virtue of Act No. 30 of 1877, shall from and after the taking effect of this Act become and be vested in the Council elected under this Act, upon the like trusts and purposes for which the same was originally granted or transferred; and in like manner all liabilities, debts, contracts, or engagements incurred, made, or entered into, by the said Town Council or their predecessors in office, on behalf of the Municipality of Uitenhage shall be taken over by the Council elected under this Act. From and after the passing of this Act all common pasture lands situated within the Municipality of Uitenhage, over and to which the Council or the inhabitants have a prescriptive or other right, and all right, title and interest in and to the same shall be, and the same are hereby vested in the Council of the Municipality of Uitenhage.

Council may sell certain lands.

97. The Council elected under this Act may, with the consent of the Governor of this Colony, sell by public sale any of the land or property in the last preceding section mentioned for any purpose of a Municipal nature which the Council shall deem desirable and the said Governor shall approve of: Provided that the said Council shall, before applying for the consent of the Governor as aforesaid, give public notice, in one of the local newspapers, for three consecutive weeks, of their intention to apply for such consent, in which notice so published shall be given a full and clear statement of the situation, nature and event of the land or property proposed to be sold, and of the object or purpose for which the money to arise from the sale is required: Provided, also, that when and as often as any land or property shall be sold under and according to the provisions of this section, then such land or property shall be subject to such servitudes, conditions, and provisions as shall be inserted in the transfer deed of the

land or property so sold: Provided, further, that the said Council may, with such consent as aforesaid, alienate any of the land or property aforesaid in exchange for other land or property, but such Council shall not, except with such consent, alienate any such land or property; and the provisions of this section in regard to the notice to be given before applying for a consent to sell shall extend to any application for a consent to an exchange.

98. In case the said Council shall require to take or use any land, with or without the buildings, if any, erected thereon, for the purpose of making, widening, or improving any street, market, or public building, or to dig out or carry away any materials belonging to any person or persons within the said Municipality, then, and in that case, it shall be lawful for the said Council, and it is hereby authorised and empowered to treat and agree with every such person or persons for the purchase or hire, as the case may be, of any such land, buildings, or materials as aforesaid, and generally to enter into such contract or contracts for the obtaining of any such land, buildings, or materials, upon such terms and conditions as the said Council shall deem expedient, and in case any such person or persons and the said Council shall not agree upon the purchase money, or hire, or other recompense to be respectively given by the one party and accepted by the other, then the said Council shall cause to be served upon such person or persons a written notice, offering as recompense or compensation whatever sum of money shall it deem sufficient, and requiring such person to state in writing to the said Council, or to some person by it appointed, within fourteen days from the service of the said notice, whether he or they are willing to accept the sum therein mentioned or not; and in case the person shall refuse to accept the sum offered, or shall neglect to reply to the said notice, then the said Council shall, by another notice in writing, call upon such person or persons to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said Council, and for that purpose to transmit to the said Council, within a certain reasonable time to be specified in the said last mentioned notice, the name of some person whom he shall select to be an arbitrator upon such arbitration, and the said Council upon receiving the name of the person so selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed on behalf of the said Corporation by the Town Clerk for the time being, and by the person or persons claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, together with a power to the said arbitrators, in case of a difference of opinion, to call in an

Powers of Council to treat for lands, buildings, &c., required for making, widening, or improving streets, &c.

umpire, whose decision shall be final; and the award of such arbitrators or umpire, as the case may be, shall be made a rule of the Supreme Court of this Colony or of the Court of the Eastern Districts, and shall be binding and conclusive, and may be pleaded in bar to any action or proceeding at law brought for, or on account of, the same subject-matter; and in case such person as aforesaid, claiming such recompense or compensation, shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, then it shall be lawful for the said Council, and it is hereby authorised, to lodge in some joint-stock bank in the Colony the sum of money offered by it as aforesaid in its first notice in this section mentioned, for or on account, and at the risk, of such person as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his absolute property; and the said Council, upon so lodging the said sum, shall be authorised and entitled to take or use the said land, buildings, or materials, in question, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been an order by the arbitrators or umpire under the provisions of this section, and as if all Acts by law required for vesting in the said Council a sufficient title to the use of or property in the land, buildings or materials aforesaid, had been duly done and performed. Nothing in this section contained shall empower the Council to take land the property of the Railway Department or land set aside for railway purposes.

Procedure
in case owner
of such land
cannot be
found.

99. In case the said Council shall require to take or use any of the land, with or without the buildings, if any, erected thereon, or to dig or carry away any of the materials in the last preceding section mentioned, of which the owner or owners shall be absent from the Colony, and not represented by any agent duly accredited, or shall not be discoverable, then it shall be lawful for the said Council; and it is hereby authorized to cause a notice to be inserted in the *Government Gazette*, and one or more newspapers published in the town of Uitenhage, for four successive weeks, describing as accurately as may be the materials, land, or buildings which are required to be taken or used, and calling by name on the owner or owners of the said land, buildings, or materials, if known, to take notice that the said Council is ready and willing to treat with the owner or owners, or any person duly authorized by him or them, for the recompense or compensation to be made or paid by the said Council for the said land, buildings, or materials, and requiring such owner or owners to apply, within six months from the date of such notice, which shall be the day of its publication, to the said Council, stating the recompense or compensation claimed; and if the owner or owners shall so apply within the said period,

then the like proceedings in regard to the agreeing for, or otherwise determining, the recompense or compensation to be respectively given and received, shall in all respects be had and taken which are prescribed in the last preceding section, precisely as if the said owner or owners had from the first been in actual occupation ; and in case such owner or owners shall not apply to the said Council within the said period, then it shall be lawful for the said Council to appoint some competent person, to be approved of by the Civil Commissioner of the Division, to appraise the value of the land, buildings, or materials required, and such person shall make oath, before some Justice of the Peace, that he hath, to the best of his judgment, fairly appraised such value ; and thereupon it shall and may be lawful for the said Council to pay whatever sum such person shall have valued the land, buildings, or materials in question at into the Guardian's Fund, to the credit of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th of July, 1833, in regard to monies placed in the said fund belonging to persons absent from the Colony ; and the said Council, upon so paying the said sum, shall be authorised and entitled to take or to use the land, buildings, or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all Acts by law required for vesting in the said Council sufficient title to the use of, or property in, the said land, buildings, or materials, aforesaid, had been duly done and performed.

100. The property of and in all streets, roads, lanes, thoroughfares, foot pavements, footpaths, side walks, squares, and open spaces within the limits of the Municipality, which are now in existence or may hereafter be made or created, and to which the inhabitants of the Municipality now have or may hereafter acquire a common right, so far as the same may not already be vested in the Municipal Council, is and shall be hereby vested in the Mayor, Councillors, and Ratepayers of Uitenhage.

Municipal
property to be
vested in
Council.

101. It shall be lawful for the Council to make provision for the lighting in a suitable manner the whole streets, lanes, squares, public passages, thoroughfares, and public places within the town, and to supply lighting to the inhabitants, and to provide, erect, and maintain or grant leave to any person or persons, company or companies, to provide, erect, and maintain, under such conditions as they may see fit, such a number of lamps, lamp-posts, lamp-irons, and other appliances and appurtenances as may be necessary for that purpose, and to light or enter into contracts for lighting, and cause to be lighted such lamps by such means of oil, gas, electricity, or

Lighting
the public
places.

otherwise; and the Council are hereby authorised to order and require such lamp-posts, lamp-irons and other appliances and appurtenances to be put or fixed upon the sides of the pavements, footways, streets, or roads, or the centre of roads, in parks, grounds, and open spaces, or upon or against walls and palisades of any buildings except the property of the Railway Department, unless the consent of the General Manager of Railways, in writing, is first obtained, on the sides of the streets, footways, or roads, without being liable to any claims for compensation. And the Council may also from time to time make such regulations on the aforesaid matter as they shall find necessary.

Drainage
& connection
with drains

102. It shall be lawful for the Council from time to time to cause such sewers, drains, and pipes to be made, laid, altered, deepened, covered over, and maintained, within the Municipality as shall be necessary for the effectual draining of the Municipality or any portion thereof, and from time to time to cause to be made and maintained all such reservoirs, sluices, engines, ventilating shafts, and other works as shall be necessary for cleansing and ventilating such sewers, drains, and pipes, and if needful they may carry such sewers, drains, pipes, and ventilating shafts through and across private lands or beneath or against private buildings, making compensation for any damage done, which compensation shall, if not mutually agreed upon, be settled by arbitration; and the Council or any persons duly authorised by them shall have right of access for maintenance of such sewers and drains. It shall also be lawful for the said Council by their servants or contractors to lay connections from the premises of all persons to the said drains and sewers at the expense of such persons, who shall be bound to pay the just charges of the said Council or their contractors, and should the owner or occupier of any premises or any other person interfere with, or obstruct, or attempt to obstruct, the servants or contractors of the Council in their attempts to lay connections from private premises to the said drains or sewers, such owner or occupier or other person shall be liable to a penalty not exceeding five pounds sterling, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months. Any works which the said Council may require to carry out within the boundary of the property of the Railway Department shall be carried out by the Department at the expense of the said Council, or by the Council under the supervision of the Railway Department, the cost of such supervision being defrayed by the Council. Further, the said Council shall not have the right to lay connections, as mentioned in this section, from premises the property of the Railway Department, without the consent of the General Manager of Railways being first obtained.

103. No house or building shall be erected over any sewer or drain belonging to or vested in the Council without previous notice to them, so that such works as they may deem necessary may be executed for the protection of the sewer or drain; and if any house or building be erected, without such notice, the Council may demolish the same, and the expense incurred thereby shall be recoverable by the Council from the person erecting such house or building.

Buildings not to be erected over drains without notice to Council.

104. Every person who without the written consent of the Council shall make or cause to be made any opening into any public sewers or drains, or who shall destroy or injure, or cause to be destroyed or injured, any of the said sewers or drains or any works in connection therewith, vested in or constructed under the authority of the Council, shall be liable to a penalty not exceeding ten pounds sterling over and above the expenses incurred by the Council in making good the damage thereby occasioned; and such penalty and expenses shall be recoverable in any Court of competent jurisdiction, and upon failure to pay such penalty and expenses such person may by order of such Court be imprisoned with or without hard labour for a period not exceeding three months.

No person to open drains, &c. without consent of Council.

105. The Council may contribute annually, out of the Municipal revenue, sums of money and make grants of land in aid of the following institutions: The Uitenhage Public Library, the Uitenhage Hospital, Horticultural Society, local Volunteer Force, Public School, and such other institutions or objects as the Town Council may from time to time determine.

Council may vote amounts to public institutions.

106. The Council may, from time to time out of its revenues, pay such sums as it may deem necessary towards public functions, public demonstrations, and may defray the expenses of the representation of the Council as such on any such occasion; provided, always, that nothing herein contained shall be construed so as to permit any Councillor to make any profit out of such sums. And the Council may further annually pay to the Mayor, to be expended by him, as Mayor, for the purposes of public hospitality, a sum not exceeding one hundred pounds sterling, anything to the contrary in this Act contained notwithstanding.

Council may vote money towards public functions.

107. The Council may pay to such officers and servants of the Municipality as shall be superannuated or become unfit for duty, such pensions or retiring allowances, and pay such allowances and gratuities to the wives and families of deceased officers or servants as they may deem proper and expedient.

Pensions to Officers and Servants.

XIV. LOANS.

108. It shall be lawful and competent for the Council to borrow at any time, on security of the rates, or of any land or

Council may borrow on security of rates with consent of voters.

property, vested in the said Council, any sum or sums of money upon obtaining the consent of a majority of the enrolled voters of the Municipality present at a Meeting to be called for the purpose of obtaining such consent; or, in the event of a poll being demanded at such meeting as hereinafter provided, then, upon obtaining the consent of the majority of votes recorded upon the taking of such poll.

Steps to be
taken when
loan to be
raised.

109. When the Council has resolved to ask the consent of the voters to any loan or loans :

- (1) The Council shall cause notice of a meeting of such voters to be advertised for a period of not less than fourteen days nor more than six weeks before the date of holding such meeting, in one or more newspapers published in Uitenhage.
- (2) The notice of such meeting shall set out the place, date, and hour of the meeting, and describe the loan or loans, authority for the raising of which is sought, together with the object or objects towards which the money obtained from such loan or loans will be devoted.
- (3) The Mayor or some other Councillor appointed by the Council shall be chairman of such meeting, and shall make such arrangements as to him may appear necessary to ensure the due conduct of such meeting, the taking of minutes of the proceedings thereof, that none but enrolled voters shall take part therein, and to provide for the mode in which the ballot shall be taken in case of a poll.
- (4) All questions coming before such meeting shall be decided by show of hands, each vote counting for one vote, and the declaration of the chairman as to the result of the voting and an entry to that effect on the minutes shall be conclusive evidence of the fact: Provided always that any five such voters present at such meeting may immediately after the declaration of the chairman upon any question demand a poll of such voters of the Municipality thereon.
- (5) If a poll be legally demanded it shall be taken and conducted at the expense of the Council as nearly as possible in the manner prescribed for voting at an election of Councillors, and before the returning officer at such elections by this Act appointed.
- (6) A poll shall be taken on some day fixed by the returning officer, of which notice shall have been given in one or more local newspapers published in Uitenhage for a period of not less than seven days, nor more than fourteen days prior to the day of voting.

- (7) Each voter at such poll shall be entitled to give on the question submitted one vote in each ward in which he is an enrolled voter.

110. For the temporary accommodation of the Council, it shall be lawful for the Council to obtain advances from banks or other financial institutions by overdraft of the current account, but no such overdraft shall at any time under any circumstances exceed the Council's income for the year ending 31st December previously.

Council may obtain overdraft at bank for temporary accommodation.

111. The "Act No. 11 of 1867," known as the "Public Bodies' Debts Act, 1867," shall apply in the case of all debts due, or which may hereafter become due, by the Council, anything in this Act to the contrary notwithstanding.

"Public Bodies Debts Act 1867." shall apply.

112. The following sections of Act No. 21 of 1896, numbered (1) to (9), are incorporated herewith, and shall form part of this Act, provided however, that it shall be lawful for the Town Council to increase the Sinking Fund specified in sub-section (5) hereof for the redemption of existing loans under said Act to any amount per centum per annum, which the Council may deem desirable:—

Loans Act.

- (1) It shall be lawful for the Council of the Municipality of Uitenhage (hereinafter called "The Council") from time to time to borrow and take up upon interest such sum or sums of money as when added to the sums already borrowed under Act No. 21 of 1896 shall not exceed in the whole thirty-six thousand pounds sterling and to charge the rates of the Municipality of Uitenhage as security for the moneys to be borrowed as aforesaid and for the interest to grow due or to become payable thereon, or in respect thereof, and the said moneys and interest when borrowed are hereby charged upon and made payable out of the said rates.
- (2) The sum or sums of money borrowed as aforesaid shall be raised upon debentures to be issued by the Council in the form as set forth in schedule B annexed hereto, to the person or persons who shall have advanced the same.
- (3) The debentures shall be for such amounts, not being less than one hundred pounds sterling, and shall bear interest at such rates as shall be agreed upon between the Council and the lenders.
- (4) The said debentures shall be transferable upon the endorsement of the registered holder thereof.
- (5) In order to provide for the payment of the interest and charges upon the moneys to be borrowed in terms of this section, and for the repayment of the capital moneys, the Council shall set apart annually, out of the funds of the Municipality, a sum equal to the whole of the interest

- agreed to be paid upon such moneys as shall be borrowed under this Act, or shall have been borrowed under the Act No. 21 of 1896, and also a further sum of not less than one pound sterling per centum upon the whole capital sum that may be borrowed or may have been borrowed as aforesaid, as a sinking fund, to be applied towards the payment and redemption of the interest and capital of the said debt, so long as the same, or any portion thereof, shall remain unpaid and unextinguished.
- (6) The interest on the said debentures shall be payable at the Town Office in Uitenhage, half-yearly, on the 30th June and 31st December in each and every year.
 - (7) The Council shall determine annually by lot which of the debentures shall fall due to be paid out of the fund set aside for that purpose as is in the fifth sub-section of this section provided.
 - (8) The Council shall, within ten days after it shall have been determined as aforesaid which debentures have fallen due to be paid, cause notice to be given to the respective registered holders of the said debentures so drawn for payment, by causing the said notice to be posted by means of a prepaid letter addressed to each such holder at his registered address, whereupon the capital amount of the relative debenture or debentures, and the interest thereon, shall become due and payable at a date to be specified in such notice not being less than three months, or more than six months, subsequent to the date of such notice; and in the event of the provisions of this section not being complied with the holder of any such debenture may refuse to receive payment thereof unless and until the same shall fall due and payable in some subsequent year.
 - (9) The Council shall cause a register of all debentures to be formed and kept wherein shall be entered the number and particulars of every debenture, the name and address of the registered holder from time to time with a note of every transfer of the debenture and of the payment of the interest and redemption of the capital sum thereof. It is also hereby provided that the provisions of sub-sections 2 to 9 inclusive shall, if the Council so determine, extend and apply to all loans raised and money borrowed under the provisions of this Act.

XV. LEASES.

113. The Council may lease with the consent of the Governor any portion of the common pasture lands belonging to the Municipality for the purpose of erecting wool-washing establishments, Council may let certain lands on lease for certain purposes.

for building, and for any other purpose, for a period not exceeding thirty-three years: Provided that no such lease shall be granted by the Council until a notice in writing of the proposal of the Council to grant such lease shall have been posted for general information at some conspicuous place of public resort within the Municipality, for a period of not less than fourteen days, and shall cause the same to be published in a local paper for the same period, which notice shall in some part thereof describe the part or portion of land proposed to be leased, and the object, terms, and general conditions of the proposed lease, and shall require any person objecting to the proposed lease to lodge with the Council within fourteen days from and after the posting and publication of such notice his objection thereto in writing, whereupon the Council shall receive and consider the objections, if any, and shall grant or refuse the said lease as they shall think fit: Provided also that all such leases shall contain a power to re-enter for non-payment of rent or non-performance of covenants.

114. The Council may, by public sale or tender, lease the privilege of working any quarries belonging to the Corporation.

Quarries.

115. No lessee of any such land, or of any quarries, shall assign or sub-let the same without the previous consent of the Council testified in writing first had and obtained.

Power of lessee to sub-let.

XVI.—CONTRACTS.

116. The Council may carry out any works departmentally, and may from time to time enter into any contract with any person or company whatsoever, for any work to be done and performed, or for any materials to be furnished to and for the Council by virtue and for the purposes of this Act, or in connection with any work authorized to be done by the Council, which contract shall specify the work to be done and the price to be paid for the same, and the time when the work shall be completed and the penalty to be suffered in case of non-performance thereof. Every contract shall be deemed to be duly executed on behalf of the Council if sealed with the common seal and signed by the Mayor or Deputy-Mayor, and Town Clerk or Acting Town Clerk, or by two Councillors authorised by resolution of the Council. No contract above the value of fifty pounds shall be entered into, unless fourteen days' notice previously given in one or more of the public newspapers published within the Municipality, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered and presented to the Council at a certain time and place in such notice to be mentioned: Provided, always, that if the Council shall be of opinion that it will not be advantageous to contract with the person offering the lowest price or with any other person making a proposal it shall be lawful for

Council may carry out Municipal works departmentally or by contract.

Councillor cannot contract

the Council to contract with such other person or persons or company as they shall think proper, and such person or persons or company so contracting shall give security for the due performance thereof to the satisfaction of the Council: Provided, however, that any Councillor who shall, either directly or indirectly, become a contractor or tender for any contract, either in his name or in the name of, or jointly with, any person, shall be considered to have vacated his office of Councillor.

Councillors not to vote where interested pecuniarily.

117. No Councillor shall vote upon or take part in the discussion of any matter in or before the Council in which he has directly or indirectly by himself or his partners any pecuniary interest. And any Councillor contravening the provisions of this section shall, for every offence, be liable to a penalty not exceeding fifty pounds.

XVII.—PLANS AND SUB-DIVISIONS

Plans of buildings to be submitted to Council, who may disapprove thereof.

118. Any person about to erect any building within the limits of the Municipality shall be bound to submit to the Council plans of such proposed building showing the dimensions of the ground on which the building is to be erected, the general structure of such building, the materials of which it is to be constructed, and its external appearance when complete, as well as what provisions may be made for drainage and sanitation, and the said Council shall have power to object to the erection of such building should the said plans not meet with their approval, whether upon the grounds that proper drainage and sanitary arrangements are not provided or that the proposed building will not be safe, or that the same is not a suitable structure for the locality in which it is to be erected, or upon any other grounds whatsoever, and such person shall not proceed with the erection of any such building until he shall have received the sanction of the said Council thereto; and should such person attempt to proceed with the erection of any building without having first obtained the consent of the said Council to such erection, or without having submitted plans as aforesaid, the said Council shall have power to enter upon the premises of such person and pull down so much of such building as may have been erected. Buildings, etc., other than residences of employees, erected by or for the Railway Department shall not be subject to the approval of the said Council.

No sub-divisional transfer of land to be passed without approval of Council.

119. All persons who may be desirous of selling lands within the said Municipality in sub-divisions shall submit a plan of the same for the approval of the said Council, and no transfer of any such land sold in sub-division after the taking effect of this Act, shall be passed in the office of the Registrar of Deeds until a certificate shall be produced to the said Registrar under the hand of the Mayor or Town Clerk certifying that the plan of such sub-divisions has been submitted to and approved by the said Council.

120. It shall be the duty of the said Council to see that due provision is made in every plan so submitted for efficient drainage that the streets and passages made by such sub-division are of sufficient width to accommodate the traffic that may be expected thereon, and shall be clear throughout and open as far as practicable into existing streets or thoroughfares.

Council to see to drainage in plans.

121. The owners of such property shall, before the sale thereof, form and level the proposed streets and thoroughfares, and shall make over the same to the Council in proper condition for use, and the Council shall thereafter be bound to keep and maintain the said streets and thoroughfares. The owners shall also construct side walks with proper stone or cement kerbing, to the satisfaction of the Council. No dwelling house or other buildings shall be erected on such properties until the streets and sidewalks with kerbing shall have been made as aforesaid. It is hereby provided, however, that, in the event of the proposed sale of plots going through, he (the vendor) will at once execute the works stipulated for in the section. But in no case shall the cost of forming and levelling such streets and constructing such sidewalks, or the temporary guarantee therefor by the vendor, as the case may be, amount to more than five per cent. of the total gross proceeds of the proposed sale.

Making Streets and Sidewalks.

XVIII.—STREETS AND THOROUGHFARES.

122. Whenever a majority of the owners of property in any existing street, the maintenance of which has not been assumed by the Town Council, shall petition the Town Council to form up and construct such street or to make proper sidewalks therein with stone or cement kerbing, the Council shall have the power and authority to execute the necessary work and charge the whole of the owners of the respective properties abutting on the street or roadway, and their successors, a *pro rata* share according to their frontages, of the cost of such work, in the following manner, that is to say: one half of the cost shall be borne by the Council and one half by the owners *pro rata* as aforesaid, and the costs of the works so apportioned as aforesaid shall be recoverable from the respective owners of private property as aforesaid and their successors, in equal yearly instalments, the first annual instalment to be payable on the completion of the work, and the remaining instalments annually on the corresponding date of each subsequent year until the whole are paid off, and provided also that the Railway Department shall be exempted from the obligations and responsibilities imposed by this clause.

Making of Existing Streets.

XIX.—LOCATIONS.

123. The Council is empowered to establish locations of natives on any part of the Municipal lands, and to remove the same, as also to remove, or cause to be removed, any existing locations

Powers to establish and remove locations and to

remove existing locations. ex-locations.

upon Municipal lands, provided that no such removal shall take place until the Council have published a notice of its intention to apply for the Governor's consent thereto, once a week for three consecutive months, and until they shall have obtained such consent; and the Council is further empowered to frame regulations for the proper control of all locations within the Municipality, whether upon Municipal lands or private property, and for preventing the sale of Kafir beer and other intoxicants therein, and the Council's Superintendent of Locations and the Police shall, at all times, have free right of entrance into all locations situate upon such Municipal lands or private property, in order to see that such regulations are being properly observed.

XX.—RULES AND REGULATIONS.

Majority of Councillors must be present when regulations framed.

124. The Council may, at any meeting at which a majority of the members shall be present, repeal, alter, or amend any of the Municipal Rules and Regulations, and may frame any new Rules and Regulations within the scope of existing Rules and Regulations and the provisions of this Act, and from time to time add to, alter, or amend the same: Provided that all Municipal Regulations in force in the Municipality at the time of the taking effect of this Act shall be in force and effect as if they had been duly passed and approved and published under this Act.

Power of Council to make regulations.

125. The Council may also, from time to time, in addition to any other Rules, Regulations, or Bye-laws by this Act authorised to be made, make, alter, revoke, or amend Rules and Regulations for all or any of the following purposes:—

- (1) For regulating the duties of the Council's officers and servants.
- (2) For regulating the level, width, direction, and construction of new streets to be made by the Council or by owners of private property, and the sewerage and drainage thereof.
- (3) For regulating the materials, structure of walls, foundations, roofs, and chimneys of new buildings, also their height and cubical contents, and the fixing of fireproof doors and shutters, at internal and external openings; for securing stability, the observance of sanitary precautions, the prevention of fires, and for purposes of health and public safety.
- (4) For regulating the sufficiency of space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings.
- (5) For regulating the drainage and sewerage of buildings, and for compelling the connection at the owner's expense

- of the drains to buildings with public drains, sewers, or pipes, and for regulating the construction by the Council at the owner's expense of all such drains.
- (6) For regulating water-closets, earth-closets, privies, ashpits, and cesspools, in connection with buildings, and to prohibit the use of such of them as the Council consider ought not to be allowed to continue.
 - (7) For regulating with respect to the closing of buildings or parts of buildings unfit for human habitation, and the prohibition of their use for such habitation.
 - (8) For prohibiting brothels, shebeens, and opium smoking saloons, the overcrowding of houses, dwelling places, and rooms.
 - (9) For licensing and regulating market guides, and the fees to be charged by same.
 - (10) For securing the regularity of lines and levels of building, the class of architecture of buildings, and the removal, alteration, and prevention of projections or obstructions in front of buildings.
 - (11) For enabling the Council to prevent the alteration, erection, or use of buildings, the class or character of which are, either in themselves or from the circumstances or nature of the locality in which they are placed, a disfigurement to the town or an annoyance to the inhabitants thereof; also for preventing the owners of property which has been subdivided and sold in building lots, from closing any roads or streets shown upon any plan which has been approved of by the Council.
 - (12) For regulating the giving of notices, and the deposits for the Council's approval of plans and sections by persons intending to lay out streets or construct or alter buildings; the inspection by the Council or its officers; and as to the power of the Council to prevent, remove, alter or pull down, at the expense of the owner, any work begun or done in contravention of its regulations.
 - (13) For compelling the pulling down, removing, or rendering safe all buildings, walls, bridges, earthworks, and stoeps of an unsafe or dangerous character, or which have been allowed to fall into a dilapidated or ruinous condition, and for doing so at the cost of the owner.
 - (14) For regulating the inspection of buildings and structures by the Council and its officers; and for regulating the erection of scaffolding and hoarding during construction or alteration of any building in order to keep the path clear in front of such building, and also the part of the thoroughfare that may be required for such purposes.

- (15) To provide for the due and proper care of the common pasture and other municipal lands, and therein to specify and regulate the quantity and kinds of livestock which each householder shall be allowed to keep and depasture on the said lands.
- (16) For preventing the spread of contagious or infectious diseases, and for preserving the public health.
- (17) To appoint health officers and sanitary inspectors.
- (18) For regulating and preserving public parks, walks, avenues, botanical gardens, public libraries, bleaching and drying greens and grounds, public wash-houses, abattoirs, urinals, latrines, cabmen's shelters, coffee stalls, public baths, public places of recreation and open spaces, and preventing offences, nuisances and annoyances therein; and for regulating bathing and the hours of bathing near public thoroughfares.
- (19) For regulating and restricting the storing, handling, loading, unloading, carriage, removal, and use of gunpowder, dynamite, petroleum, oils, fireworks, and other combustibles and explosives, and for regulating the use of firearms.
- (20) For regulating the removal of night-soil, and the number of tubs to be supplied to each house, and the charge to be made for same, as well as for removal thereof, and of stable litter, filth and refuse from private premises, and from all streets, roads and public places, and for regulating the time and mode of the removal of any offensive matter or thing.
- (21) For imposing a tax upon the keeping of dogs, and providing with regard to the seizure, sale, and destruction of ownerless dogs, and those in respect of which the tax has not been paid.
- (22) To make regulations governing the designs and positions of magazines for explosives, the materials used in their construction, both inside and out, and repairs to same.
- (23) For regulating as to persons employed in connection with magazines for explosives, the clothing to be worn in such magazines, and the use of lights and tools, and for testing explosives, and requiring them to be equal to the British Government test, and to impose fees.
- (24) For regulating and controlling traffic, and regulating, controlling, and restricting gatherings in public places and processions.
- (25) For regulating the route to be observed by all carts, carriages, horses and persons and for preventing obstruction of the streets of the town, public or private, in all times of public processions, rejoicing, or illuminations,

and in any case when such streets are thronged or liable to be obstructed, and may also give directions to the constables for keeping order and preventing any obstruction of such streets in the neighbourhood of theatres and other places of public resort.

- (26) For the abatement of nuisances; for preventing and removing obstructions in the streets, roads, public thoroughfares, squares, open spaces, foot pavements and sidewalks of town; for dealing with diseased animals, and the burial of dead animals, and the driving and leading of live stock through the streets, and with regard to live stock found straying in the streets.
- (27) For regulating the naming from time to time of the streets, roads, thoroughfares, and open spaces, in the Municipality, and the numbering and renumbering the houses, buildings, and places therein, and imposing duties and obligations upon the inhabitants in respect thereof.
- (28) For regulating the killing of cattle and sale of butchers' meat the establishment and locality of slaughter houses and meat shops and the maintenance in a cleanly and proper state, and removing the filth therefrom and requiring that all such places to be provided with a sufficient supply of water.
- (29) For providing that horses, cattle, dogs, live stock, poultry, and wild animals shall not be kept in such places, or in such manner as to be a nuisance or annoyance to the inhabitants; for prescribing the situations or places in which swine may be kept, and for prohibiting if deemed advisable, the keeping of swine.
- (30) For regulating the supply and distribution of any water under the control or management of the Council, the quantity of water to be supplied for specific purposes, the price to be paid therefor, the time or times at which such supply is to be received, and for the purpose of preventing any waste of water within the Municipality.
- (31) For providing that the owners of all landed property adjoining or adjacent to the Municipal water mains shall pay for water according to the Municipal tariff, whether such owners lay the water on to their properties or not.
- (32) For establishing one or more pounds, within the Municipality and for providing for the management of pounds, the appointment of poundmasters, and for making such pound regulations as may seem necessary or expedient.
- (33) For preventing any person or persons from carrying any board, basket, or burden, so as to obstruct or incommode passengers on any sidewalk, or foot pavement, and

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- for preventing the wheeling of perambulators, bicycles, tricycles, wheelbarrows, and similar vehicles on any sidewalk or foot pavement, except for the purpose of crossing the same to or from any house or building.
- (34) For preventing persons marking, putting posters, bills, or any form of advertisement or marking buildings, pavements, walls, fences, steps, paths posts, lamp posts, &c.
- (35) For preventing persons from congregating with others, thus causing an obstruction on any footpath, foot pavement, sidewalk, or crossing, and for preventing the flying of kites, the use of catapults, and playing of games in public streets, thoroughfares, and open spaces, and for preventing the obstruction of public streets, thoroughfares and open spaces.
- (36) For regulating the width, kerbing, paving, guttering, gravelling, cleansing, and watering of roads and streets.
- (37) For granting licences or permits for the making of bricks and for digging or removing sand clay or gravel, and for quarrying stone, and for cutting firewood, brushwood, or grass on Municipal lands and to prescribe the fees (if any) to be paid for the same.
- (38) For licensing and supervising coolies and arranging tariff of charges for same.
- (39) For regulating, supervising, and licensing hackney carriages, motor-cars, cabs, jinrickshas, wagons, carts, and conveyances drawn by any horse, mule, donkey, or ox, kept or used within the Municipality or plying for hire or profit, and the drivers of such as ply for hire or are used for trade purposes, for fixing the amount of licence fees to be paid, the number of passengers to be carried, the charge and fare to be made, the amount of luggage to be allowed to passengers, the position of cabs on stands to be appointed by the Council, and for the safety and convenience of passengers and the public.
- (40) For regulating the supervising and licensing of tram-cars and omnibuses, and for fixing the licence fees to be paid, the number of passengers to be carried, precautions to be taken and provisions to be made against accidents, and regulating for the safety and convenience of the public.
- (41) For regulating the keeping in repair and paving of tramway and railway lines, except the line of the Cape Government Railways, running over public streets or roads, and the keeping in repair and paving by tramway and railway companies and owners of tramcars and railways of the roadway between and adjacent to their rails.

- (42) For regulating, restricting, and licensing the use of bicycles, tricycles, motor-cars, and velocipedes within the Municipality.
- (43) For regulating or prohibiting the cleaning and grooming or breaking in or training of animals, repairing, cleaning, and outspanning of vehicles in streets and public places.
- (44) For restraining or regulating the conditions upon which, and the locality where noisome and offensive trades may be carried on, and for prohibiting, if deemed desirable, the establishment of and for restraining the same.
- (45) For planting and preserving trees and shrubs, flowers and plants.
- (46) For regulating and registering houses let or occupied as common lodging houses and sub-let tenement houses, boarding houses and hotels, and inspecting such houses and hotels, and the keeping the same in a cleanly and wholesome state.
- (47) For regulating and restricting the putting up of sign-boards or sky signs in the streets or over buildings.
- (48) For allotting and setting apart and from time to time changing portions of the Municipality as locations for the residence of natives and Asiatics, and for abolishing, such locations.
- (49) For regulating the conditions upon which natives and Asiatics may reside in such locations, and the fees, rents, and hut tax to be paid by them in respect of such residence, and for the providing for the registration of such residents, and any horses, cattle, oxen, sheep, or goats belonging to them, and for regulating or prohibiting the use of the commonage by the same.
- (50) For providing for the appointment of superintendents and inspectors of such locations and regulating their duties and authority, and preventing the obstruction of such officers in charge of their duties.
- (51) For regulating, permitting, or prohibiting of shops, trading stations, and trading within such locations.
- (52) For the removal or destruction of unauthorised or abandoned huts in the locations or upon the commonage.
- (53) For the issuing or refusing of permits to natives to reside in such locations, and for regulating the manner in which persons no longer entitled to reside therein may be removed.
- (54) For fixing and from time to time altering the limits within which it shall not be lawful for natives and Asiatics to reside.
- (55) For regulating and setting apart portions of the river where natives and Asiatics may or may not bathe, and where clothes may or may not be washed.

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(56) For licensing plumbers, for employment on private water leadings and Municipal water-works; and for regulating all matters and things connected with the laying down of private water services, and water-closet connections; and for preventing interference with the Municipal water-works and mains.

(57) For maintaining generally the good rule and government of the municipality, and the safety, convenience, and comfort of its inhabitants, and in framing regulations the Council may prescribe the time within which any works or things required to be done shall be executed, done, or completed, and may provide in case of default for the execution, doing, or completion by the Council of any such work or thing at the expense of the defaulter.

Providing that nothing in the sub-sections forty-nine to fifty-five shall apply to any native or Asiatic who is at the present time, or may hereafter become, the registered owner or the occupier of landed property within the Municipality valued for Municipal purposes at not less than seventy-five pounds. Provided also that nothing in sub-section 31 contained shall be deemed to revoke or alter, or in any way affect the existing agreements entered into between the Municipality and the Colonial Government, and, provided further, that the Colonial Government shall not be liable at any time to pay for water according to the Municipal tariff, unless such water be laid on to the property of the Colonial Government at its own request.

Council
may frame
Municipal
regulations.

126. It shall be lawful for the Council, at any meeting, to frame, from time to time, all such Municipal Regulations as may seem meet for the good rule and Government of the Municipality: Provided that all Municipal Regulations in force in the Municipality of Uitenhage at the time of the taking effect of this Act shall be of the same force and effect as if they had been duly framed, approved, and published under this Act, and shall continue to be in force and operative until such time as the same shall be altered or new ones published under this Act.

Regulations to be approved by Governor.

127. No Municipal Regulation shall be of force to subject any person to any fine, penalty, or payment, until it shall have been submitted to the Governor by the Council, and shall have been approved of by him, with the advice of the Executive Council, and published in the *Gazette*.

Regulations may provide penalties for breach.

128. Any rule or regulation made under this Act may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches thereof, but no penalty shall exceed ten pounds; and any such rule or regulation may provide that in addition to any such penalty all expenses incurred by the Council in consequence of the breach of any such rule or regulation and in the execution of any work directed by

any such rule or regulation to be executed by any person and not executed by him shall be paid by the person committing such breach or failing to execute such work. Provided that it shall be competent for any such Municipal Regulation to provide that, if the person convicted of contravening the same shall not forthwith pay the fine imposed upon him, he shall be liable to be imprisoned, with or without hard labour, for any period prescribed by such regulation: Provided, moreover, that such period shall not exceed three months.

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XXI.—MISCELLANEOUS.

129. If any person shall keep or suffer to be kept within any premises any dog, fowl, or other animal which shall be a nuisance to any of the inhabitants in the neighbourhood, and shall not prevent the continuance of such nuisance by removing such dog, fowl, or other animal, or otherwise, within such time as the Magistrate shall determine, which he is hereby authorised to do in a summary manner, such person shall, upon conviction before the Magistrate, for every such offence be liable to a penalty not exceeding forty shillings; and it shall be lawful for constables, officers of police, or other officers of the law and their assistants, to seize and take possession of and to remove any dog, fowl, or other animal which shall be proved to be a nuisance as aforesaid, and not removed when so ordered.

Persons keeping dog or other animal a nuisance to neighbourhood liable to penalty.

130. Every person who sells or exposes for sale, or keeps for the purpose of sale, any of the following articles, shall be liable to a penalty not exceeding twenty pounds:—

Persons selling certain unwholesome food liable to penalty.

Any animal or part of an animal which died from disease.

Any animal or part of an animal, or any fruit or vegetable, which is unsound or unwholesome, or unfit for human food.

Any blown, stuffed, or pricked veal, lamb, or other meat.

131. The Council shall for the purposes of this Act and its rules and regulations have power by themselves or their officers to enter at all reasonable hours into and upon any building or land for the purpose of executing any work or making any inspection authorised to be executed or made by them under this Act or the Council's rules and regulations without being liable to any legal proceedings on account thereof.

Power to enter buildings, &c.

132. Every person who shall at any time obstruct the Council or any of its officers in the performance of anything which they are respectively empowered or required to do by this or any other Act or by any Municipal regulation, shall be liable in each case to a penalty not exceeding five pounds.

Persons obstructing servants of Council liable to a penalty.

133. Every person who shall contravene any provision of this Act or any rule or regulation in force in the Municipality, shall for every offence be liable to the penalty expressly imposed by this Act or any such rule or regulation, and if no other penalty

Persons contravening sections of Act or any regulation liable to a

penalty specially provided. — Also general penalty clause where no provision.

be imposed to a penalty not exceeding twenty pounds, and, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding three months; and in all cases where a penalty may be expressly imposed by way of fine, and no provision is made that in default of payment of such fine imprisonment may be imposed, then it shall be competent for the Magistrate, or other officer of justice who may have imposed such fine, to direct that, in default of payment of such fine, the person liable to pay the same shall be imprisoned, with or without hard labour, for a period not exceeding three months.

Publication of notices.

134. Every notice calling a public meeting of the ratepayers, and every notice or other document or thing required by this Act to be published, shall (except when otherwise provided), be so published by causing a copy thereof to be inserted in one or more of the newspapers published within the Municipality, and copy of the same shall be affixed in some conspicuous place upon or near the Town Hall: Provided always that the Mayor shall call a meeting on receiving a requisition to that effect signed by not less than twenty duly qualified ratepayers, but seven clear days' notice of any such public meeting shall be made in the manner hereinbefore set forth.

Recovery of fines and penalties.

135. All fines and penalties imposed by this Act, or by any Municipal regulations made by virtue thereof, shall be prosecuted for in any competent Court by the Council in the name of the "Municipal Council of Uitenhage." It is further hereby provided that the Municipality shall be entitled to summarily recover from the offenders the costs of all actions or proceedings raised for contravention of the Municipal Regulations in which convictions shall have been obtained.

Storing of gunpowder, etc.

136. The storing of kerosene, gunpowder, or other explosive material shall not be permitted, except by His Majesty's Government for public purposes in such places as may be approved by His Majesty's officers, or by other persons in such places as may be approved of and licensed by the said Council for that purpose.

Burial-grounds.

137. So soon as any burial ground, or portion thereof, within the limits of the Municipality shall become so crowded as to be, in the opinion of two-thirds of the Council, dangerous to the public health, the Council shall be empowered to give six months' notice that burials therein shall cease, and after the expiration of the said term of six months, any person or persons causing any interment to be made therein shall be liable to pay a fine not exceeding fifty pounds, to be recovered in any competent Court.

Interpretation clause.

138. In the interpretation of this Act, in all cases words in the singular number shall be taken as including the plural number; and words signifying the male gender shall include the female gender, unless the context is opposed thereto; and the following terms shall be construed as follows:

"Municipality" means the Municipality of Uitenhage as constituted and defined by this Act.

“Council” includes the Mayor, Councillors and Ratepayers of Uitenhage and the Town Council of Uitenhage as constituted and defined by this Act, or as it may hereafter be differently constituted in terms of this Act.

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“Mayor” is the Mayor for the time being of the Municipality of Uitenhage, and wherever the term Mayor shall appear in this Act, the same shall include the Deputy-Mayor and the Chairman for the time being.

139. This Act may be cited for all purposes as the “Uitenhage Municipal Act, 1904.”

Short title.

SCHEDULE A.

Schedule A.

FORM OF FRONT OF BALLOT PAPER.

Counterfoil. No. NOTE : <i>The Counterfoil is to have a number to correspond with that on the back of ballot paper.</i>	1	BROWN (John Brown, of 21, Cuyler Street, Uitenhage, Merchant.)
	2	JONES (Henry Jones, of 45, Queen Street, Uitenhage, Attorney.)
	3	SMITH (Frederick Smith, of 51, Band Street, Uitenhage, Shopkeeper.)
	4	ROBINSON (George Robinson, of 33, John Street, Uitenhage, Draper.)

FORM OF BACK OF BALLOT PAPER.

No.....

Election for Town Council of Uitenhage.

.....19.....

NOTE.—The number on the ballot paper is to correspond with that on the counterfoil.

SCHEDULE B.

No..... £.....

MUNICIPALITY OF UITENHAGE.

DEBENTURE.

THIS IS TO CERTIFY that the Mayor, Councillors and Rate-payers of Uitenhage are indebted to or other the registered holder of this debenture in the sum of sterling, being for money lent and advanced to the Municipality of Uitenhage, together with interest thereon at per cent. per annum payable half-yearly at the Town Office of Uitenhage on the 30th June and 31st December in every year. This debenture is issued under the provisions of "The Uitenhage Municipal Act, 1904," whereby the rates of the said Municipality are charged with the payment of the principal money and interest. The capital sum of this series of debentures will be paid out of a sinking fund, and will fall due and payable by annual drawings in terms of the said Act.

In witness whereof the Common Seal of the Municipality of Uitenhage has been affixed at Uitenhage in the Colony of the Cape of Good Hope on this day of , 1904, in the presence of

<div style="border: 1px solid black; border-radius: 50%; width: 60px; height: 60px; display: flex; flex-direction: column; justify-content: center; align-items: center;"> <div style="margin-bottom: 5px;">E. F.</div> <div style="margin-bottom: 5px;">G. H.</div> </div>	}	Councillors.	<div style="border: 1px solid black; border-radius: 50%; width: 60px; height: 60px; display: flex; flex-direction: column; justify-content: center; align-items: center;"> <div style="margin-bottom: 5px;">A. B.</div> <div style="margin-bottom: 5px;">C. D.</div> </div>	Mayor. Town Clerk.
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Endorsement.

I the registered holder of this Debenture do hereby cede assign and make over all my right, title and interest therein unto of for value received.

Dated at this day of 1904.

No. 16—1904.]

[May 31, 1904.

ACT

To Authorise "The South-Western Railway Company, Limited," to construct a Railway between Knysna and a point near Yzernek, in the District of Knysna.

[Assented to 28th May, 1904.]

WHEREAS it is expedient that power should be granted to "The South-Western Railway Company, Limited," a Company duly registered in the Cape Colony, to construct, equip, maintain and work a Railway with all necessary Sidings, Junctions, Termini, Stations, Wharves, Bridges, Culverts, Roads, Appliances and other works incidental to and necessary for the proper construction, equipment and working of the said Railway from a point known as the Recreation Ground within the Municipality of Knysna to a point near Yzernek in the Division of Knysna, with branches in the Village and vicinity of Knysna ;

Preamble.

And whereas it is also expedient that powers be granted to the said Company to construct, maintain and work Telegraph and Telephone Lines in conjunction with such Railway along or near to the said line in accordance with the provisions of this Act ;

And whereas it is expedient that Government be authorised to pay towards the construction of the said Line and Branches a sum of money as a subsidy ;

And whereas it is also expedient that powers be granted to the said Company to frame Rules and Regulations and Tariffs for the due and proper management of the said Railway ;

And whereas plans and sections of the Line of Railway proposed to be constructed have been deposited in the Office of the Clerk of the House of Assembly.

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

1. The Company styled "The South-Western Railway Company, Limited," shall be and is hereby authorised and empowered to construct, equip, maintain and work a line (or double line) of Railway with a gauge of two feet and a gradient at no point steeper than one foot in thirty-eight feet on the straight and fully compensated on curves and with no curve of less than two and a half chains radius from that portion of Knysna (Newhaven) Commonage known as the "Recreation Ground," part of the freehold farm, Melkhout Kraal, according to transfer dated 26th August, 1889, in favour of the Municipal Council of Knysna with Sidings and Junctions thereon ; thence

Authority
to construct
Railway.

Line of
Railway de
fined.

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over the said Commonage ; thence across land which is either portion of Melkhout Kraal or Government Ground or the fore-shore adjoining the same ; thence over the properties of W. H. Mason, the Trustees of H. Armstrong, Adam McIntosh, Estates of Searight and Ansdell and W. P. Cuthbert ; thence across the farms, Melkhout Kraal owned by Mrs. J. M. E. Stroebel, and Hunter's Home owned by Thomas Horn and William Horn, with power to deviate on the farm " Woodburn " owned by T. H. Duthie ; thence over Dams Bosch, Springfield, and Noetze owned by Mrs. Stroebel and Estate P. C. Metelerkamp and Government land ; thence over Lot A. G., No. 3, owned by Mrs. P. Stroebel ; thence over Government land and over Lots A. G. and R. R., Bracken Hill, owned by Hjalmar Thesen ; thence over Government land and Lots S. S. and P. P. owned by the Knysna Forest Company, Limited ; thence over Government land to a point near Yzernek, estimated at twenty-two miles from the said Recreation Ground within the Municipality of Knysna, and the following continuations or branches in, and in the vicinity of, the Village of Knysna :—From the said Recreation Ground over Government land marked " Z " to the Causeway leading to Knysna Jetty ; thence up Long Street and Union Street to a point about one hundred yards from the junction of Long Street and Union Street. with a further branch from Long Street over the Commonage below the Lots 136 and 137 Newhaven to a point about one hundred yards from Long Street, and again from a point on the said Causeway, being a continuation of Long Street over Knysna Village Erf No. 29, the property of the Trustees of the Diocese of Cape Town, leased to Thesen & Company, crossing Rex Street ; thence over Village Lots Nos. 28, 27 and 26, owned by the said Trustees of the Diocese and leased to Thesen & Company ; thence crossing Gordon Street, up Mortimer Street, crossing Erf No. 9, property of the Trustees of the Diocese of Cape Town, crossing Rawson Street, up St. George's Street to Nelson Street ; thence along Nelson Street to the terminus in Long Street ; and again from a point on the Knysna Causeway, being a continuation of Long Street, following the said Causeway ; thence over the land of the estate of the late George Rex to the Wharves on Paarden Island : provided that it shall be lawful for the said Company to deviate from and vary the said lines of Railway and branch lines of Railway outside the limits of deviation as shown by the said plans with the consent of any owner or owners, lessees or occupiers through whose land the said line may pass to such extent as may be allowed by the Commissioner of Public Works or his nominee upon the request of the Directors of the said Company, as also to construct Stations and Sidings at such convenient point or points along the route as may be agreed upon between the Company and the owners of

Extent of deviation authorised.

Authority to construct Stations and Sidings.

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lands traversed by the Railway, or, failing such agreement, as the Commissioner of Public Works for the time being or nominee of the Cape Government Railways shall, on application to him by the Company, fix.

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2. The Directors of the Company may, by any person thereto duly authorised in writing, enter upon any land within the limits of deviation as shown in the said plan for the purpose of surveying the same and of probing and boring in order to ascertain the nature of the soil, and of setting out the line of railway, making full compensation to the occupier of the said land for any damage thereby occasioned, to be assessed, in the absence of agreement, by arbitration under the Lands and Arbitration Clauses Act, 1882, and in default of agreement or an award of arbitration within six months from the date when such damages shall be alleged to have been sustained to be recovered by action brought in any competent Court.

Power of
Entry upon
land.

3. The Directors of the Company may with the consent of the Government and, in the case of Crown Lands, not being "waste" Crown Lands, upon such terms and conditions as may be imposed, enter upon, take possession of, hold and retain, for the purposes of this Act, so much of any Crown Lands as shall be required for the construction and maintenance of the said Railway and any other purpose relating to the execution of this Act, and with like consent and on like terms and conditions, may enter upon any Crown Land lying convenient to the said Railway and dig for, excavate and carry away all stones, clay and other material required for the purposes aforesaid: provided that nothing in this Act contained shall establish any servitude in favour of the said Company upon any such land, not being land reasonably required for the actual construction and working of the said Railway, which may hereafter be sold or leased by the Colonial Government to any purchaser or lessee thereof, and provided further, that no land that has been or may be acquired by the Government or by any public body representing the Colonial Government, by purchase or otherwise, shall be deemed to be waste Crown Land.

Free entry
and occupa-
tion of Crown
land.

4. For the purposes of the said Railway and subject to the provisions of section three the Directors of the Company are hereby invested with all and singular the legal rights, if any, belonging to the Colonial Government in respect of the taking of any land and the raising and carrying away of materials for making and repairing public roads, whether such rights have been preserved to the said Government by the Proclamation of Sir John Francis Cradock, bearing date the 6th day of August, 1813, permitting the conversion of lands on loan into places of perpetual quitrent, or have been created by express stipulation or condition in any grant of freehold property or exist in any

Powers of
Directors as
to taking of
lands and
materials.

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other way : provided that no land be taken or materials be raised or carried away without previous notice to the proprietor thereof : and provided that the extent of land taken for the Railway under the provisions of this Act shall not exceed in width fifty feet for the formation line and sufficient additional width required for the slopes, drainage stations, approach roads and all other works, matters and things which may be requisite or necessary for the efficient construction, maintenance or working of the said Railway.

Amount of Compensation to Owners who may be entitled thereto in absence of agreement settled by Arbitration.

5. If the Company shall for the purposes of the said Railway require to acquire and use any land or to dig, get or carry away any materials from any land belonging to any person who may not be bound by law to allow such Company exercising the powers of the said Government so to do without requiring any recompense or payment and who may think proper to require compensation from the said Company, or if the Company shall need to acquire or use any land or to take any material from any land that the Company in the exercise of such powers as aforesaid may have a legal right to acquire or use, but which has been improved by cultivation, irrigation, fencing, or otherwise, the amount of compensation to be paid to the proprietor shall in the absence of any agreement be settled by arbitration under the Lands and Arbitration Clauses Act, 1882.

Transfer to be passed of land expropriated for which compensation paid.

6. Whenever the Company shall expropriate any such land as in the preceding section mentioned for which compensation shall have to be paid in terms of the said section, the owner of the said land, other than Crown lands, so expropriated shall be bound and obliged to pass transfer to the said Company of such land.

Provision for crossing Railway by new streets or roads.

7. Nothing in this Act contained shall prevent any streets or roads hereinafter to be constructed under lawful authority from being made and carried across the said Railway at such places as may be deemed by the Commissioner to be requisite and convenient: provided that as little damage and inconvenience as possible shall be caused to the said Railway by such crossings.

Method of crossing existing roads and streets.

8. At all places where the said Railway or any deviation thereof shall intersect or cross the line of any existing street or road, it shall be lawful for the Company to make and carry the said Railway across such street or road either by means of a level crossing or by means of a convenient or sufficient bridge, viaduct or tunnel over or under the said street or road, and the Company shall be bound to make all such cuttings, embankments and approaches, with all such culverts, drains and all such repairs as may be necessary to make good the street or road across or over or under the said Railway at gradients not exceeding one foot in twenty ; and shall also be bound to maintain and keep in efficient repair all such crossings, bridges, viaducts, tunnels, cuttings and embankment approaches, culverts and drains as

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ACT, 1904.

aforesaid, and to fence the approaches to all such crossings, viaducts and embankments, or to provide otherwise for the due protection of the public safety thereat.

9. For the purposes of any land taken or any arbitration under this Act the provisions of the "Lands and Arbitration Clauses Act, 1882," are hereby incorporated.

No. 16-1904.
Lands and Arbitration Clauses Act 1882, incorporated.
Subsidy.

10. The said Railway shall be constructed at the expense of the said Company provided that upon the certificate of an Officer to be appointed by the Government that the Railway has been satisfactorily completed in accordance with the provisions of this Act, there shall be paid to the Company by the Government a sum of money calculated at the rate of £800 sterling for each consecutive mile of main line of Railway as shown on the plan completed as aforesaid and commencing at the Knysna Wharf: provided further that the Government may from time to time as the work progresses, and at its discretion, pay to the Company such portion of the said subsidy as the Government may deem proper. The said Company shall furnish for approval plans and sections of the line, drawings of the culverts, superstructures, etc., before work is commenced on any section, and any further information which the said Officer requires to enable him to give the necessary certificate; and the position and size of all openings and designs of superstructures, shall be subject to the approval of the Government.

Right of Government to purchase.

11. The Colonial Government shall have the right at any time upon giving to the Company twelve months' notice to that effect to purchase, and the Company shall be bound to sell to the Colonial Government the said Railway, and also all buildings and lands acquired by the Company and used in connection with the working of the said Railway, together with all rolling stock, engines, carriages, plant, machinery and every matter or thing belonging to or connected with the said Railway, as also any telegraph or telephone and apparatus, wire, instruments, and every matter or thing connected with the working therewith, in the possession of the Company under this Act, upon such terms as may be agreed between the Company and the Colonial Government, and, failing such Agreement, at a price to be settled by arbitration in manner provided for under the "Lands and Arbitration Clauses Act, 1882," provided that

- (a) Such price shall be the actual cost of the work, but the Arbitrators shall not award as such actual cost a sum in excess of £3,200 (three thousand two hundred pounds sterling) per mile (exclusive of engines, rolling stock, machinery and plant) and an amount equal to ten per cent. of the said actual cost after deducting therefrom the amount paid to the Company under the provisions of the last preceding section provided that

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the said amount of ten per cent. shall in no case be reckoned on a sum exceeding the amount of £2,400 (two thousand four hundred pounds sterling), and shall be deemed and taken to cover all interest on capital expended during construction and the cost of raising such capital as well as all profits to which the Company may be entitled.

- (b) From the price so ascertained shall be deducted any such amount as shall have been paid by the Colonial Government as subsidy under the provisions of the last preceding section.
- (c) The price to be paid for the said engines, rolling stock, machinery and plant, if fit for use, shall, in the event of the Company and the Colonial Government failing to agree in respect thereof also be determined by arbitration under the provisions of the said Act.

Tariffs.

12. A tariff or tariffs of passenger fares and goods in all classes shall be framed by the Company with the approval of the Governor before commencing to work the said Railway and the said tariff or tariffs shall be liable to adjustment from time to time at the instance of the Company or of the Governor respectively: provided that such readjustment shall be subject to the approval of the Governor, and provided further that the tolls, fares or rates of charge to be taken or made for passengers shall be at all times charged equally to all persons and after the same rate in respect of all passengers travelling under the same conditions; and the tolls, fares or rates of charge to be taken or made for goods shall be likewise charged equally after the same rate, whether by ton or otherwise, in respect of all goods of the like description.

Engine fittings for prevention of sparks.

13. Every engine used by the Company shall be fitted and supplied with the latest known appliances for the prevention of the emission of sparks, to the satisfaction of an officer appointed by the Government, and if any engine not so fitted and supplied shall pass over any part of the Company's railway, the Company shall be liable to a penalty of not exceeding £10 for every such offence.

When to be opened for passenger traffic.

14. The said Railway or any portion thereof shall not be opened for public traffic until it shall have been certified to the Governor by an officer to be appointed by him therefor that it is fit for the safe conveyance of traffic and that such portions thereof as may have been required by the Government to be fenced have been fenced to the satisfaction of the Government, and that due provision has been made for the maintenance of fire zones of at least 10 feet wide within a distance of at least 30 feet on each side of the line.

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ACT, 1904.

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15. Upon the completion of the said Railway or any portion thereof as aforesaid the Company shall enjoy all the privileges and be subject to all the conditions conferred by and contained in the Regulations of Railways Act, 1861, or any amendment thereof.

Application of Act 19 of 1861.

16. The provisions of Act 40 of 1889 shall apply *mutatis mutandis* to opening gates or leaving the same unclosed or unfastened whether the same be done by the owners or occupiers of land adjoining the Railway or by any other person.

Provision of Act 40 of 1889 to apply to gates.

17. The Company is hereby further authorised and empowered to construct, erect and work, for the purposes of the said Railway and no other purposes, a telegraph and telephone or either of them along or near the line of Railway subject to the provisions of the Electric Telegraphs Act, 1861, and the Railways Regulations Amendment Act, 1895.

Telegraphs and Tele-phones may be constructed and worked.

18. The Company shall without prejudice to the rights of the Government under Sections 10 and 11 have the right of letting the said Railway upon lease and of selling and assigning its rights to the Railway and to the powers and privileges conferred by this Act, provided that the written consent of the Government shall first have been obtained.

Right to lease or sell Railway.

19. If two years after the date of this Act the Railway shall not be completed, the Governor may at any time thereafter give the Company notice to complete the Railway within 12 months, and should the Company fail to complete within that period, all rights and powers conferred by this Act shall cease and determine. The Company shall, within two months after the promulgation of this Act, deposit with the Treasurer liquid security to his satisfaction to the amount of one thousand pounds, which security, together with any interest which may have accrued thereon, the Company shall be entitled to withdraw upon due completion of the undertaking in accordance with the provisions of this Act. In the event of the Company failing to complete the undertaking within the period mentioned in this Section, then the amount deposited as security, as well as the interest, shall be forfeited to the Colonial Government by virtue of this Act, and shall remain so forfeited, any rule of the Common Law relating to penalties as liquidated damages notwithstanding.

Period limited for completion.

20. The Company shall be required to construct the said Railway with material equal in quality to that employed on the 2 feet gauge Railway constructed by the Government and to arrange for the workmanship to be executed to the satisfaction of the Engineer-in-Chief of the Cape Government Railways, with sleepers not less than 5 feet 6 inches by 7 inches by 4½ inches and not less than 2,112 to the mile, and with rails not less than 35 lbs. weight per yard; and all material, engines, rolling stock, machinery and plant shipped in Europe or America shall before shipment be subject to the inspection and approval of the Consulting Engineer of the Cape Government Railways.

Quality of material and work.

4720 THE SOUTH-WESTERN RAILWAY COMPANY, LIMITED,
ACT, 1904.

No. 16—1904.

Provision re
working of
Railway.

21. The said Company shall be bound to maintain the said Railway when completed in a proper and efficient manner to the satisfaction of the Government and to run not less than 3 trains from terminus to terminus per week in each direction, if so or as may be required by the Government for passenger and goods traffic, and if they fail to comply with this section for a period of 3 months after being called upon so to do by the Government, they shall be liable to pay the Government by way of liquidated damages the sum not exceeding £100 per month, the total payable in any one year not however to exceed £1,200, and such sum or sums, if not paid, shall be recoverable against the Company by action, or if not so recovered, shall be charged against the purchase price of the line should the Government exercise its right of purchase, hereinbefore in this Act provided for, and any such sums shall be payable as and for liquidated damages by virtue of this Act and shall not be subject to the ordinary law relating to liquidated damages or penalties agreed upon by parties to contracts for breach thereof.

Running
powers re-
served to the
Government.

22. In the event of the said line of Railway being connected at any time with a 2 feet gauge line from Port Elizabeth to Avontuur or any other line of similar gauge being the property of the Government, the Government shall have the right to run trains over and upon the said line of Railway on terms to be agreed upon, and failing such agreement provision of Section 17 of Act No. 7 of 1903 shall *mutatis mutandis* apply.

Erection of
wharf and
collection of
dues.

23. Nothing in this Act shall be construed as vesting in the Company any title in or powers in respect of the foreshore, harbour or appurtenances thereof; and no wharf shall be erected by the Company, save at such places and under such terms and conditions as may be determined upon and imposed by the Governor, who shall alone decide upon the imposition of all dues and imposts and the manner in which they shall be collected and appropriated. For the purposes of this section, the Governor may make such Regulations and appoint such officers as may be necessary.

Powers of
directors may
be exercised
by an agent.

24. It shall be lawful for the Directors to exercise all and singular the powers by this Act conferred upon them by or through an Agent or Agents duly authorised in writing.

Interpreta-
tion clause.

25. In this Act, save where such meanings shall be inconsistent with the context, the following terms shall have the following meanings:—

- (a) "The Company" shall mean the Company styled "The South-Western Railway Company, Limited."
- (b) "The Directors" shall mean the Directors for the time being of the said Company.
- (c) "The Government" shall mean the Colonial Government.

Short Title.

26. This Act may be cited for all purposes as "The South Western Railway Company, Limited, Act, 1904."

No. 17—1904.]

[May 31, 1904.

ACT

To Provide for the Deficiency for the year 1903-'04.

[Assented to 28th May, 1904.]

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

1. It shall be lawful, and the Governor is hereby empowered to raise by temporary loan, in such manner as may to him seem most expedient, such sum as may be sufficient to meet the deficiency of the financial period 1903-'04. Governor may raise Loans.

2. The provisions of section 1 of "The Finance Act, No. 37 of 1899" shall *mutatis mutandis* apply in respect of the amount raised under the preceding section hereof. Application of section 1 of The Finance Act, 1899.

3. This Act may be cited for all purposes as the "Deficiency Provision Act, 1904." Short Title.

No. 18, 1904.]

[May 31, 1904.

ACT

To Apply a Sum not exceeding Seventy-two thousand four hundred and seventy pounds seventeen shillings and three pence sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

[Assented to 28th May, 1904.]

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

1. The public revenue of this Colony is hereby charged with the sum not exceeding Seventy-two thousand four hundred and seventy pounds seventeen shillings and three pence sterling, to meet unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended the 30th June, 1903, described on page 253 of the "Report of the Controller and Auditor-General, with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope for the financial year 1902-1903" [G. 1—04]. Revenue charged with £72,470 17s. 3d. unauthorised expenditure year ended June, 1903.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1904." Short Title.

No. 19, 1904.]

[May 31st, 1904.

ACT

To Enable the Mayor, Councillors and Townsmen of East London to alienate under certain conditions certain piece of land for the purposes of the East London Agricultural Society.

[Assented to 28th May, 1904.]

Preamble.

WHEREAS by Act No. 23 of 1899, entitled the "East London Agricultural Society's Ground Transfer Act, 1899," authority was given to the Mayor, Councillors and Townsmen of East London, hereinafter styled the Council, to transfer to the Trustees of the East London Agricultural Society, hereinafter styled the Society, certain piece of ground situated in ward No. 4 of East London, division of East London, containing 5 morgen 245 square roods 106 square feet, hereinafter styled the first mentioned land :

And whereas an agreement has been arrived at between the Council and the Society, whereby in exchange for the retransfer or surrender by the Society to the Council of the first-mentioned land, the Council have, subject to the passing of this Act, agreed to pay to the Society a sum of ten thousand pounds, and to transfer to the Society, upon certain conditions, certain other piece of land (hereinafter styled the last-mentioned land), being land situated in ward No. 3, East London, and at present forming part of the Race Course, bounded north-west, south-east and south-west by commonage, and north-east by a proposed roadway, such land being Municipal pasturage land, and in extent 7 morgen 335 square roods 104 square feet :

And whereas it is desirable in the interests of the public and of the inhabitants of East London that the said exchange should be effected, but it is doubtful whether the same can be legally effected without the authority by this Act conferred, and it is desirable that such doubts be removed :

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

Exchange
of land with
Agricultural
Society au-
thorised.

1. Subject to the Trustees of the Society transferring or surrendering to the Council the first-mentioned piece of land, together with the buildings and erections thereon, it shall be lawful for the Council to pay to the Trustees of the Society a sum of ten thousand pounds sterling, and to transfer to such Trustees and their successors the last-mentioned piece of land subject to the conditions :—

EAST LONDON AGRICULTURAL SOCIETY'S GROUND 4723
TRANSFER ACT, 1904.

- (a) That the same be used by the Society as an agricultural show ground and for other purposes connected with or for the benefit of the Society but not otherwise.
- (b) That the Society shall not sell, exchange, alienate, hypothecate, lease or transfer the same or in any way part with the possession thereof without the previous consent in writing of the Council and of the Government.
- (c) That if the Society cease to exist at any time the last-mentioned land shall revert to the Council subject, however, to the encumbrances thereon.

No. 19—1904.

2. The Trustees of the Society shall be interpreted to mean the persons from time to time elected as such by the subscribers to the said Society.

Trustees of Society.

3. As often as any sale, exchange, alienation, transfer, lease or hypothecation of the said piece of land shall be about to be made by the Trustees of the Society, a certificate in writing under the common seal of the Council, or their successors, addressed to the Registrar of Deeds, certifying that the Council have consented to such sale, exchange, alienation, transfer or hypothecation, shall be sufficient proof of such consent for the purpose of the deeds registry, and thereupon the proposed transfer or deed of hypothecation, as the case may be, shall be passed.

Consent to sale of ground: How given.

4. So much of Acts 23 of 1880, No. 11 of 1895, and of any other Act or law which may be inconsistent with any of the provisions of this Act are hereby repealed.

Repealing clause.

5. It shall be lawful for the said Council from time to time, either separately or in conjunction with any other loan or loans such Council may be empowered to raise, to borrow or take up by the issue of debentures or otherwise at interest such sum or sums of money not exceeding in the whole the sum of ten thousand pounds sterling, as may be required for the purpose of this Act, and to charge the Municipal rates and properties of the Municipality of East London as security for any such sum so borrowed by the said Council.

Authority for loan.

6. This Act may be cited for all purposes as the "East London Agricultural Society's Ground Transfer Act, 1904."

Short Title

No. 20—1904.]

[May 31, 1904.

ACT

To Vest in and confer upon the Council of the Municipality of Stellenbosch certain rights, powers and privileges for the purpose of securing and providing a supply of water for the use and benefit of the inhabitants of the said Municipality.

[Assented to 28th May, 1904.]

Preamble.

WHEREAS it is desirable and expedient that the inhabitants of the town of Stellenbosch residing within the limits of the Municipality of Stellenbosch should be supplied with good water;

And whereas surveys have been made and the Municipal Council of Stellenbosch are advised that such supply can be obtained from the Eerste River at or near a point on the farm "Jonkershoek," within the Division of Stellenbosch, immediately below the junction of the Zwartbosch Stream with the said river;

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

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

And whereas it is expedient to authorise and empower the said Council to borrow a sum of money not exceeding £20,000 to be applied to carrying out the purposes of this Act, and to assess and levy special rates in connection therewith, should it appear to the said Council expedient so to do;

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

And whereas plans and sections of the proposed undertaking have been lodged with the Clerk of the House of Assembly and with the Civil Commissioner of the Division of Stellenbosch.

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

Management of the waterworks, and all right and property in materials, stock, &c., vested in Council.

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

THE STELLENBOSCH MUNICIPALITY WATER SUPPLY 4725
ACT, 1904.

No. 20—1904.

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

2. The said Council shall be empowered to take, intercept, dam, impound, divert, appropriate and convey from the Eerste River at or as near as practicable to a point on the farm "Jonkershoek" in the Division of Stellenbosch, immediately below the junction of the Zwartbosch Stream with the said River, such a supply of water as the said Council may from time to time require, and may from thence convey such water by a line of pipes or otherwise along the route or within the limits of deviation shown on the said plan to or as near as practicable to the terminus shown on such plan, or within the limits of deviation thereon shown: provided that if such taking, intercepting, damming, impounding, diversion, appropriation or conveyance shall deprive any person of any right of or to any water now vested in him or in any way shall interfere with or lessen any such right, such person shall be entitled to compensation: provided further that no person to whom any Government Land shall be sold or leased after the passing of this Act shall thereby acquire any right of or to any water for the interference with or lessening of which by the works authorised under the provisions of this Act he shall be entitled to claim any compensation.

3. The work which lies wholly within the Division of Stellenbosch will start from a convenient point of junction with the existing pipe line in the vicinity of the present service reservoir on the land, part of the farm Coetzenberg, belonging to the said Council shown on the plan aforesaid, from which starting point the works will pass through and over the said piece of land belonging to the said Council a small portion of Crown lands, the place "Schoengezicht," belonging to Mr. J. H. Wicht, crossing the mill stream and passing along the side of a road. On leaving the place "Schoengezicht" the said works enter Crown Lands again, and continue over these for some distance, re-entering "Schoengezicht," and thence crossing over and through the place called "Klein Gustrouw," the property of Messrs. J. M. O. and J. P. Marais, and after crossing a spur of Crown Land again enter the property of Messrs. J. M. O. and J. P. Marais, and after keeping on Crown Lands pass over and through the farm "Mount Nectar," the property of Mr. J. P. Roux, and cross the Eerste River, having filter beds, settling and clear water reservoirs, and other necessary works and appliances on Crown Lands between chainage 8,000 feet and 2 miles, ^{and}_{or} between chainage 12,200 feet and 13,100 feet on the said property of said Mr. Roux. From there the said works proceed up the Jonkershoek Valley, and pass out of Mr. Roux's said property to again enter and cross Crown Lands, whereafter they enter and pass through and over the place "Assegai Bosch," the property of Mr. A. C. van der Byl Cloete, again entering Crown Lands, which they cross, and after again crossing the

Position and
course of the
waterworks.

No. 20¹⁹⁰⁴.

Eerste River enter the place called "Jonkershoek," the property of Mr F. G. Watermeyer and Mr. A. P. Watermeyer, on which property the Eerste River is crossed a third time by the said works, which end at the site of the intake immediately below the junction of the Eerste River and the Zwartbosch Stream on the said farm "Jonkershoek," the whole of the said work to be situate as shown on the plan aforesaid or within the limits of deviation thereon shown.

Powers of construction and maintenance.

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

Powers of entry upon and taking of Crown Lands and private lands, powers of purchase, hire, agreement, &c.

5. The said Council is hereby empowered to enter upon, occupy, enclose, take and use for the purposes of this Act, such portions of the farms "Coetzenberg," "Schoengezicht," "Klein Gustrouw," "Mount Nectar," "Assegai Bosch," and "Jonkershoek," in the Division of Stellenbosch, and any other lands the property of any private person whose land is shown upon the plan lodged with the Clerk of the House of Assembly, as may be required for the construction, maintenance or improvement of any of the works aforesaid, or for the protection of the source of the said water supply, or for the laying down of pipes and other appliances or works for the protection, increase or improvement of the said water supply, and may enter into agreements for the purchase or hire of such lands or portions thereof or may take, carry away or use for the purposes of the said works any stone, clay, gravel or other material requisite for carrying out the said works, and may break up or excavate any land, whether land belonging to His Majesty the King, commonly called Crown Land or otherwise, for the purpose of constructing, laying down, repairing, inspecting, maintaining, improving or removing any reservoir or reservoirs, pipe or pipes or other works whatsoever, and may either compensate the owner or owners of such private lands or enter into any contract relative to obtaining such lands, together with the water rights, if any, appertaining thereto, or materials, or for the laying down of any pipe or pipes or other works upon such terms and conditions as may be or have been mutually agreed upon.

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

6. For the purpose of the exercise of the powers in the immediately preceding section conferred, the provisions of "The Lands and Arbitration Clauses Act, 1882," shall apply.

THE STELLENBOSCH MUNICIPALITY WATER SUPPLY 4727
ACT, 1904.

No. 20—1904.

7. The said Council is hereby further empowered bevond as well as within the limits of the Municipality of Stellenbosch except on the property of the Railway Department unless permission is first obtained from the General Manager of Railways, which permission shall not be unreasonably withheld, to lay down pipes or construct conduits under or along any public road, street, thoroughfare, lane, square or open or public place or under or along any ground set apart in the diagram or conditions of sale of any sale of land as a road, street, thoroughfare, lane, square or open or public place, without making or being liable to make any compensation, as also to attach hydrants upon, along and in any such. Any works which the Council may require to carry out in connection with the scheme within the railway boundary shall be undertaken by the Department at the expense of the Council or by the Council under the supervision and to the satisfaction of the Department, the cost of such supervision to be defrayed by the Council.

Powers to lay down pipes, &c., along public ways.

8. The said Council is hereby further authorised and empowered to construct, maintain and work for the purposes of the said waterworks and for no other purposes telegraph and telephone lines or either of them along or near the said line of works subject to the provisions of Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs" or any law amending or extending the same, and to any regulations from time to time made under the provisions of such Acts.

Authority to construct lines of telegraph and telephone.

9. It shall be lawful for the said Council at all times, by itself, its engineers, contractors or workmen, and with carts, carriages or otherwise to have free access and right of way to, over and along the line of works, and to and from all other property of the said Council acquired under the provisions of this Act, for the purpose of adding to, repairing, re-laying or super-
vising the said works, or for any other purpose whatsoever that may be deemed expedient by the said Council in or about carrying out the purposes of this Act, except on the property of the Railway Department, unless permission is first obtained from the General Manager of Railways as aforesaid.

Rights of access.

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

Power to contract.

11. Any person who shall wilfully injure, damage, obstruct or interrupt any building, erection, conduit, reservoir, dam or water-course, drain, ditch, pipe or pipes, or other work or works, or shall obstruct, hinder or prevent the forming, constructing, completing or maintaining the works contemplated by this Act or any of them, shall upon conviction be liable for each offence to a fine not exceeding one hundred pounds sterling, or to be

Penalties for injuring Council's property and works.

4728 THE STELLENBOSCH MUNICIPALITY WATER SUPPLY
ACT, 1904.

No. 20—1904.

Penalties
for defiling
water.

imprisoned with or without hard labour for any period not exceeding six calendar months, or to both such fine and imprisonment.

12. Any person who shall bathe or wash himself in any dam or reservoir belonging to the said Council, or in any stream flowing into such dam or reservoir by means of any watercourse constructed by the Council, or shall wash, throw or cause to enter therein any dog or other animal, or shall place or throw any rubbish, dirt or filth or other noisome thing in any such dam or reservoir or stream or wash or cleanse therein any wool, leather or skin of any animal, or any clothes, or other thing whatsoever, shall for every offence be liable to a fine not exceeding ten pounds sterling, and in default of the payment of such fine, to be imprisoned with or without hard labour for any period not exceeding twenty-one days: provided that nothing in this or the last preceding section contained shall be held or taken to exempt such person from any civil or criminal liability for any of the aforesaid acts to which he could have been subject if this Act had not been passed, but no person shall be prosecuted criminally both under this Act and any other law for or in regard to one and the same act.

Offences,
how prosecuted.

13. The offences defined in the two last preceding sections of this Act may be prosecuted in the Court of the Resident Magistrate of Stellenbosch.

Provision
for service
reservoir.

14. All water secured or obtained by the said Council under the provisions of this Act may be distributed or divided direct from the works aforesaid, or may be conducted to flow into and be collected and stored in such reservoir or reservoirs as the said Council may erect or construct for the purpose of being thence distributed or divided in pursuance of the provisions of this Act.

Borrowing
power to limit
of £20,000;
Public Bodies
Debt Act,
1867, to apply.

15. The said Council is hereby authorised and empowered to take up on loan by debenture or otherwise, for the purposes of this Act, a sum or sums not exceeding in all twenty thousand pounds sterling, which sum or sums when borrowed, and every other pecuniary liability incurred by the said Council under the provisions of this Act, shall be deemed and taken to be a debt or debts within the meaning of the Public Bodies Debt Act, 1867, and shall be subject to the terms thereof.

Fund for
payment of
moneys
borrowed, &c.

16. In order to provide a fund for the payment of all sums borrowed in connection with and for the purposes of the said waterworks and for the gradual extinction of the debt or debts thereby incurred there shall be set apart by the said Council out of any moneys which may be at its disposal an annual sum equal to the interest on the amount of the debt remaining unpaid, and a further sum of not less than ten shillings and not more than one pound per centum on the capital so borrowed, and such sum of not less than ten shillings and not more than one pound per centum shall be annually invested as and by way of a sinking fund, and

THE STELLENBOSCH MUNICIPALITY WATER SUPPLY 4729
ACT, 1904.

applied towards the redemption of the said debt so long as any portion thereof remains unpaid and unextinguished.

No. 20—1904.

17. The Council shall grant to the party or parties, company, society or co-partnership from whom it shall borrow such moneys as aforesaid a written acknowledgment for the said moneys, not exceeding in the whole the aforesaid sum of twenty thousand pounds sterling, which acknowledgment shall in substance be in the form contained in the Schedule to this Act, and shall be signed on behalf of the Council by three of the members thereof, of whom the Chairman for the time being shall be one.

Acknowledgment to be given to lenders of money as in schedule.

18. The said Council shall keep or cause to be kept separate and distinct accounts of all moneys borrowed for the purposes of the said waterworks and of all revenue received under this Act, and of all moneys expended or set apart in pursuance of the provisions of this Act, and such accounts shall until all sums borrowed as aforesaid, shall have been repaid and the aforesaid debt or debts so incurred, extinguished, be annually prepared up to the 31st December of each year, and shall be deposited and be at the Municipal Office for inspection at all reasonable times by any ratepayer of the Municipality.

Accounts to be kept of revenue and expenditure.

19. In order to pay the interest and establish the sinking fund hereinbefore mentioned, and to provide for all claims arising by reason of any loan or loans raised or to be raised or money borrowed or to be borrowed for the purposes of the said waterworks and for the maintenance and upkeep of the said works for the supply of water, the Council shall be empowered to impose, levy and collect a sufficient annual rate or assessment over and above what the said Council is already empowered to impose and levy upon the immovable property within the limits of the Municipality, provided that such annual rate or assessment shall not exceed twopence in the pound; and every rate or assessment so imposed and made by the said Council shall be of the same force and effect and be levied in the same manner as if it had been a rate imposed under the provisions of the Municipal Act, 1882, so far as the same are applicable. And all rates so imposed and assessed under the provisions of this Act shall be and be deemed to be a charge upon the property so assessed, and recoverable against the present or any future owner or occupier thereof: provided that it shall be lawful for the said Council to apply for the payment of interest or principal or of both interest and principal of the moneys aforesaid any funds or moneys coming to the said Council from any source whatever and not specially appropriated or required for any other object: provided that notwithstanding anything contained in Act No. 36 of 1891, as amended by Act No. 19 of 1892, the rate authorised in this section shall not be imposed or levied upon the property of the Railway Department.

Power to levy rate for payment of interest and principal of loan and for maintenance of works.

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ACT, 1904.

No. 20—1904.

Amounts on which rates to be levied.

20. The amounts for assessment entered on the assessment roll in force within the Municipality of Stellenbosch for each and every year shall be the amounts on which the rate shall be levied for the purposes of this Act so far as the properties included in such assessment roll are concerned, and for all properties not liable to assessment under the provisions of the "Municipal Act, 1882" the value shall be made and determined once every two years by some competent person or persons to be appointed by the said Council: provided that such valuation shall be open for public inspection at the office of the Municipality for the space of one month prior to the levying of the said annual rate, and the said Council shall give notice in one or more newspapers circulating within the Municipality that the same is so open for inspection, and the provisions of Sections 122, 123 and 124 of the said "Municipal Act, 1882," shall apply to the hearing and deciding upon objections to such valuation.

When rates shall become payable, and how recoverable.

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

Tariff of charges.

Council to frame necessary regulations and bye-laws, and to have right to cut off supply upon default of payment, &c.

21. The provisions of Sections 127 to 143, both inclusive of the "Municipal Act, 1882," shall apply to such annual rate.

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

23. The said Council is hereby empowered from time to time to frame and publish a tariff of charges by which the supply of water by private or other water-leadings for domestic or other purposes, shall be regulated within the limits of the Municipality, and the payment for such supply shall be in accordance with such tariff, and the said Council may specially agree with any person or body corporate for the supply to such person or body of water upon such special terms as it may be deemed suitable.

24. It shall be lawful for the said Council at any meeting to frame from time to time such Regulations and Bye-laws as they may deem requisite or necessary for the fixing, reading and regulating of meters, the taking out of water-leadings and the connection thereof with the distributing mains, for determining the nature, design and quality of all pipes, taps, fittings and appliances of every description used for the supply of water and all other matters and things connected with the supply of water to the consumer or for regulating the water supply to the Town of Stellenbosch, or beneficial for the purposes of this Act with special power to stop or cut off the supply of water to any person or persons for any breach of any such regulations and bye-laws in addition to any remedy or remedies given under this or any other Acts, Regulation or Bye-law, and notwithstanding that payment shall have been made in advance for the supply of

THE STELLENBOSCH MUNICIPALITY WATER SUPPLY 4731
ACT, 1904.

No. 20—1904.

such water, and it shall be competent for the Council by any such regulation or bye-law as aforesaid to provide for punishing the contravention thereof by a fine not exceeding £10: and in default of payment to imprisonment for any period prescribed by such regulation not exceeding twenty-one days. All such regulations and bye-laws shall be submitted for the approval of the Governor in manner provided for in Act No. 45 of 1882, entitled the "Municipal Act, 1882."

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

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

26. If any person shall, for one week after lawful demand, fail to pay any sum due for water supplied under the provisions of this Act, the said Council is hereby empowered to enter upon the premises to which the water not paid for has been supplied, and to cut off the supply until the sum due be paid: provided that nothing in this section contained shall apply to water supplied to the Railway Department.

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

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

Cost of house connection & repairs borne by consumer.

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

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

29. The word "Municipality" used in this Act shall mean the Municipality of Stellenbosch, and the terms "the Council" and "the said Council" shall mean the Municipal Council of Stellenbosch.

Interpretation clause.

30. This Act may be cited as "The Stellenbosch Municipality Water Supply Act, 1904."

Short title.

. SCHEDULE.

We, the undersigned Councillors of the Municipality of Stellenbosch, do hereby acknowledge that the said Councillors in their said capacity are indebted to
in the sum of £ _____ for so much
money borrowed by the said Councillors for the purposes set forth in "The Stellenbosch Municipality Water Supply Act, 1904," and certify that the said sum is and stands secured by the said Act, in manner and form as by the said Act provided, and we further covenant and engage for and on behalf of the said Councillors that the interest and principal of the said debt shall be payable and paid in manner following, that is to say (here insert according to the agreement the rate of interest and times of payment thereof, and the date or dates, or other conditions upon which the principal of the debt shall become payable).

Given under our hands at Stellenbosch, this
day of _____ 190

Witnesses :

G. H.

A. B. Chairman of the Council.

I. J.

C. D. }

E. F. }

Councillors.

No. 21, 1904.]

[May 31, 1904.]

ACT

To Establish the "Rhodes University College."

[Assented to 28th May, 1904.]

Preamble.

WHEREAS it is expedient for the advancement of learning in the Eastern Districts of the Colony that a University College should be established at Grahamstown; and whereas considerable sums of money have been contributed or guaranteed by certain inhabitants of Grahamstown and others for that purpose: Be it enacted by the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly, as follows:—

Establishment & name of College.

1. A College for affording instruction in literature, law, science and art and such other studies as may from time to time be prescribed by the University of the Cape of Good Hope shall be forthwith established at Grahamstown, and the same shall be called the "Rhodes University College."

No religious test.

2. No religious test shall be administered or proposed to any person in order to entitle such person to be admitted as a student of the Rhodes University College or to hold office therein or to enjoy any advantages or privileges thereof.

3. The Rhodes University College Fund already existing, and all money, assets, and other property, both movable and immovable, of every nature or description whatsoever now belonging, or which shall hereafter belong, accrue, or become due and payable to the Rhodes University College, is and shall be hereby vested in and be administered by a Council of seventeen members (subject to the proviso in section five of this Act), of whom six shall be a quorum.

Property
vested in
Council.

4. The general superintendence, management and direction of the affairs of the College, and of any departments now or in future connected therewith, and the absolute control over all persons of every degree at any time holding office or being employed therein, shall be discharged and exercised by the said Council, which shall be called "The Rhodes University College Council."

General
functions of
Council.

5. The said Council shall, subject to the proviso hereinafter stated, consist of twelve nominated and five elected members. Four members shall be nominated by the Governor; one each by the Divisional Council of Albany and by the Town Council of Grahamstown respectively; and one each by the authorities of the following six educational institutions at Grahamstown respectively, viz.:—The Council of St. Andrew's College, the Trustees of Kingswood College, the Council of St. Aidan's College, the Public Schools Committee, the Council of the Diocesan School for Girls, and the Trustees of the Wesleyan High School. The remaining five members shall be elected by all other guarantors and subscribers of not less than £50 to the Rhodes University College Funds, in the manner hereinafter stated in section six. Provided, however, that if any other scholastic institution, Town Council, Divisional Council, or local committee legally competent to do so should subscribe the sum of £500 to the Rhodes University College or guarantee an annual payment of not less than £50 for not less than ten years, and should desire to have a representative on the Council of the Rhodes University College, it shall be lawful for the said Council, at any time or times that such contingency may arise, to increase their number, after a resolution passed to that effect by a majority of the then Council, and to give to the said scholastic institution, Town Council, Divisional Council, or local committee during the period of ten years, or such further period during which the said contribution be renewed or subscription continued, the right to nominate one person as an additional member of the College Council, and the said nominee or nominees shall have and enjoy all the same rights and privileges, and shall be subject to all the same rules and regulations as the twelve originally nominated members of Council. And provided further, that in case of any failure to nominate or elect the full number of members

Composition
of Council.

No. 21—1904.

for the said Council, such failure shall not affect the legal constitution or powers of the Council so long as the actual number of members of the said Rhodes University College Council shall not be less than a quorum.

Election of Council.

6. Within fourteen days from the passing of this Act or so soon thereafter as possible the Chairman of the Rhodes University College Executive Committee shall give notice by advertisement in the *Gazette* and the local papers, and within twenty-eight days from the passing of this Act or so soon thereafter as possible he shall hold or cause to be held at Grahamstown a General Meeting of all the electors duly qualified by section five for the election of the elective members of the Rhodes University College Council, and every such elector present in person, or by proxy if he reside at a greater distance than ten miles from Grahamstown, at the said meeting shall be entitled to one vote for each member of the said Council to be so elected, and the election shall be by ballot, and the five persons who shall have the greatest number of votes shall be declared duly elected. Every candidate shall be nominated in writing by not less than two duly qualified voters, such nomination to be addressed in the case of the first election to the Chairman of the Executive Committee, in cases of subsequent elections, nominations should be addressed to the Registrar of the Rhodes' University College, and should be so lodged at least seven days before the election.

Persons ineligible as members of Council.

No professor, teacher or other salaried official of the said College shall be eligible for nomination or election to the Rhodes University College Council.

Publication of names of Council.

7. Within fourteen days after election of elected members the Governor and the several persons or institutions entitled to nominate shall communicate to the Chairman of the Rhodes University College Executive Committee the names of the members of Council nominated by them respectively, and within seven days of receiving such communications as aforesaid the said Chairman shall publish in the *Gazette* and the local papers the full list of both nominated and elected members, and shall in such publication fix the day of the first meeting of the said Council which shall not be less than seven or more than fourteen days from the first date of such publication.

Date of first meeting.

Retirement of members of Council by rotation.

8. At the first meeting of the Council so nominated and elected as aforesaid immediately after the election of a Chairman and Vice-Chairman as stipulated in section ten of this Act, the members of the said Council shall draw lots for the purpose of fixing on one-third of their number, as near as may be, to vacate their seats at the end of three years from the date of this first meeting, and on another third as aforesaid to vacate their seats at the end of four years from the said date, and the remaining number as aforesaid shall remain in office for five years from the

said date. One month before the retirement from office of any members as the result of the said drawing of lots, the Registrar shall give notice to the persons or bodies who nominated such members and shall call upon them to make fresh nominations, and the said Registrar shall notify the vacancies to the Chairman, who shall take immediate steps for the election of a successor or successors to any elected member of Council so retiring as aforesaid: and such newly nominated or elected members shall remain in office for five years from the date of their nomination or election respectively: Provided always that any member of Council so retiring from office shall be eligible for re-nomination or re-election.

9. At the first annual meeting of the Council the members shall elect one of their number to be Chairman of the Council, who shall preside at all meetings of the Council, whenever present, and they shall also elect another member to be Vice-Chairman, to preside in the absence of the Chairman: Provided that, if it should be urgently necessary to call a special meeting of the Council in the unavoidable absence of both the Chairman and the Vice-Chairman it shall be lawful for the members present at the special meeting so called to elect one of their number to be Chairman *pro hac vice* and to transact business at such special meeting under his authority. The Registrar shall summon such last-mentioned special meeting at the request of not less than three members of the Council, but all other meetings of the Council shall be summoned by him at the direction and under the authority of the Chairman or in his absence the Vice-Chairman respectively. Provided always that at all meetings of the Council the Chairman of the Rhodes University College, or other the Chairman of that meeting, shall be entitled to vote upon any matter before the Council, and that in the case of an equality of votes he shall have a casting vote in addition to his ordinary vote.

Appointment of Chairman and Vice-Chairman.

10. At the first meeting annually of the first and all future Councils the members shall elect a Treasurer of the Rhodes University College, and if the person so elected should cease to be a member of the Council he shall *ipso facto* vacate his office, and a new Treasurer shall forthwith be appointed.

Election of Treasurer.

11. The Council shall have power to appoint upon such terms and with such instructions as they shall think fit, an official who shall be styled "Registrar of the Rhodes University College." He shall act as Secretary of the said Council, and be charged with such other duties as the Council may assign to him, and they may also appoint upon the same conditions all such other officers as they may deem necessary.

Appointment of a Registrar or Secretary.

12. Upon the death or resignation of any member of the Council or whenever any member shall *ipso facto* vacate his seat

Vacancies in Council, how caused and filled.

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by absenting himself from four consecutive ordinary meetings, without leave from the Council first obtained, or by assigning his estate for the benefit of his creditors or becoming insolvent, or by being incapacitated for business owing to mental or bodily infirmity, the Registrar shall without delay notify the fact of such vacancy having occurred to the nominator or nominators of such member, who shall thereupon within 28 days of the receipt of such notice proceed to nominate his successor, or if the vacancy is in the case of an elected member of Council the said Registrar shall notify the vacancy to the Chairman who shall proceed to the election of a successor as provided in ~~section six of this Act~~ ^{by section six of this Act}, and the person so nominated or elected as successor shall hold office during the unexpired portion of the term of the member whom he succeeds.

Powers of Council.

13. The Rhodes University College Council shall have power to buy and sell and to take and give transfer or delivery of all property movable or immovable vested in or belonging to them at any time by virtue of this Act, and to grant or take leases and to pledge and mortgage all property so vested in them as aforesaid, and generally to act as owners and administrators thereof in trust for the said Rhodes University College: Provided that no immovable property so vested in the said Council by grant from the Government or from the Municipality of Grahamstown shall be sold or mortgaged without the consent of the Governor or of the said Municipality respectively first had and obtained: Provided further that the said Council shall be entitled and empowered to borrow from the Government such sums of money as the Governor may consent to lend under the provisions of the Local Works Loans Act, 1882, or any other Law which may be in force regulating loans to public or corporate bodies or educational institutions.

How deeds to be executed.

14. All Powers of Attorney to pass transfer or to mortgage any property belonging or which may belong to the said Rhodes University College Council and all contracts, leases and documents of a like nature shall be signed and executed by the Chairman of the Council and Registrar for the time being

Duties of Council.

15. The Council shall provide all the necessary buildings, apartments, equipments, furniture and other requisites for the said College and the departments connected therewith; and shall administer the grants of money received from the Public Revenue for educational purposes in accordance with the regulations laid down by law and by Resolutions of both Houses of Parliament with regard to such grants.

Appointment and dismissal of Professors, &c.

16. The Council shall have the right and duty of appointing and dismissing the Professors, Lecturers or Teachers in the said College, but any Professor, Lecturer or Teacher shall, on dismissal, have the right of appeal to the head of department

directing the Public Education of the Colony for the time being : and the said Council shall also regulate and fix the fees to be paid by the students and scholars and the appropriation thereof.

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17. One of the members of the Council nominated thereto annually by the Council shall, together with the Professors of the College, form the Senate, of whom five shall form a quorum, and in which shall be vested the superintendence and regulation of the instruction of the several departments and classes and the discipline of the College in accordance with a scheme and regulations to be framed and passed for that purpose by the said Senate and approved by the Council.

Appoint-
ment of Sen-
ate and its
powers.

18. The said Senate shall annually, in the month of February, elect one of their number to be Chairman, who shall hold office for one year, and in the event of his vacating his office during the said period, the said Senate shall forthwith elect another of their number to serve during the remainder of the said year. The Chairman shall, when present, preside at all meetings of the said Senate, and when he is absent from any meeting, the members of the said Senate present at such meeting shall elect one of their number to act as Chairman *pro hac vice*. The Chairman may vote on any subject under discussion, and at any meeting at which the votes of the members are equal on any matter, he shall have a casting vote in addition to his ordinary vote.

Chairman
of Senate.

19. The Senate may from time to time frame, alter, or amend rules for regulating the holding and the proceedings of its meetings, and for the due discharge of its duties, and such rules shall come into force when approved by the Council.

Senate may
frame rules.

20. The Rhodes University College Council shall cause true and correct records of all its proceedings, and true and correct accounts of all monies received and paid on behalf and for account of the College and the departments connected therewith, and shall, in the month of March in every year, transmit to the Government for the information of Parliament, a statement of revenue and expenditure during the preceding calendar year, and a general report of the state and affairs of the College and the departments connected therewith, and shall cause a copy thereof and of the financial statement to be published once in each of the local papers and in the *Gazette*.

Minutes, ac-
counts, finan-
cial state-
ment and an-
nual report.

21. All actions and other proceedings at law to be instituted by or against the Rhodes University College shall be so instituted by or against the Chairman and Registrar for the time being.

Legal repre-
sentation.

22. If anything, prescribed to be done by this Act within any particular time, shall not have been done within such time, it shall be lawful for His Excellency the Governor to authorize the doing of the same at any time thereafter.

Au thoriza-
tion by Go-
vernor.

23. This Act may be cited for all purposes as "The Rhodes University College Act, 1904."

Short Title.

No. 22—1904.]

[May 31, 1904.

ACT

To Establish an Institute of Government Land Surveyors in the Colony of the Cape of Good Hope.

[Assented to 28th May, 1904.]

Preamble.

WHEREAS provision has been made for the admission of persons to practise as Government Land Surveyors in the Colony of the Cape of Good Hope :

And whereas it is expedient for the maintenance and advancement of the science of surveying, for correct and uniform practice and discipline amongst members of the profession of Government Land Surveyors, and for promoting the formation of a Library and the collection of information relating to the science of surveying, to establish and incorporate an Institute of Government Land Surveyors for the promotion of the said objects:

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

Estab-
lish-
ment of In-
stitute.

1. A Society consisting of a President, Vice-Presidents, a Council, and Members is hereby established in the Colony of the Cape of Good Hope, being Government Land Surveyors duly admitted and licensed to practise as such in the Colony of the Cape of Good Hope, which Society shall be a body politic and corporate by the name of the "Institute of Government Land Surveyors of the Colony of the Cape of Good Hope," and by such name have perpetual succession and a common seal.

Objects of
the Institute.

2. The objects for which the Institute is established are *inter alia* as follows:—

- (a) To support and protect the character and interests of the profession of land surveying generally, and particularly of Government Land Surveyors practising in the Colony of the Cape of Good Hope.
- (b) To promote honourable practice, to repress malpractice, and to decide all questions of professional usage and courtesy between or amongst Government Land Surveyors.
- (c) To control and exercise discipline over the conduct of members of the profession.
- (d) To consider all questions affecting the interests of the profession, and to initiate and watch over, and, if necessary, to petition the Governor or Administrator of this Colony, the Parliament of this Colony or any other competent body or person, in relation to general measures affecting the profession ; to procure changes

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- of law or practice; and the promotion of improvements in the principle and administration of the law, as may be considered desirable and expedient.
- (e) To circulate information, either orally or by means of printed matter, of scientific discovery and advancement in the mathematical and exact sciences, in so far as the interests of the profession may be thereby advanced.
 - (f) To hold meetings of members of the profession and other persons possessing knowledge which it may be advantageous to the members of the profession to possess, and to discuss any subjects thereat, which the general body of members may consider advisable.
 - (g) To print, publish, and circulate minutes of the proceedings at such meetings and of all papers read thereat or contributed thereto.
 - (h) To acquire by purchase, donation, or otherwise, a library suitable for the purpose of the Institute, and from time to time to add thereto.
 - (i) To provide rooms and other facilities for the holding of meetings of the Institute and other purposes, for the sale of any property thereof which it has been decided by the members to dispose of, and other like matters.
 - (j) To acquire by purchase, take on lease or otherwise, lands, buildings, and all other property, real or personal, which the Institute, for the purposes thereof, may from time to time think proper to acquire, and which may be lawfully held by it.

3. The Institute is also established with the objects herein-after stated and shall have power, subject to the approval of the Governor :

Further Objects and Powers.

- (a) To sell, lease, sub-let, surrender, turn to account or otherwise dispose of its property or any part thereof.
- (b) To erect for the purposes of the Institute upon any land which at any time may stand registered and vested in the Institute any building or buildings, and to alter or add to any building or buildings so erected.
- (c) To establish and raise, by means of annual subscriptions, to be paid by members of the Institute, a fund which shall be devoted to the furtherance of the objects of the Institute.
- (d) To borrow or raise money by the issue of or upon bonds, debentures, bills of exchange, promissory notes or other obligations or securities, or by mortgage or charge upon all or any part of the property of the Institute.

4. Every Government Land Surveyor who has already signified his intention of becoming a member of the Institute or

Members of the Institute.

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who has paid his subscription thereto shall be deemed to be a member of the Institute and shall receive from the Council a Certificate of Membership. Any Government Land Surveyor now or hereafter practising as such shall upon making application to the Council be entitled to be admitted to membership of the Institute upon such terms and conditions and under such rules and regulations in respect of election and admission as the Institute in general meeting may from time to time decide.

Honorary Members.

5. The Institute shall have power to elect as Honorary Members persons who by reason of their position or eminence in science appear to be able to render assistance in promoting the objects of the Institute.

Annual Subscription.

6. Every member shall pay into the funds of the Institute such an annual subscription as shall be decided by a General Meeting.

Recovery of Subscriptions.

7. All subscriptions payable by Members of the Institute may be recovered from them in any competent Court of Law.

General Meetings.

8. General Meetings of the members of the Institute shall be held once in every year at such towns as may be determined upon as nearly as may be twelve months after the preceding General Meeting.

First General Meeting.

9. The first General Meeting of the Institute shall be convened by the Surveyor-General, who shall be the first President of the Institute, and by the Honorary Secretary, or such other person as may be nominated by the Surveyor-General to act as such pending the final election of a Secretary.

Notice thereof.

10. Notice of such meeting shall be given to each member by letter posted to each member and by advertisement in the "Gazette" published not less than 28 days before the holding thereof and such notice shall state the time, place and date of Meeting. It shall be sufficient for the said letter to be posted to such place as may be deemed by the Secretary to be the address of the member, and no resolution at such Meeting shall be invalid by reason that such Notice shall not have been received by any member.

Special General Meeting.

11. The Secretary of the Council shall, upon a requisition made in writing by any two members of the Council hereinafter mentioned, or any three members of the Institute, convene a Special General Meeting.

Requisition for Meeting.

12. Every such requisition shall specify the objects of the meeting required, and shall be signed by the Members making the same.

When Requisitionists may call Meeting.

13. In case the Secretary fail within ten days after receipt of such requisition to convene such Special General Meeting to be held within two months thereafter the requisitionists may themselves convene the same.

Notice of General Meetings.

14. One month's clear notice at the least shall be given to all members resident in the Colony of all meetings except the first

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meeting. Such notice shall be signed by the Secretary, shall specify the place, day and hour of the meeting, and the general character of the business to be transacted thereat, and shall be sent through the post to such an address as shall have been furnished to the Secretary by the member to whom the notice is sent. It shall be incumbent upon all members of the Institute to furnish the Secretary with their address, but in the event of no address having been given the notice shall be sent to such place as may be deemed by the Secretary to be the address of the member: provided always that if any meeting or adjournment thereof be called for or shall fall upon a public holiday it shall stand adjourned until the following day at the same time and place.

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15. The accidental failure of such notice to reach any member in time to enable him to attend the meeting, or the fact that such notice shall merely state generally the objects of the meeting, shall not invalidate any resolution passed thereat.

Omission to give Notice.

16. The business of an Annual General Meeting shall be to receive and consider the statement of account of the Institute, the report of the Council and of the Auditors; to elect a Council and Auditors in place of those retiring; and generally to transact any business comprised within the purposes for which the Institute has been established.

Business of Annual General Meeting.

17. At Special General Meetings only such business shall be transacted as has been specified in the notice convening the meeting, signed by the Secretary.

Business of Special General Meeting.

18. At a General Meeting, eleven members of the Institute present shall be a quorum.

Quorum.

19. If within thirty minutes from the time appointed for the holding of any meeting a quorum is not present, the meeting, if convened upon a requisition as aforesaid, shall be dissolved, but in any other case it shall stand adjourned to such time and place as the majority of those present shall decide: and if at such adjourned meeting a quorum is not present, those members who are present shall be a quorum, and may transact the business for which the meeting was called.

Adjournment if no quorum present.

20. The Chairman of the said Council, or, in his absence, the Vice-Chairman, shall be entitled to take the chair at all meetings; and if both of them be absent, or decline to preside, then the members present shall choose one of their number to be Chairman.

Chairman of Meetings

21. Every question submitted to a meeting shall in the first instance be decided by a show of hands, or by ballot if demanded by any member present, and in case of an equality of votes the Chairman shall, both upon a show of hands and at such ballot, have a casting vote.

How questions decided.

22. If a poll be demanded, it shall be taken in such manner and at such time and place as the Chairman of the meeting shall

Poll.

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direct and either immediately or after an interval not exceeding twenty-four hours. Two Scrutineers shall be elected by the members at the said meeting to declare the result of the poll, and their decision, which shall be given by the Chairman of the meeting, shall be deemed a resolution of the meeting at which the poll was taken. In case of an equality of votes the Chairman shall have a casting vote.

Adjourn-
ment of Meet-
ings.

23. The Chairman of any meeting may, with the consent of the majority of the members present at such meeting, adjourn the same from time to time and from place to place, and any poll demanded on the question of adjournment shall be taken at that meeting without adjournment.

Votes.

24. Each member shall be entitled to one vote, either in person or by proxy, but a member shall not have the right to vote as long as any subscription owing by him to the Institute remains unpaid.

Proxies.

25. Members who live or are temporarily employed at any place more than fifty miles from the place where the General Meeting is being held shall be entitled to vote at such General Meeting by proxy. Such proxy shall state:—

(a) The name of the delegate appointed to act thereunder.

(b) The subject or subjects upon which the said delegate shall vote.

(c) The date or dates of the meeting or meetings at which the said proxy may be used, and any such proxy shall be invalid unless it is presented at a General Meeting by a delegate who is an ordinary member of the Institute.

Council of
Institute, how
constituted.

26. There shall be a Council of the Institute consisting of a Chairman, the President of the Institute, who shall be *ex officio* Chairman of the Council, and ten members, who shall be elected by vote of the members of the Institute at the first General Meeting thereof held at Cape Town as soon as possible after the promulgation of this Act, due notice of the exact date being given to all members. One of the ten members shall be appointed by the Council as Vice-Chairman, and another member to act as Secretary, who may receive remuneration from funds of the Institute for so acting.

Quorum of
Council.

27. At a meeting of the Council five members of the Council present shall be a quorum.

Election of
Council.

28. At the first General Meeting the Chairman and members of the Council shall be elected, and they shall hold office until the ensuing Annual General Meeting, when the Chairman and five of the members shall retire, but shall be eligible for re-election. The names of the members retiring at such ensuing Annual General Meeting shall be determined by Ballot.

Retirement.

29. Thereafter, at each successive General Election, the Chairman and the remaining five members of the Council shall retire, but shall be eligible for re-election.

30. In the absence of the Chairman the Vice-Chairman shall exercise and perform all the duties and functions pertaining to the office of Chairman. Should neither the Chairman nor Vice-Chairman be present at a meeting of the Council, then such a meeting may appoint a temporary Vice-Chairman.

Absence of
Chairman and
Vice-Chair-
man.

31. The seat of a member of the Council shall become vacant :

Cause of
Vacancies in
Council.

- (a) Should he resign.
- (b) Should he be absent from this Colony for six consecutive months.
- (c) Should he be absent from three consecutive meetings of the Council without leave of absence.
- (d) Should he cease to be a member of the Institution.
- (e) Should he become incapacitated in law from managing his own affairs.

32. The Council shall immediately fill up a vacancy occurring in it, but any person appointed to fill such vacancy shall hold office no longer than the term for which the member in whose place he has been appointed to act would have been entitled to hold office.

Council fill
casual va-
cancy.

33. Any resolution or action of the Council shall, notwithstanding any such vacancy, if unavoidable, be valid, provided that a quorum were present when such resolution or action was taken or performed.

Resolutions
valid not-
withstanding
vacancy.

34. The Council shall have control over the conduct and behaviour of the members of the Institute, and over the affairs of the Institute generally, in so far as such control may be committed to it by a vote of a General Meeting, and shall submit for the approval of a General Meeting rules or bye-laws dealing therewith, which rules and bye-laws shall be binding upon all members of the Institute.

Powers of
Council.

It shall be entitled to exercise the following powers without such a vote :—

- (a) To pay at its discretion all costs and charges incidental to the formation and upkeep of the Institute.
- (b) To purchase and pay for, or otherwise acquire for the Institute, any books, papers, maps, diagrams, instruments, models, office furniture, or other useful or necessary movable property.
- (c) To hire and take on lease, for any period not exceeding five years, any stands, erven, lands, buildings, rooms, or other immovable property, and to pay rent for the same.
- (d) To sell any movable property of the Institute.
- (e) To let any of the immovable property of the Institute for any period not exceeding five years upon such terms and conditions as the Council may deem desirable.

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- (f) To take the necessary steps to obtain the suspension of members from practice and their expulsion from the Institute for any of the causes assigned in section 37 hereof.
- (g) To regulate the times and places of its meetings, the mode of summoning the same and the general regulations of its business.

Treasurer
and Auditors.

35. A Treasurer and two Auditors shall be elected at the annual General Meeting who shall hold office for one year, but are eligible for re-election.

Practices
prohibited.

36. The following acts and practices whether of commission or omission upon the part of any Government Land Surveyor being a member of the Institute shall be offences under the provisions of this Act, and if found guilty by the Supreme or any Superior Court of having committed or engaged in any one or more of such acts or practices he shall be liable to be suspended from practice for any period that may be decided upon by the Court, or to be expelled from the Institute as the Court may direct.

- (a) Agreeing to share fees or entering into partnership in any work requiring the special qualifications of a Government Land Surveyor with any person not admitted to practice as a Government Land Surveyor: provided that nothing herein contained shall prevent a Government Land Surveyor from entering into partnership with a Civil, Mining or Hydraulic Engineer holding a diploma to the satisfaction of the Council.
- (b) Signing diagrams purporting to represent any survey work performed by himself, which work shall not have been carried out under his personal supervision and direction.
- (c) Directly or indirectly paying any person a commission for bringing him work, or giving any person monetary or other valuable consideration, as a remuneration for bringing him work or inducing other persons to give him work.
- (d) Improperly obtaining or attempting to obtain survey work.
- (e) Performing a survey in connection with rights which are the subject of dispute or litigation upon condition that only in the event of dispute or litigation ending favourably for the party for whom the survey is performed shall payment be made for the survey.
- (f) Executing a survey with gross carelessness, and not providing checks sufficient for a proper determination of the points to be located, and for the purpose of testing the accuracy of his calculations, whereby an incorrect diagram is passed for registration.

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INCORPORATION ACT, 1904.

No. 22—1904

- (g) Not making, enregistering and carefully preserving a record of all observations, field work, calculations, and draughting in connection with or resulting from any work performed by him as a Government Land Surveyor.
- (h) Making or enregistering any records or calculations which are fictitious and untrue in connection with any surveys performed or alleged to have been performed by him.
- (i) Conducting himself dishonourably in connection with the performance of any work by him as a Government Land Surveyor.
- (j) Wilfully refusing or neglecting to carry out and perform any Order or Bye-Law lawfully adopted and established by the institute in meeting assembled regarding any point of professional practice, usage or courtesy.
- (k) Wilfully refusing or neglecting to produce any field books, records, calculations, diagrams, or other documents in his possession when required so to do by the Council.
- (l) Engaging in any practices or performing any actions similar to or having a tendency to end in a result similar to those practices and actions prohibited in the aforegoing sub-section.

37. The Council may at any time make inquiry into the professional conduct or behaviour of any member of the Institute, and may hear or otherwise take evidence and order the production of any field books, records, calculations, diagrams, and documents of writings in the possession of such member after it is satisfied that all other reasonable means of obtaining reliable evidence has failed. All evidence so taken shall be recorded in writing. Any member of the Institute, whose professional conduct or behaviour may be the subject of inquiry by the Council, shall be entitled to be represented thereat to produce evidence and call witness on his behalf.

Council may inquire into conduct of Members.

38. In the event of any member of the Institute being in the opinion of the Council guilty of any act or omission prohibited by this Act or offending against any bye-law or regulation framed under this Act the Council may determine to cause such member to be cited before the Supreme or any other Superior Court of this Colony to answer any charge made against him, and to show cause why a sentence of suspension from practice should not be pronounced against him by such Court. All such proceedings shall be taken in the name of the Council of the Institute of Government Land Surveyors of the Colony of the Cape of Good Hope. Upon the hearing of any such matter the Court may suspend such member from practice or make such other order as may seem fitting and may further make such order as to costs as may seem meet.

Proceedings on alleged malpractice.

Suspended Surveyor ceases to be Member.

39. In case any member of the Institute shall in consequence of the Order of Court be suspended from or rendered incapable of practising as a Government Land Surveyor in this Colony, such person shall during such time as he is suspended from practice cease to be a member of the Institute.

Bye-laws and Regulations.

40. The Council may from time to time, subject to the approval of the Government, frame, alter, amend, and administer bye-laws and regulations, for carrying into effect the objects and purposes of the Institute, and for regulating its proceedings. Such bye-laws and regulations shall when adopted at a General Meeting of the Institute, and approved by the Government, and published in the "Gazette," have the force of law, and shall be binding upon all members of the Institute in practice in so far as the same be not in conflict with the terms of this Act.

Legal proceedings.

41. It shall be lawful for the Secretary on behalf of the Council or for any person authorised in writing by the Council under the Seal of the Institute, to take and institute proceedings, Civil or Criminal, on behalf of the Institute.

Execution of deeds and documents.

42. All certificates of membership, documents, deeds and instruments required to be executed for and on behalf of the Institute or Council shall be valid and binding upon the Institute if executed under the common seal, and under the signature of the Chairman or Vice-Chairman of the Council and the Secretary or Acting Secretary.

Short Title

43. This Act may be cited as "The Institute of Government Land Surveyors Incorporation Act, 1904."

Act 23—1904.]

[May 31, 1904.

ACT

To apply a further Sum not exceeding Three hundred and seventy-four thousand and twelve pounds sterling for the Service of the year ending the 30th June, 1904.

[Assented to 28th May, 1904.]

Preamble.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending the 30th June, 1904, in addition to the sums provided by Acts 3 of 1903 and 4 and 6 of 1904: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Public Revenue charged with £374,012.

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending on the 30th June, 1904, with a further sum of three hundred

and seventy-four thousand and twelve pounds sterling, in addition to the several sums provided for by the said Acts 3 of 1903, and 4 and 6 of 1904.

No. 23-1904.

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

How to be applied.

3. This Act may be cited for all purposes as the "Additional Appropriation 1903-1904 Act, 1904."

Short Title

SCHEDULE.

Schedule.

Additional Appropriation, 1903-1904.	Establishments.	Services exclusive of Establishments.	Total.	Votes to be taken.
	£	£	£	£
I. PRIME MINISTER	4,001	24,806	28,807	28,807
II. COLONIAL SECRETARY	25,828	74,874	100,702	100,702
III. TREASURER	6,463	58,848	65,311	65,311
IV. ATTORNEY-GENERAL	3	15,017	15,020	15,020
V. COMMISSIONER OF PUBLIC WORKS... ..	4,030	117,000	121,030	121,030
VI. SECRETARY FOR AGRICULTURE	2,605	40,537	43,142	43,142
Grand Total £	42,930	331,082	374,012	374,012

No. 24, 1904.]

[May 31, 1904.

ACT

To apply a Sum of Money for the Service of the Year ending the 30th June, 1905.

[Assented to 28th May, 1904.]

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

reamble.

1. The Public Revenue of the Colony is hereby charged towards the service of the year ending the 30th June, 1905, with a sum of Eight millions Eight hundred and Forty-six thousand Eight hundred and Thirty-seven pounds sterling.

Public Revenue to be charged with £8,846,837.

How to be applied.

2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto, and more particularly specified and set forth in the Estimates and Supplementary Estimates of the Expenditure for the year ending 30th June, 1905, with the notes of such Estimates, submitted to and approved by Parliament.

Not to be applied except as granted.

3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act, and the aforesaid Schedule, Estimates and Supplementary Estimates.

Short Title

4. This Act may be cited for all purposes as "The Appropriation Act, 1904."

Schedule.

SCHEDULE.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Ministerial Department of Prime Minister.	168,033	61,903	219,936	214,936
II. Ministerial Department of Colonial Secretary.	683,376	1,110,743	1,794,119	1,786,901
III. Ministerial Department of Treasurer.	663,265	1,155,765	1,819,030	1,181,485
IV. Ministerial Department of Attorney-General.	508,463	77,135	585,598	566,598
V. Ministerial Department of Commissioner of Public Works.	474,156	5,265,468	5,739,624	4,737,424
VI. Ministerial Department of Secretary for Agriculture.	152,126	208,867	360,993	359,493
Grand Totals.	2,639,419	7,879,881	10,519,300	8,846,837

Act No. 25, 1904

[May 31, 1904.]

To Amend the Local Works Loan Act, 1882.

[Assented to 28th May, 1904.]

Preamble.

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

1. Notwithstanding anything to the contrary contained in section eleven of Act No. 11 of 1882, all amounts of capital which may hereafter be repaid on account of loans made or yet to be made for educational purposes shall be paid to the credit of a separate account in the Treasury, and such amounts shall be used solely for the issue of further loans to school committees for the purposes mentioned in "The Local Works Loan Act, 1882," as amended by "The Local Works Loans Amendment Act, 1895," and "The Local Works Loans Amendment Act of 1896."

No. 25—1904.

Repayment of loans by school authorities to be paid to separate account.

2. In respect of all loans for educational purposes and for purposes proper to the Municipal Act of 1882 and any subsequent Amendments thereof, and for the purposes of "The Public Health Amendment Act of 1897," the said "Local Works Loan Act," and any Act amending the same shall be read as if the word "Colonial Secretary" were substituted for the word "Commissioner."

"Colonial Secretary" to be substituted for "Commissioner."

3. For the purposes of the Acts mentioned in the first section hereof, and in addition to the provisions therein made, it shall be lawful for the Governor to raise by loan the sum of One hundred thousand pounds (£100,000), to be devoted to loans for educational purposes, as specified in section one of this Act.

Governor may raise by loan £100,000.

4. This Act may be cited as "The Local Works Loans Amendment Act, 1904."

Short Title.

No. 26—1904.]

[31 May, 1904.

ACT

To Authorise the raising of a Loan of £1,004,000 for the purpose of certain New and Additional Railway Works.

[Assented to 28th May, 1904.]

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

Preamble

1. For the purpose of constructing the Works set forth in the Schedule of this Act it shall be lawful for the Governor to raise by Loan the sum of £1,004,000, which sum shall be expended on the specific items contained in the Schedule, no excess on any one item being available to cover the deficit on any other item.

Power to raise £1,004,000.

2. No expenditure under this Act shall be incurred for any new work until the Treasurer shall have notified under his hand to the Commissioner that the funds for such work are available.

Treasurer to notify that funds available.

3. This Act may be cited for all purposes as "The New and Additional Railway Works Act, 1904."

Short Title.

No. 26—1904.

Schedule.

SCHEDULE.

Doubling portions of line	£191,000
Additional Crossing Loops	20,000
Additional Accommodation for Employés	200,000
Additional Water Supply	100,000
Additional Accommodation at Stations, Sidings, Plat- forms, Goods Sheds, etc.	30,000
Locomotive Workshops, Steamsheds, etc.	65,000
Reserve of Stores: Additional	250,000
Surveys—Detailed	60,000
Overhead Bridges, Subways, etc.	67,000
Additional Fencing	5,000
Additional Signals	8,000
Cape Collieries—Betterment of	8,000
	£1,004,000

[No. 27—1904.]

[May, 31 1904.]

ACT

To Amend the Half Holiday Act, 1899.

[Assented to 28th May, 1904.]

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

1. Section three of the Half Holiday Act, 1899, shall, from and after the date of this Act, be read as if the words “shopkeepers of not less than two-thirds” were substituted for the words “occupiers of more than one-half.”

2. The right of joining in any applications or of opposing the continuance of any order under the said Act is hereby limited and confined to such shopkeepers as are respectively the constant employers of not less than two paid shop assistants or employés for the purposes of retail business; provided that in no case shall any member of the shopkeeper’s family be counted as an assistant or employé for the purposes of this section. In construing this section shop assistants and employés shall not include employés other than those whose duties are confined to work within the precincts of the shop.

3. The last proviso to section one of the said Act is hereby repealed.

4. The special provisions of the said section one (as amended by this Act) relating to the Municipality and District of Cape Town are hereby extended and applied to the Municipality and District of Port Elizabeth, and it shall be lawful for the Governor on being petitioned therefor by any Local Authority, by proclamation to further extend the said provisions to such Local Authority and its district.

5. This Act may be cited as the “Half Holiday Amendment Act, 1904.”

Limitation
of rights of
joining in
application,
etc.

Section one,
proviso, re-
pealed.
Port Eliza-
beth.

Short Title.

No. 28—1904.]

[May 31, 1904.]

ACT

To Amend the Law relating to Patents for Inventions, Registration of Designs and Trade Marks.

[Assented to 28th May, 1904.]

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

1. All laws inconsistent with or repugnant to the provisions of this Act are to the extent of such inconsistency or repugnancy hereby repealed. Repeals.

2. All and several the powers, functions and duties by law vested in, assigned to and imposed upon the Attorney-General with regard to the granting of Patents for Inventions, may be exercised, discharged and performed by such deputy being a barrister of at least ten years' standing, as he may from time to time appoint therefor, and who shall be an officer in the Department of the Attorney-General. Attorney-General may appoint Deputy

3. Anything to the contrary in the terms and conditions of any patent notwithstanding, a patent shall not be deemed to have been or be rendered void by reason of failure before or after the date of this Act to make the prescribed payments within the prescribed times if such failure is, to the satisfaction of the Colonial Secretary, the result of accident, mistake, or inadvertence on the part of the patentee or his agent or such circumstances as would appear to justify equitable relief; and it shall be lawful for the Colonial Secretary, on payment of such fee, if any, as may be prescribed by the Governor in case of such failure, to enlarge the time for payment: provided that the time shall not in any case be enlarged for more than three months without the special approval of the Governor; and provided further that if any proceeding shall be taken in respect of infringement of the patent committed after failure to make any payment within the prescribed time, and before the enlargement thereof, the Court before which the proceeding is proposed to be taken may, if it shall think fit, refuse to award or give any damages in respect of such infringement. Cases in which forfeiture of Patent by non-payment of fees may be relieved.

4. The exhibition of an invention at an industrial or international or inter-Colonial exhibition certified as such by the Minister, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere without the privity or consent of the inventor, shall not prejudice the Exhibitions at industrial or international exhibitions not to prejudice inventions.

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ACT, 1904.

No. 28—1904.

right of the inventor or his legal representative to apply for and obtain provisional protection and a patent in respect of the invention, or the validity of any patent granted on the application: provided that both the following conditions are complied with, namely:—

- (a) The exhibitor must not later than twenty-four hours before exhibiting the invention give the Minister reasonable notice of his intention to do so; and
 - (b) The application for the patent must be made either before or within six months after the date of the opening of the exhibition.
- (1) It shall be lawful for the Governor by Proclamation from time to time to declare that this section shall apply to any exhibition mentioned in the Proclamation held outside the territorial limits of the Colony in like manner as if it were an exhibition certified by the Minister, and to provide that the exhibitor shall be relieved from the conditions of giving notice of intention to exhibit and shall be so relieved either absolutely or upon such terms and conditions as to the Governor may seem fit.

Short Title
and Interpretation.

5. This Act may be cited as "The Patents, Designs and Trade Marks Act, 1904," and shall be read as one with the Patents Act.

No. 29, 1904.]

[May 31, 1904.]

ACT

To provide for the Completion of certain Lines of Railway, and for other purposes.

[Assented to 28th May, 1904.]

Preamble.

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

Completion
of lines in
Schedule A.

1. For the purposes of the completion of the several lines of railway set forth in Schedules G, H, I to the Railways Acquisition and Extension Act, 1900, and in Schedule D to the Railways Extension Act, 1902, it shall be lawful for the Governor to expend additional amounts over and above the amounts already sanctioned by Parliament, but not exceeding, in the case of each line, the amounts set opposite to it in Schedule A to this Act, anything to the contrary in any Law notwithstanding: Provided that no new work shall be undertaken under the provisions of this Act until the Treasurer shall have issued to the Commissioner under his hand a certificate to the effect that there are funds at his disposal, available for the said work.

Lines in
Schedule B to
be constructed
on standard
gauge.

2. Notwithstanding anything to the contrary contained in sections 2 and 5 of Act 38 of 1902, or any other Law, the Lines of Railway set forth in Schedule B to this Act shall be constructed upon the Standard Colonial Gauge of three feet six inches.

3. It shall be lawful for the Governor, as soon as it may seem to him expedient after the passing of this Act, to arrange for the construction and equipment by the Governor of the Transvaal, subject to the supervision and approval of an engineer or engineers to be appointed by the Governor of the Line of Railway set forth in Schedule C to this Act, the cost of such Line of Railway and Junction with the existing Government Railways, and all expenses incidental thereto, to be borne by the Transvaal Government; provided always that the Governor shall have the right, on giving six months' notice of his intention, to acquire and take over such line of Railway, on paying the actual cost of Construction plus the cost of any betterments duly approved by the Commissioner of Public Works: further, it shall be lawful for the Governor to ratify a Convention and Agreement for the Construction and working of the line of Railway aforesaid, provided always that such line of Railway shall form part of a through line from Johannesburg to the Cape Government Railways at or near Fourteen Streams, *via* Klerksdorp, at present the terminal station on the existing Government Railways in the Transvaal.

4. It shall be lawful for the Governor to expend the sums set forth in Schedule D to this Act for the purpose of meeting charges for raising loans under the Acts mentioned in the said Schedule.

5. It shall be lawful for the Governor to raise by loan from time to time as he shall deem expedient the sum of six hundred and eighty-one thousand pounds (£681,000) for the purposes of this Act.

6. For the purpose of providing further capital for the Stores Suspense Account of the Public Works Department, it shall be lawful for the Governor to apply the sum of £5,000, which has been received from the Equipment Fund of the Cape Mounted Riflemen in repayment of the advance made to it in terms of Sec. 2 of Act 36 of 1899.

7. This Act may be cited for all purposes as the "Railways Completion and other Purposes Act, 1904."

SCHEDULE A.

Line of Railway.	Act Authorising Construction.	Maximum Amount to be Expended.	Required to be provided for.
Paarl—French Hoek ...	Act 38 of 1902 ...	£ 86,170	£ 9,500
Oudtshoorn — Klipplaat	Acts 28 of 1895, 37 of 1898, 19 of 1900 ...	1,069,849	215,274
Somerset East — King William's Town ...	Acts 28 of 1895, 40 of 1898, 19 of 1900 ...	1,012,132	116,950
Mossel Bay to George (33m. 40c.) ...	...	353,231	200,000
			541,724

No. 29—1904.

SCHEDULE B.

Schedule B.

Line of Railway.	Act Authorising Construction.	Mileage	Amount Already Sanctioned.	Required to be provided for.
Hutchinson (Victoria West Road) to Carnarvon ...	Act 38 of 1902. Section 2.	77½	£ 184,915	} Nil.
Aliwal North to Gairtney ...	Act 38 of 1902. Section 2.	47	148,849	

Schedule C.

SCHEDULE C.

Line of Railway.	Mileage.	Amount to be Expended.
From a point of junction with the Cape Government Railways at or about Fourteen Streams to the Border of the Transvaal	M. C. 4 0	Nil.

Schedule D.

SCHEDULE D.

Act.	Cost of Raising Loans.
Railways—24 of 1896	£ 60,657
" 36 of 1899	23,234
" 9 of 1900	51,080
Posts and Telegraphs—36 of 1899	3,232
" " 9 of 1900	1,073
	139,276

No. 30 of 1904.]

[May 31, 1904.

ACT

To Provide for the Appointment of a Commission to Inquire and Report upon awards made by War Losses Compensation Commissioners and upon certain claims for War Losses Compensation.

[Assented to 28th May, 1904.]

Preamble.

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

1. It shall be lawful for the Governor to appoint a Commission, to consist of five persons of whom one shall be a Judge of the Supreme Court, with full power and authority in accordance with such instructions and regulations as the Governor may issue, and subject to the provisions of this Act, to inquire (1) into all awards of compensation made by any Commissioners appointed by the Governor in terms of Government Notice No. 465 of 1900, published in the *Gazette* of the 17th July, 1900, or under the provision of section one of the War Losses Compensation Sub-Commissioners Act, 1902, and to report with particulars upon the question of increasing the said awards or any of them; and (2) to inquire into claims for compensation.

No. 30—1904.
Governor empowered to appoint Commission to inquire into and report on Awards by War Losses Commissioners and Claims for Compensation.

- (a) Which have been considered but disallowed by any such War Losses Compensation Commissioners aforesaid;
- (b) Which have been sent to such Commissioners as aforesaid but not considered or finally dealt with by them in consequence of the expiration of any specified period within which such claims should have been sent or considered or finally dealt with;
- (c) Which have been duly sent to, but not received by such Commissioners as aforesaid, or have been lost or mislaid subsequent to the receipt thereof;
- (d) Which have not been sent or despatched to such Commissioners as aforesaid, but which may hereafter be sent to the Commission to be appointed in accordance with the terms and provisions of this Act for the consideration of the said Commission, and to report, with particulars, upon the question of the compensation, if any, which should be allowed in respect of all the above-mentioned claims, and (3) to recommend the amount of compensation, if any, to which in their judgment any person whose claim has been dealt with by them under sub-sections (b) and (c) hereof is entitled, and it shall be lawful for the Treasurer to pay such amount or any portion thereof to the person entitled thereto out of monies already provided or to be provided for the purposes of compensation by Parliament.

2. Simultaneously with or immediately after the promulgation of this Act, the Colonial Secretary shall publish or cause to be published in each and every division of the Colony in three separate issues of some newspaper circulating in such division a notice setting out the date of the said promulgation, and calling upon all persons desiring and intending to place any award or claim such as is referred to in section one of this Act before the said Commission therein referred to, to notify the same in writing in the form set out in the Schedule hereto, not less than three months after the date of the said promulgation to the Civil Com-

Notices to be published.

No. 30—1904

missioner of the division in which such persons may respectively reside, and the Colonial Secretary shall also cause notice to be sent to and circulated by each Field Cornet simultaneously with the notice published through the several Civil Commissioners in whose divisions claims have been lodged.

Persons desiring to have their Claims inquired into to notify Civil Commissioner.

3. Any person desiring to have any award or claim such as is referred to in section one of this Act inquired into and reported upon by the said Commission, shall notify his said desire to the Civil Commissioner of the division within which he resides, not later than three months after the promulgation of this Act as nearly as may be, in the form provided in the Schedule to this Act, and no person failing to make such notification within the said period of three months shall be entitled to have any award or claim inquired into by the said Commission, provided that any claims handed over to the said Commission as not yet having been finally dealt with by other Commissioners shall be reported upon notwithstanding the fact that no notification as aforesaid has been made by the claimant.

Powers conferred on Commissioners to examine records and to call for evidence.

4. For the purposes of the Inquiries and Report mentioned in the first section of this Act the said Commission shall have power to call for and examine all papers, records, depositions, awards and returns in the several cases in which such awards were made, and in their discretion—which shall be absolute—to call for, have access to, and examine all such other books, papers, documents, registers, and records as may afford material information upon the subject of this enquiry, and, in any special case, to call and examine under oath, or to request any Resident Magistrate or Assistant Resident Magistrate to call and examine on oath, which any Resident Magistrate or Assistant Resident Magistrate is hereby empowered and required to do on receipt of such request, such person or persons as may be deemed by them to be likely to afford such information.

Every summons or order for the attendance of witnesses or the production of documents shall be in such form as the Chairman may prescribe, and shall be signed by such Chairman, or one of the Commissioners, or the Secretary duly appointed, and shall be served in the same manner and by the same officer as if it were a summons issued by the Resident Magistrate of the District in which the person summoned resides.

Proviso.

Provided that every person summoned under the provisions of this section shall be provided with a pass or order entitling him to travel without charge upon the Cape Government Railways from the railway station nearest to the place at which the summons shall be served upon him to the place at which he shall be summoned to attend and back again to the said railway station, but

no such person shall be entitled to any remuneration or witness expenses in connection with any evidence given by him under this section.

No. 30—1904.

5. Every person summoned to attend and give evidence or produce books or other documents before the said Commissioner, or a Resident Magistrate, or an Assistant Resident Magistrate, shall be bound to obey the Summons served upon him.

Witnesses must obey summons.

6. Any person refusing or omitting without sufficient cause to attend and give evidence or produce books and other documents at the time and place named in the summons, when summoned to do so, shall be liable to a penalty not exceeding fifty pounds, to be recovered at the suit of the Attorney-General in the Court of the Resident Magistrate of the district in which the place at which such person was required to attend is situated, who is hereby specially given jurisdiction in the said matter and who in default of payment forthwith may award imprisonment with or without hard labour for any period not exceeding three months.

Penalty for refusing.

7. Any witness who shall after being duly sworn wilfully give false evidence in any inquiry before the said Commission or a Resident Magistrate or an Assistant Resident Magistrate concerning the subject matter of any inquiry under this Act shall be guilty of the crime of perjury and shall be liable to be prosecuted and punished accordingly.

Penalty for false evidence

8. No person to whom payment of compensation is prohibited by the provisions of section five of Act No. 17 of 1902, shall be entitled to have any award or claim inquired into by the Commission and the Commission shall not inquire into the same.

Persons exempted from having their claims inquired into.

9. The Commission shall report the result or results of their inquiries from time to time in writing to the Governor as soon as may be or within such period as may be by him limited, and thereupon the Governor shall cause the same to be laid before Parliament.

Report to whom and when to be made.

10. This Act may be cited as the "War Losses Compensation Inquiry Act, 1904."

Short Title.

SCHEDULE.

Schedule.

To the Civil Commissioner of the Division of——. Be pleased to take notice that I desire that my claim for the payment of £ (--- pounds, — shillings and — pence) for Compensation for War Losses may be considered and reported upon by the Commission authorised by the War Losses Compensation Inquiry Act, 1904, to deal with the same. (State whether the claim has been previously sent in to War Losses Compensation Commissioners or not.)

No. 31—1904.]

[May 31, 1904.]

ACT

To Authorise a further Loan of Two Hundred and Fifty Thousand Pounds Sterling for the purpose of providing compensation under the War Losses Additional Compensation Loan Act, 1902, and for other purposes.

[Assented to 28th May, 1904.]

Preamble.

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

Loan of
£ 250,000
authorised to
meet claims
for compensa-
tion for
War Losses.

1. It shall be lawful for the Governor to raise a further loan of Two Hundred and Fifty Thousand Pounds Sterling for the purposes of the War Losses Additional Compensation Loan Act, 1902, under which Act the Loan hereby authorised shall be appropriated and shall be deemed to have been raised: Provided that a portion of the sum raised hereunder may be applied towards the expenses and cost of administration, from and after the 1st July, 1903, of sections sixty-two, sixty-three, sixty-four, sixty-five and sixty-six of "The Indemnity and Special Tribunals Act, 1900," "The War Losses Compensation Act, 1900," "The War Losses Compensation Sub-Commissions Act, 1902," "The War Losses Additional Compensation Loan Act, 1902," and this Act.

Short Title

2.. This Act may be cited as "The War Losses Loan Act, 1904."

No. 32—1904.]

[May, 31, 1904.]

ACT

To apply certain Funds to the purposes of the Irrigation Acts, No. 8 of 1877, No. 28 of 1879, No. 7 of 1880 and No. 24 of 1897.

[Assented to 28th May, 1904.]

Preamble.

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

Whereas by the second section of Act No. 9 of 1900, it is provided that it shall be lawful for the Governor to raise by Loan the sum of Two Hundred Thousand Pounds Sterling, to be applied to the purposes of the Irrigation Acts, No. 8 of 1877, No. 28 of 1879, No. 7 of 1880 and No. 24 of 1897: and whereas it is desirable that additional funds should be provided for the said purposes:

1. It shall be lawful for the Governor to apply thereto any balances which may remain over and above expenditure in respect to the Works authorised to be constructed under Act 19 of 1902, and similarly to apply to the purposes of the said Irrigation Acts any further funds which may accrue in respect to the said Works by sale of land or otherwise.

No. 32—1904.
Surpluses and Receipts on account of Act 19 of 1902 applied to Irrigation Loans.

2. The powers and provisions contained in the second section of Act No. 19 of 1902, in respect to the raising of funds by loan for the purposes of the said Act, shall so far as may be necessary apply to this Act.

Loan powers under Act No. 19 of 1902, applied.

3. This Act may be cited for all purposes as the "Irrigation Loans (Additional) Act, 1904."

Short Title.

No. 33.—1904.]

[31st May, 1904.

ACT

To Enable the Governor to settle claims to Crown Land at Port Nolloth by issue of Title and otherwise.

[Assented to 28th May, 1904.]

WHEREAS certain persons and corporate bodies have for considerable periods of time occupied certain pieces or lots of Crown Land at Port Nolloth, in the Division of Namaqualand, and have from time to time erected buildings thereon under temporary permission granted by the Government which permission conveyed to the holder neither a claim to a grant of the land nor to any compensation for improvements; and whereas it is equitable that the Township at Port Nolloth having now been laid out and surveyed the persons who occupy land under such permission as aforesaid should be confirmed in their occupation and receive title to their lands, upon such terms as to the Governor may in each case seem fit.

Preamble.

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

1. It shall be lawful for the Governor to appoint a Commission to investigate and report on the claims to land at Port Nolloth based on occupation and improvement under authority of the Government as aforesaid, and to make recommendations as to the extent and position of the land to be assigned to each claimant, the Governor to determine the mode of procedure and the date up to which claims may be filed.

Commission to report on claims to certain land at Port Nolloth.

2. Notwithstanding anything to the contrary contained in any Act it shall be lawful, from and after the passing of this Act, for the Governor to grant title, in favour of such claimants, to such pieces or lots of Crown land at Port Nolloth as the said Commission may recommend.

Governor may grant title.

No. 33—1904.
Conditions of
title.

3. The aforesaid grants shall be subject to :—

- (1) The payment of a fair valuation to be assessed by the said Commission ;
- (2) The terms of payment and all other conditions of titles to which sales of Crown land under Act No. 15 of 1887, as amended by Act No. 40 of 1895, are subject ; and
- (3) such special servitudes or conditions as the said Commission may recommend, and the Governor approve of.

Grantee's
duties.

4. Upon being informed that a grant in his favour has been approved by the Governor, each claimant shall be bound within a term of six months to signify whether he will accept the grant on the terms offered and to deposit with the Resident Magistrate, Port Nolloth, the cost of survey, and of the title deed, under penalty of forfeiture of his claim to the land, provided that, if it shall be proved to the satisfaction of the Governor, that the defaulter had reasonable cause for delay, he may condone the failure and extend the period, provided always that the land has, in the meantime, not been otherwise disposed of.

Disposal of
land not taken
up.

5. Any land which is not taken up within the period specified in the foregoing section, shall be disposed of in the manner provided by the laws regulating the disposal of Crown land generally.

Lands claim-
ed by Public
Bodies.

6. The foregoing sections shall not apply to any land claimed by Churches, School Boards, Cemetery Trustees, or other public bodies, to whom the Government is already empowered by existing Land Laws to make grants with the sanction of Parliament, but the said Commission shall include any such claims in the scope of its investigations, and submit recommendations in respect thereof.

Short Title.

7. This Act may be cited as the "Port Nolloth Crown Lands Act, 1904."

No. 34—1904.]

[May 31, 1904.]

ACT

To Amend the Liquor Law.

[Assented to 28th May, 1904.]

Preamble.

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

Section 10,
Act 28, 1883,
part repealed.

1. The 1st paragraph of Section ten of the Liquor Licensing Act, 1883, is hereby repealed.

Section 11,
Act 28—1883,
repealed and
section substi-
tuted.

2. Section eleven of the said Act is hereby repealed and the following section is hereby substituted therefor :—

" 11. A certificate from a Licensing Court shall be a condition precedent to the issuing of all licences except a temporary licence, a railway licence, or a Colonial Forces Regimental Club licence."

3. Sections twelve and thirteen of the said Act are hereby repealed.
4. Section forty-two of the said Act is hereby repealed, and the following section substituted therefor:—
- “42. On or before the last day of the months of January and July, any person desiring to obtain at the next Licensing Meeting any licence for which the certificate of a Licensing Court is necessary, or the renewal of any such licence or the removal of any such licence from the licensed premises or club premises to other premises in the same district or the transfer of a licence by the holder to any other person shall make application in writing to the Resident Magistrate of the district setting forth the nature and description of the licence required to be obtained, renewed, removed, or transferred, as the case may be, and of the place, stating the number or name (if any) of the premises and the street or road where the business or club is intended to be, or is being carried on, and, in the case of transfer of a licence the name and description of the person to whom the same is desired to be transferred: provided that in case a transfer is made after the 31st January or after the 31st July the application may be made to the following sitting of the Licensing Court.”
5. The maximum pecuniary penalties under sections seventy-three, seventy-four and seventy-five of the said Act are hereby increased as follows:—
- For contravening section seventy-three, twenty-five pounds, first offence; fifty pounds, subsequent offences.
 - For contravening section seventy-four, fifty pounds.
 - For contravening section seventy-five, fifty pounds, first offence; one hundred pounds, second offence; one hundred and fifty pounds, subsequent offences.
6. Section thirteen of the Liquor Act, 1891, shall not apply to the granting and renewal of wholesale licences and Club licences.
7. So much of section four of the Liquor Licensing Act Amendment Act, 1885, as is inconsistent with this Act is hereby repealed.
- The grant of a Club licence shall not constitute the Club premises “licensed premises,” for the purposes of the Liquor Laws.
 - The objections to the renewal of any Club licence shall be limited to the following, viz.:—
 - That the Club has ceased to exist or that the number of members is less than twenty-five.
 - That it is kept or habitually used for an unlawful purpose or mainly for the supply of intoxicating liquor.

No. 34—1904.

Sections 12 and 13 of Act 28—1883 repealed.

Section 42 of Act 28—1883 repealed, and section substituted.

Certain penalties increased.

Section 13 of Act No. 25, 1891, not to apply to Wholesale and Club Licences. Club Licences.

No. 34—1904

- (c) That there is frequent drunkenness on the premises, or that intoxicated persons are frequently seen to leave the premises, or that the club is conducted in a disorderly manner.
- (d) That persons who are not members are habitually admitted to the club merely for the purpose of obtaining liquor during ordinary or close time.
- (e) That the club is not a *bona fide* club, on which question the facility of obtaining membership shall be regarded as *prima facie* evidence.

Club Licence
Fee increased.

8. From and after the first Wednesday in the month of March, 1905, "forty pounds" is hereby substituted for "eighteen pounds" appearing in the second Schedule of the Liquor Act, 1883, as the sum payable for the grant or renewal of a Club Licence other than a Colonial Forces Regimental Club licence.

Section 17
amended.

9. In section seventeen of the said Act of 1891, for the words "a retail licence," are hereby substituted the words "any liquor licence other than a wholesale licence."

"Unbroken
case" defined.

10. For the purposes of sub-section one of section seven of the Liquor Act, 1883, a case shall not be deemed to be an "unbroken case," unless the liquor therein contained is all of the same kind, description or brand; provided that this provision shall not apply to sample cases made up for export and actually exported, nor to liquors sold by wholesale to retail dealers in quantities less than those provided in the said sub-section of section seven of the Liquor Act of 1883.

Savings.

11. Nothing in this Act shall invalidate anything lawfully done under any repealed enactment.

Short Title.

12. This Act shall be read as one with the "Liquor Laws, 1883—1898," and may be cited as the "Liquor Law, 1904."

No. 35—1904.]

[May 31, 1904.]

ACT

To Further amend the Law for the better Administration of Justice.

[Assented to 28th May, 1904.]

Preamble.

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

Repeals.

1. All laws inconsistent with or repugnant to the provisions of this Act are to the extent of such inconsistency or repugnancy hereby repealed.

2. From and after the date of this Act a single Judge of the Supreme Court, the Court of the Eastern Districts and the High Court shall constitute in such Courts, for the purposes of the exercise of any original jurisdiction, a quorum, and shall be

deemed to constitute a Divisional Court of such Courts respectively, provided that:

- (1) No more than ~~two~~ such Divisional Courts may sit at the same time for the dispatch of civil business.
- (2) An appeal shall lie from the decision of any such Divisional Court to the Supreme Court sitting as a Court of Appeal.
- (3) In addition to the Judges who may, by virtue of the fourth and nineteenth sections of Act 35 of 1896, be permanently assigned to the Supreme Court sitting as an Appeal Court, it shall be lawful for the Governor to assign temporarily one or more other Puisne Judges of the Supreme Court for the purpose of forming part of the said Appeal Court.

~~3. Nothing in section 13 of the Charter of Justice contained shall be taken to prevent the Chief Justice or any Judge of the Supreme Court from accepting and performing any office or duty permitted or directed to be performed by a Judge of the Supreme Court under any Act of Parliament, and from receiving remuneration from the Colonial Government therefor.~~

Charter of Justice amended

~~4. Notwithstanding anything contained in the thirty-fourth section of the "Jury Act, 1891," or any other law, the Sheriff or his lawful deputy shall, when thereto directed by the Attorney-General, draw and summon in the manner required by law twenty-seven qualified persons to serve as jurors during any session for the trial of criminal cases in the Supreme Court, or the Eastern Districts Court, High Court of Griqualand, or in any Circuit Court, or any portion of such session, in addition to the number provided for by the said section, and all laws applying to jurors summoned under the said Act shall apply to the jurors summoned under this Act.~~

Jurors.

~~5. Notwithstanding anything to the contrary in the Crown Liabilities Act, No. 37 of 1888, or any other law, any suit against the Cape Government which, according to the provisions of the said Act, shall be cognisable in the Supreme Court, may, if the subject matter of the suit is situate or arose within the jurisdiction of such Courts, be brought in the Court of the Eastern Districts, the High Court of Griqualand, or in any Circuit Court or Court of Resident Magistrate, having jurisdiction, provided that in regard to any suit against the Railway Department for damages upon any line of railway, it shall be competent to bring such suit in any District through which such line of railway passes: Provided, further, that no suit herein referred to shall be set down for trial or hearing until after the expiration of twenty-one clear days from the date of service of summons or notice of motion~~

Crown Liabilities.

No. 35—1904.

upon the Minister concerned, unless such Minister shall consent to an earlier date.

Treason
Courts abol-
ished. Certain
sentences
commuted.

6. ~~All and several the special tribunals established and appointed by virtue of the "Indemnity and Special Tribunals Act, 1900" are hereby abolished, and on and after the date of this Act all prosecutions in respect of offences, other than those against the usages of civilized warfare, which would have been within the jurisdiction of the said tribunals and which remain to be adjudicated upon or prosecuted shall be prosecuted and adjudicated upon in the Courts of the Resident Magistrates, who are hereby empowered to inflict the punishment alone of disenfranchisement for five years in respect of such offences; and all persons already sentenced by any Court for Treason or offences of a political nature committed during the late rebellion, not being acts contrary to the usages of civilized warfare, are hereby declared to be deprived of the franchise, for a period of five years from the date of such sentence and no longer, any law to the contrary notwithstanding.~~

~~7. All offences against the usages of civilized warfare committed during the continuance of the late War and rebellion shall be prosecuted and dealt with in the ordinary course of law.~~

Mining
offences to be
dealt with by
ordinary
Courts;
Special Courts
abolished and
law re-trial by
Jury to apply.

8. From and after the first day of July, 1904, the law relating to trial by Jury shall equally apply to the prosecution of offences under any law relating to trade in diamonds, and from and after such date the law providing for the establishment of Special Courts for mining offences shall be repealed, and thereafter all such offences shall be prosecuted and adjudicated upon in accordance with the ordinary rules of criminal procedure, and in the ordinary Courts established under the general law of the Colony.

The Native
Territories
Penal Code
amended as
regards ap-
peal.

9. Notwithstanding anything to the contrary contained in "The Native Territories Penal Code" or any other law in force in the Territories to which the said Native Territories Penal Code applies, the judicial functions assigned to and exercised by the Chief Magistrate of the said Territories, or any Assistant Chief Magistrate, shall cease and determine except as to any proceedings pending in the Court of the said Chief Magistrate at the date of promulgation of this Act, and from and after the date of promulgation of this Act all criminal cases which by the law now in force in all Territories are required to be forwarded for review to the Chief Magistrate shall, except as hereinbefore provided, be forwarded to and be subject to the review of the Superior Courts of the Colony having jurisdiction thereover and all appeals in and all applications or other judicial proceedings arising out of any criminal or civil suits heard in the Courts of Resident Magistrate shall lie to the Superior Courts

aforesaid : Provided that nothing in this section shall in any way affect the provisions of the "Native Territories Appeal Act, No. 26 of 1894," or any regulations relating to the hearing of appeals under the said Act. No. 35—1904.

10. This Act may be cited as the "Better Administration of Justice Act, 1904." Short Title.

No. 36—1904.]

[May 31, 1904.]

ACT

To Impose an Excise Duty upon Beer and Spirits,
and to provide for the taxation of Incomes.

[Assented to 28th May, 1904.]

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

PART I.—EXCISE.

1. (1) The Act No. 25 of 1887 is hereby repealed and the provisions of the "Excise Beer Duty Act, 1884," and the "Excise Beer Duty Amendment Act, 1885" are hereby re-enacted save and except that the First Schedule of the "Excise Beer Duty Act, 1884" shall be read and construed as though the word "nine" were inserted therein instead of the word "twelve," and that Section 1 of the "Excise Beer Duty Amendment Act, 1885," shall be read and construed as though the words "four shillings and sixpence" were inserted therein instead of the words "three shillings," and provided that lager beer shall be chargeable at the higher rate of duty, and that all beer duties shall be payable from and after 1st July, 1904. Imposing a duty on beer.
- (2) The Act No. 19 of 1886 is hereby repealed.
- (3) The "Excise Duty Amendment Act, 1898," shall be read and construed as though the word "ten" were inserted therein instead of the word "four." Increase of duty on spirits distilled from materials other than wine.
- (4) So much of any other law as may be repugnant to or inconsistent with the provisions of this Act shall be, and the same is hereby repealed, except as to things done, offences committed, penalties incurred, or proceedings instituted, before the taking effect of this Act. Repeal of repugnant law.
- (5) Such provisions of Part I. of this Act as relate to beer shall be read as one with the "Excise Beer Duty Act, 1884," and the "Excise Beer Duty Amendment Act, 1885."

No. 36—1904.

Definitions.

2. For the purposes of this part of this Act the following terms shall have the meaning assigned to them by this section:—

- “Person” includes an individual and a body of persons, whether corporate or otherwise :
- “Spirits” means spirits of any description, and includes all liquors mixed with spirits, and all mixtures, compounds, or preparations made with spirits, and wood spirits :
- “Colonial Spirits” means spirits liable to a duty of Excise :
- “Foreign Spirits” means all spirits and strong waters liable to a duty of Customs :
- “Low Wines” means spirits of the first extraction conveyed into a low wines receiver :
- “Feints” means spirits conveyed into a feints receiver :
- “Spirits of Wine” means spirits of the strength of not less than forty-three degrees above proof :
- “Compounds” means spirits re-distilled, or which have had any flavour communicated thereto, or ingredient, or material mixed therewith :
- “Sugar” includes any saccharine substance or syrup manufactured from any material from which sugar can be manufactured :
- “Chief-Inspector” means Chief Inspector of Excise :
- “Proof Spirits” means such spirits as at a temperature of fifty-one degrees by Fahrenheit’s thermometer shall weigh twelve-thirteenth parts of an equal measure of distilled water :
- “Proof” means the strength of proof as ascertained by Sykes’s hydrometer :
- “Gravity” means the gravity as ascertained by Bates’s saccharometer :
- “Still” includes any part of a still, and any distilling apparatus whatever for distilling or making spirits :
- “Distiller” means and includes any person, not being an agricultural distiller, who conducts, works, or carries on any distillery, or who distils or manufactures any spirits, by any process whatsoever, either by himself or his agent or servant :
- “Agricultural distiller” means any owner or occupier of land who shall distil spirits exclusively from wine the produce of the land so owned or occupied by him :
- “A Distillery” means and includes any place or premises where any process of distillation whatever of spirits is carried on, or where any process of rectification of spirits by redistillation, or other process is carried on, or where any spirits are manufactured, or produced from any substance whatever by any process whatever :
- “Dealer” and “retailer” mean, respectively, a person who deals in, or retails spirits :

- “Rectifier” means a person, other than a licensed distiller, who rectifies or compounds spirits :
- “Excise trader” means any person carrying on a business subject to any of the regulations of this Act, and includes any proprietor or occupier of an Excise warehouse :
- “Vinegar maker” means a person who shall make, prepare, extract, distil, rectify, purify, or sell any liquors prepared or capable of being used or applied for the purposes of making vinegar or acetic acid for sale :
- “Wine” means wine of any description produced within the Colony, and includes grape juice, grapes, husks and stalks of grapes and raisins :
- “Wine farmer” means a farmer who cultivates vines on land in his own occupation and who produces wine from grapes grown on such vines :
- “Licence” means a licence, in the form prescribed, granted by any distributor of stamps, or by any officer duly authorised, and “licensed,” as applied to any Excise trader, means a person holding a licence so granted for the purpose of his business :
- “Premises” when used with reference to an Excise trader means any building or place used by him in the course of his business, and includes all buildings, or places, owned or occupied by, or on behalf, or for the use of, such Excise trader :
- “Prescribed” and “approved” mean respectively prescribed or approved by the Governor or Chief Inspector :
- “Warehouse” means an Excise warehouse approved as a general or as a bonded warehouse for the deposit of spirits, and includes an approved warehouse on the premises of a distiller, an agricultural distiller, and a Customs warehouse :
- “Civil Commissioner,” when used with reference to an Excise trader, means the Civil Commissioner for the division in which the premises of the trader are situated :
- “Officer” and “proper officer” mean respectively an officer duly appointed for the purposes of this Act :
- “Still maker” means a person who makes or repairs any still, or any distilling apparatus for distilling or making spirits, and includes the importer of any still or distilling apparatus :
- “Resident Magistrate” and “Justice” mean respectively a Resident Magistrate or a Justice of the Peace having jurisdiction for the district in which any offence is committed or supposed to have been committed, or any offender is apprehended or found, or any goods, or commodities are seized, or liable to seizure, or suspected to be so liable :

No. 36—1904.

“Schedule” means the schedule to this Act :

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

“Consumer” shall mean and include any person who is not by law entitled to sell or deal in spirits and every person who uses spirits in the preparation of drugs, medicines, perfumery and explosives, or in any art or manufacture.

“Wholesale Dealer” shall include any person who carries on the business of a retailer or bottle storekeeper on the same premises where he conducts his wholesale business.

A “Retail Dealer” shall include every holder of a bottle, club, or regimental canteen licence, and any person holding a licence falling within the definition as laid down in section 2, sub-section (7), Act 28 of 1883.

“Lager beer” means beer the mash of which is made or partially made by the process of decoction, and the worts of which are fermented at a low temperature by means of “low” or “bottom” yeast, and the term “Beer” shall not include any liquor containing two per centum or less of proof spirits.

“Methylate” means to mix spirits with any substance or combination of substances in such manner and under regulations to be framed by the Treasurer as to render the mixture unfit for human consumption as a beverage, and “Methylated Spirits” means spirits which in the opinion of the Treasurer are so mixed with any substance or combination of substances.

Duty payable on wine spirits.

3. From and after the 1st July, 1904, there shall be payable to the revenue upon every gallon of Colonial spirits distilled from wine, in the cases hereinafter provided, and not being methylated spirits, a duty of excise at the rate of six shillings per gallon if the spirits be of proof strength, with a proportionate increase or decrease in case the spirits be of greater strength or under strength respectively.

Exemption may be granted.

4. (1) Where, in the case of any art or manufacture carried on by any person in which the use of spirits is required, it shall be proved to the satisfaction of the Treasurer that the use of methylated spirits is unsuitable or detrimental, he may, if he thinks fit, authorise that person to receive spirits without payment of duty for use in such art or manufacture upon giving security to his satisfaction that he will use the spirits in the art and manufacture and for no other purpose, and the spirit so used shall be exempt from duty.

(2) The authority shall only be granted subject to a compliance with such regulations as the Treasurer may require the applicant to observe for the security of the

revenue, and upon condition that he will to the satisfaction of the Treasurer, if so required by him, render the spirits undrinkable before and during use, and will from time to time pay any expenses that may be incurred in placing an officer in charge of his premises.

- (3) If any person so authorised shall not comply with any regulation which he is required to observe, he shall, in addition to any other fine or liability, incur a fine of fifty pounds.

5. Every person in whose possession or control Colonial spirits may be on the 1st July, 1904, shall on that day make a return to the best of his ability in writing to the Excise Receiver of his district of the quantity, and the strength, and description of such spirits, and the exact locality in which on the said day they are stored.

Returns to be made of stocks in hand.

6. Retail spirit dealers shall, on the 1st July, 1904, be liable in terms of section 15 to the Excise Receiver of their district, for the duty upon Colonial spirits then in their possession, provided by section 3.

Retailers to pay duty on stock.

7. From and after 1st July, 1904, every distiller of Colonial spirits shall, from time to time, within three days after the distillation is completed, make a return in writing to the Excise Receiver of his district, of the quantity of spirits distilled by him, the strength thereof, and the exact locality where such spirits are stored, and upon the sale, removal, or delivery of any Colonial spirits, he shall, not later than the next day following, or by the next ensuing post, make a return in writing to the Excise Receiver of his district, of the quantity and strength so disposed of or removed, and in the case of sale or delivery, the name and full address of the person or persons to whom Colonial spirits have been sold or delivered, and shall in such case of sale or delivery, provide the purchaser or receiver or his agent with a certificate of removal similar to the return sent to the Excise Receiver.

Returns to be made at and removals from distilleries.

8. Every agricultural distiller shall make a return of the spirits in his possession from and after the first July, 1904, and from time to time within fourteen days after any fresh distillation is completed, stating the strength thereof to the best of his ability in writing, and in the case of sale, delivery or removal of the whole or any part thereof, shall keep a record of such sale, delivery or removal, and shall forward to the excise officer of his district a duplicate of the same within fourteen days of such sale, delivery or removal.

Return to be made by Agricultural Distiller.

9. In the case of a sale or delivery of Colonial spirits to any person other than a licensed dealer in or retailer of spirits, the distiller, whether agricultural or otherwise, shall pay, within a month, to the Excise Receiver of his district the amount of duty under this Act leviable upon such spirits.

Spirits sold to consumers.

No. 36—1904.

Allowance for waste on spirits retained on premises of a wine farmer.

Returns of spirits received to be made by licensed traders.

Records to be kept by wholesale dealer and retailer.

Wholesale dealers returns.

When duty is to be paid on spirits sold to consumers.

Retailers to pay at the end of the month.

Rules for ascertaining quantity of spirits by weight.

10. Upon all spirits retained by a wine farmer, in the prescribed room, or place on the farm premises, after the delivery of the return mentioned in the seventh section of this Act, an allowance shall be made for natural waste and evaporation, as provided in the Second Schedule.

11. Every wholesale or retail dealer in spirits who purchases or in any manner acquires possession of Colonial spirits, shall, from and after 1st July, 1904, make written return to the Excise Receiver of his district not later than the next day following, or by the next ensuing post, of the quantity and strength of such spirits, the name and full address of the person or persons from whom acquired or purchased, and the exact locality where stored.

12. Every wholesale dealer and retailer, shall in accordance with prescribed regulations, make an entry in writing signed by him of every building, room, place, fixed cask, vessel and utensil intended to be used by him for keeping spirits, distinguishing each place or thing by a separate letter or number. Every wholesale dealer and retailer must provide himself with and keep a stock book according to a pattern to be obtained on application to the proper officer, and shall, on receiving any spirits, and also on sending out, delivering, or selling any spirits, enter in his stock book the particulars required by the prescribed regulations. He shall keep the stock book on his premises open to inspection by any officer and must allow any officer, to make any entry therein or take any extract therefrom.

13. Every wholesale dealer shall from and after 1st July, 1904, make written return to the Excise Receiver of his district from time to time, but not later than the next day following of the quantity and the strength of Colonial spirits by him sold, delivered, or removed, as the case may be, together with the name and full address of the person or persons to whom such spirits have been sold or delivered, and in the case of removal the exact locality to which removed.

14. In the case of a sale or delivery of Colonial spirits to any other person than a licensed dealer in or retailer of spirits, the wholesale dealer shall pay at the end of each month to the Excise Receiver of his district the amount of duty under this Act leviable upon such spirits.

15. Every retailer of spirits shall, at the end of each month, pay to the Excise Receiver of his district, the duty leviable under this Act upon all Colonial spirits sold or disposed of by him during the month.

16. For the purpose of ascertaining by weighing the quantity of spirits in any cask, Table A in the first schedule shall be used, and the quantity ascertained thereby in accordance with the rates prefixed thereto shall be deemed to be the true quantity.

17. The Treasurer may from time to time make regulations to provide for the collection of the duty, for the mode and terms of payment, and generally for all the means requisite to secure the due collection of the revenue under the previous section.

18. Any person failing to make any of the returns hereinbefore required of him, without reasonable excuse, or making a false return, shall be liable to a fine not exceeding £500 or to imprisonment not exceeding one year.

19. In the event of the loss or destruction by fire, or other unavoidable accident of any spirits in a distillery, or of any spirits when deposited in a warehouse, or whilst being received into or delivered from a spirit store, or warehouse, or whilst being removed under bond on shipboard, or whilst being shipped or landed, or whilst being removed from one warehouse to another, the Treasurer of the Colony shall, on proof to his satisfaction of the loss or destruction, remit the duty payable or paid in respect of the spirits so lost or destroyed.

20. All spirits shall be deemed to be of the strength denoted by Sykes's hydrometer as ascertained by any officer in accordance with the table lodged with the Chief Inspector, and intituled a table of the strength of spirits denoted by Sykes's hydrometer.

21. Every distiller (except a wine farmer who distils from wine on his own farm) or proprietor of a warehouse, and every rectifier shall, when so required by the Chief Inspector, provide sufficient and just scales and weights, and a set of standard measures, for the purpose of weighing, measuring, and taking an account of the spirits, goods and commodities in his warehouse, stock or possession, and of any casks or vessels used for the purpose of containing any such spirits, goods or commodities.

22. (1) Where any warehouse, room, place, vessel, utensil, or fitting belonging to any Excise trader is by this Act directed to be secured or locked, the Excise trader shall to the satisfaction of the proper officer, provide, affix, repair, and renew all fastenings requisite for the purpose of enabling officers to affix locks thereto, or otherwise to secure the same.

(2) All requisite locks, or keys, shall be provided by the Chief Inspector at the expense of the revenue.

(3) No Excise trader, or his servant, shall destroy or damage any fastening, or lock, or key, belonging thereto, or any lock label, or open or remove any lock, fastening, or lock label, or improperly obtain access into any warehouse, room, place, vessel, utensil, or fitting, or shall have any fastening, vessel, utensil, or fitting so constructed that the security intended to be obtained by any lock, or fastening may be defeated.

No. 36—1904.

Treasurer may frame regulations governing collection of duty.
Penalties for contravention.

Remission of duty for spirits lost or destroyed.

Strength of spirits to be ascertained by Sykes's hydrometer.

Repealed by Act 52/1927

Excise traders to provide scales weights & measures.

Locks and fastenings.

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Rectifiers.

23. (1) Entry in the prescribed form shall be made by a rectifier before he begins to receive, rectify, or compound spirits, and such rectifier shall rectify or compound spirits according to the prescribed regulations.
- (2) An officer shall have power at all times to inspect the stock book of a rectifier, make extracts therefrom, and take account of all spirits in his possession.
- (3) If the quantity of spirits computed at proof found on taking such account exceeds the quantity which should be found in his possession according to the stock book of such rectifier the excess shall be forfeited.

Still Mak-
ers.

24. (1) Every still maker shall keep an account, in the prescribed form, of all stills and distilling apparatus made, or repaired, or imported by him, and such account shall be open at all times to the inspection of an officer, and he shall permit any officer at any time to inspect the same and make extracts therefrom.
- (2) An officer shall have power at all times to enter upon the premises of a still maker and to inspect and take account of all stills or distilling apparatus found therein.

Fowers of
officers.

25. An officer may at any time, either by day or by night, enter any part of the premises of, or house or place whatsoever belonging to, or made use of, by a distiller other than an agricultural distiller, or rectifier, and search for, examine, gauge, and take an account of any still or other vessel, or utensil, and also any spirits or materials for the manufacture of spirits therein.

If a distiller or rectifier, after demand for admission has been made by an officer, shall refuse to admit such officer, he shall, for each offence, be liable to a penalty not exceeding ten pounds or to imprisonment not exceeding one month.

Officers may
enter upon
the premises
of a dealer in
or retailer of
spirits and ex-
amine and
take account
of stock of
spirits.

26. (1) An officer may at any reasonable time enter the premises of a dealer in, or retailer of spirits, and inspect his stock book, and examine and take account of all spirits in his stock or possession, and take samples of any such spirits, paying for any samples so taken the usual price thereof.
- (2) If the quantity of spirits computed at proof found on taking such account exceeds the quantity which should, according to the stock-book of the dealer, or retailer, be found in his possession, the dealer or retailer shall incur the penalty by this Act provided.

Ladders and
lights to be
provided.

27. Every distiller or rectifier shall provide ladders of sufficient length and strength and place them firmly and conveniently to enable the officers to take account of any vessel, utensil, spirits or materials therein, and provide sufficient lights and other conveniences and assist the officers in taking such accounts.

28. If any person shall hawk, sell, or expose for sale any spirits in or about any street, highway, or other place, or in, or from any boat, or other vessel upon the water, or in any other manner or place whatsoever, except in a place duly licensed for that purpose, he shall forfeit such spirits and incur a fine equal to treble the value thereof.

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Receiving spirits on which the duty has not been charged.

29. Any person who assaults an officer acting under this Act or any person acting in his aid, or who shall forcibly oppose the execution of any of the powers given under this Act shall incur the penalty by this Act provided.

Assaulting and opposing officers.

30. (1) Any spirits or goods forfeited under this Act may be seized by an officer, or an officer of Customs, or by a Resident Magistrate, a Justice of the Peace, Field-cornet, Police Constable, or any Market Master.

Spirits or goods forfeited may be seized.

(2) If any spirits or materials for making spirits shall be forfeited under this Act, all casks or other utensils containing the same shall also be forfeited.

(3) Where any spirits are forfeited by an Excise trader, the Chief Inspector may, if he think fit, take from the stock of such Excise trader instead of the spirits forfeited, the same quantity, proof or bulk, of any other spirits.

31. Every person shall be liable upon conviction to the penalties provided in section eighteen who, in or with reference to any matter relating to the laws of Excise :

Misconduct of and collusion with officers

(a) Not being authorised so to do, gives or promises to give, directly or indirectly, any reward to an officer or a person employed by the Government, in respect of the performance or non-performance, by any such officer or person, of his duty or employment ; or

(b) Agrees with or proposes to any such officer or person to do, or permit anything in contravention or evasion of this Act, or any other Act or Acts, relating to the revenue of Excise or of his duty ; or

(c) Being an officer or a person employed by the Government

(i) Demands or receives, except from or through the Government, any reward in respect of the performance or non-performance of his duty or employment ; or

(ii) By any wilful act, neglect, or default does, or permits, or agrees to do, or permit anything in contravention or evasion of this Act, or any other Act or Acts, relating to the revenue of Excise.

If any such officer or person is convicted of any such offences he shall be disqualified from serving the Government in any office or employment.

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Governor may appoint officers and make rules and regulations.

32. The Governor shall appoint officers for the purpose of carrying out the provisions of this Act, or any other Act or Acts relating to the revenue of Excise, and shall make rules and regulations for all or any of the following purposes:—

- (1) The period of time allowed for the various operations of brewing and distilling, and for removing any material, wort, or spirits from the several vessels used in such operations.
- (2) The guidance and conduct of officers and persons employed in carrying this Act into effect.
- (3) For ascertaining the amount of duty payable, and securing and enforcing payment thereof.
- (4) For prescribing all things necessary to be done for effectually carrying the provisions of this Act into effect.

Goods liable to Customs duty may be warehoused in Excise Warehouse.

33. (1) Subject to such regulations as may be prescribed goods of any description liable to a duty of Customs may be warehoused in any Excise warehouse approved for the purpose.

- (2) All the powers, provisions, regulations, and penalties contained in or imposed by any Act relating to the Customs as to the warehousing, custody, and delivery out of warehouse of goods liable to a duty of Customs, and as to any deficiencies therein or allowances thereon, shall, when applicable, be observed, applied, enforced, and put in execution with reference to such goods warehoused in Excise warehouses, and further shall, where applicable, be observed, applied, enforced, and put in execution with reference to Colonial spirits warehoused in a Customs warehouse, so far as the same are not superseded by and are consistent with the provisions of this Act.

Civil Commissioners, etc., to be Excise Receivers.

34. Every Civil Commissioner, or other officer appointed for the purposes of this Act, shall be an Excise Receiver under this Act, and every such officer shall have the right himself or by any officer duly deputed in writing for that purpose by him to enter and search any place or premises in which Colonial spirits are stored, and to measure and take stock of such spirits and to do all things necessary to test the returns hereinbefore required, and generally to carry into effect this Act.

Transfer of licence invalid until after payment of spirit duty.

35. No transfer or temporary transfer of a liquor licence shall be lawful, save and except with the consent of the Governor, until all spirit duty due by the transferer has been paid.

Prohibition against excessive fortification of wine and alteration of the character of beer.

36. All wines which may be sold or offered for sale or found upon the premises of persons licensed under the Liquor Laws, and which contain more than twenty-five per centum by volume of alcohol of the specific gravity of eight hundred and twenty-five,

at the temperature of sixty degrees of Fahrenheit's thermometer, and all beers which are diluted or fortified with spirit shall be forfeited and the trader shall incur a penalty of not exceeding one hundred pounds sterling.

37. The duties and authority vested in the Chief Inspector of Excise by the "Excise Spirits Act, 1884," shall devolve upon and be exercisable by the principal officer of Excise appointed under this Act.

Duties of principal Excise Officer.

38. Notwithstanding anything to the contrary in this Act contained, no spirits consigned or removed for consumption, beyond the limits of this Colony, shall be liable to the duties herein provided.

Exemption from excise of exported spirits.

39. The Treasurer shall frame regulations under this Act to provide for :

Treasurer may frame regulations governing quantity of spirits exempted from duty.

- (a) The quantity of spirits to be used free of duty for the fortification and preservation of wine ;
- (b) The amount of spirits to be used free of duty by the producer for his private use, the amount not to exceed thirty gallons per annum

And generally to give effect to the provisions of this part of the Act. It shall be competent by such regulations to provide for a penalty not exceeding fifty pounds or to imprisonment for a period not exceeding three months for the breach of any such regulations.

40. The Government shall as soon as may be after the passing of this Act open Bonded Warehouses in the several wine-producing districts of this Colony for the storage of spirits, the *bona-fide* produce of agricultural distillers, and to grant receipts for spirits so deposited ; and the Government is hereby further empowered to make advances on such spirits under such regulations as may to the Treasurer seem advisable to an amount not exceeding fourteen pounds per 127 gallons at ten per cent. under proof. Nothing in this section shall prevent the Government from making such advances without establishing Bonded Warehouses or without requiring the deposit therein of any spirits against which such advances have been made. The Treasurer may in respect of this section make regulations with reference to the charge for rent for storage, interest, and all other expenses, such charge not to exceed the cost of the same.

Government empowered to make advances.

41. For the purposes of creating a reserve to meet any Advances provided in the preceding section hereof, it shall be lawful for the Governor to raise by Loan in such manner as he may see fit, the sum of One Hundred Thousand pounds sterling.

Loan may be raised.

PART II.—INCOME TAX.

42. Unless the context otherwise requires,

Assessment means an estimate of the value of the amount of any income liable to taxation under this Act as well

Definition of terms.

as the amount of tax imposed thereon respectively, and includes all matters comprised in any return required by or under this Act.

Company includes every body, association, society, firm or partnership whether corporate or unincorporate, registered or unregistered, carrying on business within this Colony or elsewhere.

Carrying on business shall mean conducting any operation by means of which any income is derived.

Income means any gains or profits derived or received by any company or person in any year or by any means from any source within this Colony, and includes profits, gains, rents, interest, salaries, wages, allowances, pensions, stipends, charges, annuities, and all profits derived from mining or quarrying.

Income Tax means the tax or duty imposed or charged in respect of income as assessed under this Act or any Act amending the same.

Mutual Life Insurance Company means a company carrying on the business of granting policies of assurance or endowment or annuities on human life, and which is not a company that pays or credits dividends or profits to shareholders in such company.

Notice means a notice in writing given by causing the same to be personally served on any person, or by leaving the same at his usual or last known place of abode or business in the Colony or by sending the same by post addressed to his usual or last known place of abode or business, and, in the case of a company, means a notice given by being served upon or sent by post or delivered to the public officer of such company at the address for service, given under this Act, or, if there shall be no such address for service, then by serving, leaving or sending the same as aforesaid at or to any office or place where the company carries on business in this Colony.

Public Notice means a notice inserted in the *Gazette* and published in English and Dutch in any newspaper circulating in a town or district.

Person includes Company as defined by this Act.

Prescribed means prescribed by this Act or by the regulations thereunder: Provided that where, under this Act, anything is required to be done in the prescribed form it shall be sufficient if such thing be done substantially in the form so prescribed or to the effect thereof.

This Act includes any regulations made under the provisions thereof.

Taxpayer means any person chargeable with income tax under the provisions of this Act.

Trade includes every profession, vocation, trade, business, calling, employment and occupation, and includes the business of mining and quarrying.

Trustee, in addition to every person appointed or constituted such by act of parties, by will, by order of declaration of court or by operation of law, includes an executor or administrator, tutor or curator, and any person having the administration or control of any property subject of a trust, *usufruct*, *fidel commissum* or other limited interest, or acting in any fiduciary capacity or having, either in a private or official capacity, the possession, direction, control or management of any property of any person under legal disability.

43. (1) For the administration of this Act the Governor may as soon as conveniently practicable, appoint a fit and proper person to be called the Commissioner of Taxes (hereinafter referred to as the Commissioner) and a like person to be styled the Deputy Commissioner of Taxes (hereinafter referred to as the Deputy Commissioner) and he may remove or suspend any Commissioner or Deputy Commissioner. Officers under Act.
- (2) The Deputy Commissioner shall, under the control of the Commissioner, perform such general official duties as he shall be required to perform by this Act, or by the Commissioner, and shall act as the Deputy of the Commissioner in case of the illness, absence or temporary incapacity of the Commissioner, and while so acting shall have and may exercise all the powers, duties and functions of such Commissioner under this Act, and shall act in his name and on his behalf.
- (3) The Governor may also appoint, suspend, and remove such assessors, clerks, receivers and other officers as may be necessary for carrying out the provisions of this Act.
- (4) Every person appointed to any office under this Act shall be a person who is a member of the Civil Service of the Colony or who, having been in the Civil Service, is in receipt of a pension.
- (5) Any office under this Act may be held in conjunction with any other office in the Civil Service.
- (6) The Commissioner may, with the approval of the Governor, delegate to any public officer such duties, powers and functions by this Act or by the regulations hereunder conferred or imposed upon him as it may be considered expedient by the Commissioner so to delegate.

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(7) A notification in the *Gazette* that any person therein named has been so appointed shall be conclusive evidence of such appointment without further proof.

Oath of secrecy.

44. (1) Every person appointed or employed under this Act shall preserve and aid in preserving secrecy with regard to all matters that may come to his knowledge in his official capacity and shall not communicate any such matter to any other person except in the performance of his duties under this Act or by order of a competent court of justice.

(2) The Commissioner and the Deputy Commissioner shall, before acting in the execution of their office, take and subscribe before a Resident Magistrate or Justice of the Peace such oath of fidelity or secrecy as may be prescribed; and such oath shall also be taken and subscribed by every other person appointed or employed under this Act, before so acting.

(3) Every person who, in contravention of the true intent of such oath and without lawful excuse, reveals any matter or thing which has come to his knowledge in his official capacity shall be liable on conviction to imprisonment for any term not exceeding two years with or without hard labour.

(4) If any person acts in the execution of his office before he has taken the prescribed oath he shall be liable to a penalty of not less than ten and not more than one hundred pounds.

Regulations.

45. The Governor may from time to time make regulations not inconsistent with this Act for the following purposes, or any of them, that is to say:—

(1) Prescribing the duties of all persons engaged or employed in the administration of this Act.

(2) For regulating the security to be given by any such persons and for defining the limits of districts and places within which such persons are to act.

(3) Prescribing the forms of returns to be furnished to the Commissioner and the contents thereof and by whom the same shall be made and the time and mode of making and furnishing the same.

(4) Providing that where there is no provision in the Act, or no sufficient provision in respect of any matter or thing necessary to give effect to this Act in what manner and form the want of provision or insufficient provision shall be supplied.

(5) Providing that for avoiding duplicate taxation in this Colony in any case in respect of the same year or period the Commissioner may make such allowance or

refund as he shall deem just and in such manner as may be prescribed. No. 36—1904.

- (6) Prescribing the procedure to be observed in the conduct and hearing of objections before the appointed officer and, if necessary, specifying the districts or places for which any such officer shall hear objections.
- (7) For imposing a penalty not exceeding £20 for any breach of any regulation.

46. Every company liable to income tax shall at all times be represented by a person residing in the Colony, who shall be duly appointed by such company or by some agent or attorney having power to appoint such person for the purpose of the Act; and the following provisions shall have effect : Company's representative.

- (1) Such person shall be called the Public Officer of such Company and shall be appointed in the case of a Company having a board of directors in this Colony, within one month after the promulgation of this Act, and in the case of a Company not having such board as aforesaid, within three months after the promulgation of this Act: Provided that in default of any such appointment the public officer of any Company shall be such Managing Director, Director, Secretary or other officer as the Commissioner shall nominate for that purpose; and provided further that in the case of Banks, the public officer shall be the chief agent appointed under the provisions of the Bank Act, 1891.
- (2) The Office of Public Officer shall be kept constantly filled by the Company.
- (3) Every Company which fails or neglects to make an appointment to the office of Public Officer pursuant to this Act, or to keep the office constantly filled as aforesaid, and every person who acts as Agent or Manager or Representative of such Company, shall be liable to a penalty not exceeding fifty pounds a day for every day during which such failure or neglect continues.
- (4) Every notice, process or proceeding which under this Act or the regulations may be given to, served upon or taken against any Company, may be given to, served upon or taken against its Public Officer, and if at any time there be no Public Officer, then any such notice, process or proceeding may be given to, served upon or taken against any officer or person acting or appearing to act in the management of the business or affairs of such Company or as agent for such Company.
- (5) Every Public Officer shall be answerable for the doing of all such acts, matters or things as are required to be done under this Act or the regulations by a taxpayer,

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and in case of default, shall be liable to the same penalties.

- (6) Everything done by any such Public Officer which he is required to do in his representative capacity shall be deemed to have been done by such Company.
- (7) The absence or non-appointment of a Public Officer shall not exonerate any Company from the necessity of complying with the provisions of this Act; but every such Company shall be liable to the provisions of this Act as if there were no requirement to appoint such Officer.
- (8) Every Company beginning to carry on business in the Colony after the passing of this Act shall, within one month after beginning to carry on business, nominate a person to be its Public Officer and appoint a place for the delivery of notices and other instruments as aforesaid.

Agents for
taxpayer, and
trustee.

47. Every agent for any taxpayer absent from the Colony and every trustee:

- (1) Shall be answerable for the doing of all such matters, acts or things as are required to be done by virtue of this Act, in order to insure the assessment of the income which belongs to the principal such agent represents, or which is the subject of the trust of such trustee, or which is received by such agent or trustee, and for paying the tax in respect thereof.
- (2) Is hereby authorised to recover from or deduct from any moneys belonging to any person in whose behalf such agent or trustee is compelled to pay any tax, the amount so paid.
- (3) Is hereby authorised and required to retain from time to time in each year, out of any money which comes to such agent or trustee, so much as is sufficient to pay the tax for the current year in respect of any income subject to the tax, and is hereby indemnified for all payments which such agent or trustee may make in pursuance of this Act or by requirement of the Commissioner.
- (4) Is hereby made personally liable for the tax payable in respect of any income if, while such tax remains unpaid,
 - (1) Such trustee or agent alienates, charges or disposes of such income, or
 - (2) Disposes of or parts with any fund or money which comes to him after the tax is payable from or out of which fund or money such tax could legally have been paid, but shall not otherwise be personally liable for any tax.

Company to
be deemed
agent for ab-
sent Share-
holders.

48. Where a shareholder or a member of a company is absent from the Colony, such Company shall for the purposes of this Act, be deemed and taken to be the agent for such shareholder

or member, and shall so far as regards such shareholder or member, and in respect of any income accruing to him as shareholder or member, have and exercise all the powers, duties and responsibilities of an agent for a taxpayer absent from the Colony.

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49. The Commissioner or any person empowered under this Act shall have such and the like remedies against all land or property of any kind vested in or under the control or management of any agent or trustee as he would have against the land or property of any person liable to pay tax and in as full and ample a manner.

Remedies.

50. From and after the 1st July, 1904, subject to the provisions of this Act and the regulations hereunder, there shall be charged, levied, collected and paid to the revenue of the Colony for the service of the financial year ending the 30th June, 1905, an Income Tax in respect of the annual amount of all taxable incomes arising or accruing during the twelve months ended the 30th June, 1904, exceeding one thousand pounds per annum at the rate of sixpence in the pound upon all incomes exceeding one thousand pounds and not exceeding two thousand pounds, and in addition thereto ninepence in the pound on so much as exceeds two thousand pounds up to five thousand pounds, and in addition thereto, one shilling in the pound on so much of all incomes as exceed five thousand pounds.

Income tax.

- (1) Arising or accruing to any person wheresoever residing, from any trade of whatever nature carried on in this Colony whether the same be carried on by such person or on his behalf wholly or in part by any other person.
- (2) Arising or accruing to any person wheresoever residing, from any salary or allowance which would be taken into account for pension purposes attached to or derived from any office or employment of profit in the Public Service of the Colony and upon every pension or allowance payable from the public revenue or from any Pension Fund.
- (3) Arising or accruing to any person wheresoever residing, from any kind of property in this Colony, from loans, investments, or deposits of money whatever may be their nature and howsoever made, and from any contract whatever under which income is derived or received, or from any other source whatever in the Colony not included in the preceding sub-sections.
- (4) Income derived by any person from any source whatever within this Colony.
- (5) Income shall be deemed to have accrued to a person within the meaning of this Act though the same be not actually paid over to such person but be credited in account or re-invested or accumulated or capitalised or otherwise dealt with in his name or on his behalf.

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(6) The tax shall be paid on such days and in one sum or equal and varying amounts and at such place or places as may be prescribed.

Deductions.

51. Except in the case of a Company registered with limited liability, and every Shareholder in respect of the income derived from his holding in such Company, every person liable to taxation in respect of any income exceeding one thousand pounds shall be entitled to one reduction of one thousand pounds in the assessment of such income under this Act for the purpose of such taxation under this Act: Provided that the onus of proof that any income is exempt from or not liable to payment of tax, or is subject or entitled to any deduction, shall lie on the person claiming the benefit of such exemption, non-liability or deduction.

Exemptions.

52. The following incomes, revenues and funds, shall be exempt from Income Tax :—

- (1) The revenues of Harbour Boards, Municipal Corporations, Divisional Councils or other local authority.
- (2) The Revenues of Building and Friendly Societies.
- (3) The incomes of Life Assurance, and of other Companies or Societies not carrying on business for purposes of profit or gain to be divided or credited among or to the shareholders or members thereof except as regards the investments of such Societies and Companies.
- (4) The incomes and revenues of all ecclesiastical, charitable and educational institutions of a public character, whether supported wholly or partly by grants from the public revenue or not.
- (5) Income arising to any person not resident in this Colony from Government and Municipal debentures, inscribed stock and Treasury Bills of the Colony of the Cape of Good Hope.
- (6) The income of the Governor of the Colony and of his personal staff.
- (7) The income of the officers of His Majesty's Navy and Army stationed in the Colony, and of all persons in the Service of the Imperial Government in the Colony.
- (8) The exemptions declared by sub-sections one to four hereof shall not extend to the salary and wages of persons employed by any such Corporation, Harbour Board, Company, Society or Institution, although the same be paid wholly or in part out of the income, revenue or funds thereof.

53. Subject to the provisions of this Act, Income Tax shall be payable :

- (1) In respect of the income of a company by the Public Officer thereof.

Income tax,
by whom pay-
able.

- (2) In respect of the income of every person permanently or temporarily absent from or resident out of the Colony, by the attorney or agent of such person, and for the purpose of this Act every person in the Colony having the receipt, management or control of income on behalf of any person absent or resident as aforesaid, or remitting or paying income to such person shall be deemed to be the agent of such person.

The Commissioner may, if he thinks necessary, declare any person to be the agent of any other person, and the person so declared an agent shall be the agent for the purposes of this Act.

- (3) In respect of income the subject of any trust or of infants, lunatics and persons under any legal disability by the trustee, guardian, curator or other person entitled for the time being to the receipt, management, disposal or control of such income or remitting or paying the same.
- (4) In respect of income paid under the decree or order of any court or judge to any receiver or other person by such receiver or person, and independently of the title to such income or any contingency or uncertainty in respect of such title.
- (5) In respect of every other income, and in all other cases by the person to whom the income arises or accrues or who is legally or equitably entitled to the receipt thereof.

And the persons by whom Income Tax is payable under sub-sections one to four of this section inclusive shall be deemed to be "representative tax-payers" within the meaning of this Act. Nothing shall be taken to relieve the person receiving the income from the representative taxpayer from any tax due or payable in respect thereof.

54. Every representative taxpayer, as regards the income to which he is entitled in his representative capacity, or of which in such capacity he has the management, receipt, disposal, remittance, payment or control, shall be chargeable with the same income tax, and be subject in all respects to the same liabilities as if the same were income arising or accruing to him beneficially, except that no such tax-payer (not being a public officer of a company) shall be personally liable for the payment of income tax beyond the amount or value of the income of which he has in such capacity as aforesaid the management, receipt, disposal or control: Provided that nothing herein contained shall, in cases where the representative tax-payer acts as agent or trustee for several persons, prevent such representative taxpayer from claiming that each agency or trust shall be treated

Representative taxpayers

No. 36—1904. separately for the purpose of claiming the exemption, or deduction provided for in section fifty-one.

Recovery from principal. 55. Every representative taxpayer who, as such, pays any tax, shall be entitled to recover from the person on whose behalf such tax shall be paid, or to retain out of any moneys, that may come to him in his representative capacity, so much as shall be required to indemnify him in respect of such payments.

Company borrowing money on Debentures. 56. In any case where a Company, or any public body, not being a Municipality, has at any time heretofore borrowed, or shall at any time hereafter, borrow money on debentures, such Company, or public body, shall be deemed to be the agent of every holder of such debentures, and such Company, or public body, shall be liable to pay income tax in respect of the interest thereon on behalf of the holders of such debentures, and shall be entitled to deduct in each year from any instalment of interest any tax so paid.

Income derived by absent principal from sales by agent. 57. When a person outside the Colony (herein termed the principal) by means of a person in the Colony (herein termed the agent) sells or disposes of goods in the Colony or offers or exposes for sale, whether by sample or otherwise, for the principal (whether the moneys arising therefrom are paid to or received by the principal directly or otherwise) the taxable amount of the income derived therefrom by the principal, in the absence of account sales, shall be assessed at an amount equal to five per centum upon the total amount received for such goods, and the amount so assessed shall, for the purposes of income tax, be deemed to be the income derived by the Agent, and the following provisions shall apply:—

- (1) The agent shall, as regards such income, make the returns, be assessed, be liable to income tax, and otherwise be subject to the provisions of this Act, to do all acts and things thereunder, as if such income was actually the income of the Agent, and in case of such Agent being a Company, as aforesaid, the provisions of section forty-six shall apply; provided that nothing herein contained shall exempt or discharge the principal from liability to pay income tax on such income: and that the Agent shall have the same right to indemnity against the principal, in respect of the tax paid by him, as is conferred upon the representative taxpayer by section fifty-five.
- (2) The Governor may by regulations prescribe for the making, adjusting and settling returns by, or with any Agent, in such manner and form, with such particulars and proof as may be thought fit for the purpose of making, completing and enforcing assessments under this section, and otherwise generally for the purpose of giving effect to the provisions hereof.

58. When any person outside the Colony, or whose chief office is outside the Colony (hereinafter called the principal), carries on business in the Colony as an owner or charterer of any ship the agent of such principal shall be assessed and liable to income tax on five pounds in every one hundred pounds payable to such principal or to his agent (whether the amount be payable in the Colony or beyond the Colony) in respect of passengers, live stock, mails and goods shipped in the Colony.

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Owners or charterers of ships.

59. In all cases where the principal has no recognised agent in the Colony other than the master of the ship, or when the agent fails to make returns, the Commissioner may make such assessment from such information as may be available to him, and the income tax thereon shall be payable to the Commissioner prior to the clearance of such ship, and the Collector of Customs shall have power to detain the clearance until such payment is made.

If no agent or agent fails to make returns.

The Master or Agent upon paying the same shall be entitled to a certificate from the Collector of Customs that the amount so paid has been paid under the provisions of this Act, and such certificate shall be sufficient warrant to the Master or Agent for the Amount so paid.

60. (1) In the case of Insurance Companies, regulations to be made under this Act may prescribe means of determining what portion of the income of such companies shall be deemed to be the income of such companies in this Colony, and such income only shall be liable to tax.
- (2) In the case of all other Companies whose business extends to any other countries, the income for taxation shall be a sum which shall bear the same proportion to the whole net profits of the Company as the assets in this Colony bear to the total assets of the Company: Provided that where either the Commissioner or the Company may deem such method of estimating the income for taxation to be inequitable or inexpedient, either the Commissioner or the Company may claim the right to an assessment on the actual profits earned or income received in the Colony.
- (3) In the case of any company not dividing its profits among its members in the Colony, if it shall appear to the Commissioner that the public officer of such company cannot furnish an accurate return of its income arising in or derived from the Colony, the Commissioner may agree with such public officer what shall be the taxable amount of such income.
- (4) Every Company or Association carrying on the business of Life Assurance or of granting annuities within this Colony shall be bound to furnish to the satisfaction of the Commissioner a return showing the nature and value

Insurance and other Companies.

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of all investments made either within or beyond the borders of this Colony in respect of all policies of insurance existing upon lives of residents in this Colony and shall pay income tax upon all such investments wherever situate.

Married women's income.

61. The income of a woman married without community of property shall be liable to assessment and taxation in like manner as if she were unmarried.

Directions for ascertaining taxable amount.

62. For the purpose of ascertaining the sum hereinafter termed the taxable amount on which, subject to the deductions hereinafter mentioned, income tax is payable, the following directions and provisions shall be carried out:

- (1) The amount of taxable income from all sources for the year immediately preceding the year of assessment, shall be taken as the basis of calculation.
- (2) In all cases in which profits or moneys derived from any business have been by the person entitled converted into stock-in-trade, or added to the capital of, or carried to a reserve fund or in any way invested in such business, a complete statement of the amount of such moneys so converted or added or invested shall be made by such person in the prescribed form in his returns.
- (3) The taxable amount of any income under sub-section two of section fifty shall be the net amount paid to or on account of the taxpayer, less all payments by way of deduction or otherwise to the Civil Service Pension Fund or any public account.
- (4) Income derived by a taxpayer in respect of a share in a company liable to pay income tax, shall be deducted from the taxable amount, but such income shall be specified by the taxpayer in the returns made by him in the prescribed manner.
- (5) In all other cases the taxable amount shall be the total amount of taxable income arising or accruing to any person from all sources within the Colony, except the extent of the exemptions provided in section fifty-two.

Deductions

63. From the taxable amount so ascertained as aforesaid, every taxpayer shall be entitled to deductions in respect of the annual amount of

- (1) Losses, outgoings, including interest and expenses actually incurred in the Colony by the taxpayer in the production of his income.
- (2) Sums expended for the repairs of premises occupied for the purpose of trade and for the repair or alteration of machinery, implements, utensils and articles employed by the taxpayer for the purposes of his trade. Such

sums shall be estimated on the annual average of the sums expended for such purposes during the two years preceding the year of assessment, or if such average cannot be struck, the amount to be deducted shall be the sum expended for such purposes during the year immediately preceding the year of assessment.

- (3) Such sum as the Commissioner may think just and reasonable, as representing the diminished value by reason of wear and tear during the year of any machinery, implements, utensils and articles used by the taxpayer for the purposes of his trade: Provided that where in any trade income is set apart by the taxpayer by way of a fund to cover the depreciation of such machinery, implements, utensils and articles, the amount so set apart for the year immediately preceding the assessment shall, subject to the approval of the Commissioner, be the sum to be deducted for depreciation: Provided that in no case shall any allowance be made for the depreciation of buildings.
- (4) Where a taxpayer either alone or with other persons carries on or is interested as a partner, otherwise than as a shareholder in a Company divided into shares, in more than one trade in this Colony, and makes a profit in one or more of such trades and a loss in another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits.

64. No deduction shall in any case be made in respect of any of the following matters:—

Cases in which no deductions are made.

- (1) The cost incurred in the maintenance of any taxpayer, his family or establishment.
- (2) Domestic or private expenses.
- (3) Any loss or expense which is recoverable under any insurance contract or Indemnity.
- (4) **Income Tax.**
- (5) Income carried to any reserve fund or capitalised in any way.

Nor as regards income derived from any trade, in respect of any of the following matters:—

- (6) Any moneys not wholly or exclusively laid out or expended for the purposes of trade.
- (7) The rent or value or cost of repairs or alterations of any premises not occupied for the purposes of the trade, or of any dwelling house or domestic premises, except such part thereof as may be occupied for the said purpose.
- (8) Interest which might have been made on any capital employed in the trade.

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- (9) Any debts owed to the taxpayer, except such as shall be proved to the satisfaction of the Commissioner to be bad or doubtful, and deductions for doubtful debts shall be made according to the value at which the Commissioner shall estimate the same.

ASSESSMENTS.

Notice to
furnish re-
turns for
purpose of
assessment.

65. The Commissioner shall, in the prescribed manner, give or cause to be given not less than thirty clear days' public notice of the time and place at which all persons liable to taxation either personally or in any representative capacity under the provisions of this Act, shall furnish returns for the purpose of the assessment of Income Tax.

- (1) Such notice shall state the place at which the prescribed forms of return may be applied for and obtained, and it shall be the duty of all such persons and of all persons required by this Act or any regulation thereunder to furnish any such returns to apply for the prescribed forms of return, and any person failing to furnish any such return shall not be relieved from any penalty by reason only of his having received no notice to furnish the same, or of the prescribed form of return not having been delivered to him, but the Commissioner may, if he deems it so advisable, cause forms to be delivered by the assessors or sent by post.
- (2) Every person shall, upon the publication of such notice, prepare and deliver in the prescribed manner within the period to be mentioned in such notice to the person appointed to receive the same, a return in the form prescribed of the particulars of his income and of all other details in relation thereto which may be prescribed, and such return shall be signed by the taxpayer or by his agent duly authorized in that behalf.
- (3) Any return made or purporting to be made or signed by or on behalf of any person or by the public officer of any Company for the purposes of this Act, shall be taken and deemed to be duly made and signed by the person or by the public officer of the company affected as the case may be, unless such person or public officer shall prove that such return was not made or signed as aforesaid.
- (4) If any person fails to make such return to the Commissioner, he may make a return on behalf of such person, and the return made by him shall be, for all the purposes of this Act, the return of the person liable to make the same.
- (5) The returns furnished by or on behalf of every person required to furnish returns shall contain such particulars,

be in such form and be furnished to the Commissioner at such time as may respectively be prescribed or publicly notified.

- (6) The Commissioner may, when and as often as he thinks necessary, require any person to make fuller or further returns respecting any matter of which a return is authorised or prescribed by this Act or by the regulations.
- (7) All returns required to be furnished under this Act shall be delivered at or sent by registered letter to the prescribed address, and any returns so posted shall be carried and delivered free of charge.
- (8) As to the income of any taxpayer being a Company, returns may be made in respect of income for the year ending on the day of the year immediately preceding the day of assessment up to which the accounts of the Company have usually been made up, or ending on the day immediately preceding the time of assessment whichever the Commissioner may determine.
- (9) Returns of income to be made by any person or Company shall be based on the amount of income which was derived or received by the person or Company making the return during the year ending the thirtieth day of June, 1904: Provided that, where the income of a person or Company cannot be conveniently returned as of the date hereinbefore provided, it shall be optional for the Commissioner to accept returns made up to the date of the annual balance of such person or Company and the Commissioner may, if he accepts the date of such annual balance for the purpose of the return to be made by such person or Company, accept an estimated return of income for assessment, such assessment to be adjusted by the Commissioner upon such annual balance being completed.

66. For the purpose of obtaining full information in respect of any income of any taxpayer or of any part thereof respectively, the Commissioner may require any person or the public officer of any Company in whose control the same may be, to produce for examination by the Commissioner or by any person appointed by him for that purpose, at such time and place as may be appointed by the Commissioner in that behalf, any deeds, instruments, books, accounts, trade lists, stock lists or documents or writings that may be deemed necessary for the purposes of this Act.

The Commissioner may, by fourteen days' notice in writing, require any person or Company entitled to or in receipt of any income, whether on his own or its behalf, or as an agent, trustee of any person or any person whomsoever that the Commissioner may

Production
of papers.

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deem able to furnish information, to attend at a time and place to be named by the Commissioner, for the purpose of being examined by him on oath respecting the income of any such person or Company or any transactions or matters affecting the same or any of them or any part thereof. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in such attendance.

Default in
furnishing
returns.

67. In every case in which any taxpayer makes default in furnishing any return, or if the Commissioner is not satisfied with the return furnished by any taxpayer, the Commissioner may make an assessment in such sum as in the Commissioner's judgment ought to be charged by virtue of this Act, and thereupon shall give notice thereof to the taxpayer to be charged, and such taxpayer shall be liable to pay tax upon the same. Such assessment shall be subject to objection and the taxpayer if he has made default shall not be entitled to any costs on such objection.

Omissions.

68. If at any time it appears to the Commissioner that any taxpayer who ought to have been charged with tax has not been charged therewith, the Commissioner may make an assessment as to the income of such taxpayer in respect to which such omission has occurred, and the taxpayer shall be chargeable with a double rate of taxation thereon, if such omission has been occasioned by the taxpayer, but if the Commissioner be satisfied that the taxpayer was not guilty of any wilful neglect or omission, or had not done any act with intent to defraud the revenue, he may omit the whole or any part of such double duty over and above the amount computed on the ordinary rate.

Assessment
books to be
deposited in
office of Com-
missioner.

69. Upon the completion of every assessment book in respect of Income Tax, such book or a copy thereof shall be deposited in the office of the Commissioner. Such book or copy shall not be open to public inspection, but every taxpayer shall be entitled to a copy of the entries therein relating to the assessment of his income certified by or on behalf of the Commissioner.

Notice to be
given to tax-
payer.

70. Upon the completion of the assessment books the Commissioner shall give notice to every taxpayer whose name appears therein with such particulars of the assessment as shall be considered necessary and the amount of the tax which is payable. Such notice shall be designated the Notice of Assessment of Income Tax.

First assess-
ment,

71. The assessment of Income Tax shall be made in regard to the income of any taxpayer for the twelve months preceding the 30th June, 1904.

Objections.

72. (1) Objections to any assessment under this Act may be made by any taxpayer feeling aggrieved by reason of any assessment in which he is interested or by the Commissioner in such manner and on such terms and conditions as shall be prescribed.

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Appeals

- (2) Where no objections are made to any assessment or where objections have been allowed or withdrawn, such assessment shall be the assessment of income therein mentioned.
73. (1) Any taxpayer may within thirty days after the notice of assessment for Income Tax or of any altered, amended, corrected or additional assessment has been given, appeal therefrom to a court specially constituted by Proclamation, upon the ground that he is not liable for the tax or for any part thereof, or that the amount of such assessment is excessive. Every appeal shall be commenced by such notices and in such manner as may be prescribed.
- (2) Public notice shall be given of the time and place appointed for the hearing of appeals, and such hearing may be adjourned from time to time to any time and place that may seem convenient.
- (3) The sittings of the Court for the hearing of such appeals shall not be deemed to be public, and the said Court shall at any time on the application of the appellant exclude from such sitting or require to withdraw therefrom, all or any persons whomsoever whose attendance shall not be necessary for the hearing of the appeal under consideration.
- (4) The Commissioner or any person authorised by him may appear in support of the assessment on the hearing of any appeal, and the appellant and any person who is interested in such appeal may appear in person or by his counsel, solicitor or agent.
- (5) The Court may alter or order the alteration of the assessment book in accordance with the decision given on any appeal, but may only make an order as to costs when the claim of the Commissioner shall be held to be unreasonable, or the grounds of appeal therefrom to be frivolous.
- (6) The assessment book so altered or corrected shall be the assessment book for the district to which it relates.
74. Whenever any question of law shall arise in a case before the Court specially constituted as aforesaid, it shall, if required in writing by any of the parties within the prescribed time and upon the prescribed conditions, or may, of its own motion, state and submit a case for decision by the Supreme Court thereon, which decision shall be conclusive.
75. The obligation to pay and the right to receive and recover Income Tax shall at the discretion of the Commissioner be suspended by any appeal, but if the appellant succeeds on such appeal, the amount, if any, of the tax received by the

Stated cases
on questions
of law.

Obligation
may be sus-
pended by ap-
peal.

- No. 36—1904. Commissioner in excess of the amount which according to the decision on such appeal, was properly payable by him, shall forthwith be repaid to him by the Commissioner.
- Due date of Tax to be notified in *Gazette*. 76. On completion of the assessment of books under the provisions of this Act, a day or days shall be appointed by notice in the *Gazette* on which such Income Tax shall be due and payable.
- Recovery of Debt due. 77. Income Tax shall be deemed, when the same becomes due or is payable, to be a debt due to the Government and payable to the Commissioner in the manner and at the places prescribed, and may be sued for and recovered by action in any Court of competent jurisdiction by the Commissioner suing on behalf of the Government.
- Return by Councils and Corporations. 78. (1) Every Municipal Council and every corporation board, commission, company or body and every person whomsoever shall, if required by the Commissioner, in such form and at such times as may be prescribed, or as the Commissioner may require, furnish to the Commissioner returns of all or any particular class of persons employed by them, and the earnings, salary, wages, allowances, pension or stipend paid or allowed to each such person.
- (2) Every person and Company which carries on business in this Colony shall, in such manner and form and at such times as may be prescribed or the Commissioner may require, furnish to the Commissioner returns showing all payments made to any person in respect of any share or interest in such company, and also of all moneys received from any person on deposit for any fixed time or period with or without interest, and in such returns shall furnish all such information with regard to such person as may be prescribed or may be required by the Commissioner.
- Persons under legal disability. 79. Where any person liable to pay Income Tax is under any legal disability, or where any person so liable dies, in every such case the trustee of such person, or the executor, upon default of payment, shall be held liable for the amount of tax for which the person under disability or the person dying may have been liable. If any trustee or executor neglect or refuse to pay as aforesaid, it shall be lawful to proceed against him in like manner as against any other person making default of payment of the said Act. All trustees or executors making such payments shall be allowed every sum paid for such persons under disability in their accounts, and shall be allowed to deduct all such payments out of the estate of the person dying.
- Refund. 80. If it is proved to the satisfaction of the Commissioner that the amount paid is in excess of the amount properly charge-

able under this Act, the Commissioner shall refund the proper amount in each case to the taxpayer or person entitled to receive the same, and if any taxpayer prove to the satisfaction of the Commissioner that his income during any year fell short of the sum in respect of which the tax for that year was paid, the Commissioner shall cause the assessment to be amended accordingly and the overcharge to be refunded as aforesaid, and if it be proved to the satisfaction of the Commissioner that Income Tax has been claimed or paid in respect of any income other than that derived from any share in a Joint Stock Company, which by reason of the smallness of the income of the person in this Colony finally beneficially entitled thereto would be exempt from taxation if it had been included by such person in a return made of his income, the Commissioner may cause the amount of such tax to be refunded as aforesaid: Provided that the Commissioner shall not certify for any refund under this section unless the claim is made within two years of the date when the payment was made.

81. If any person

Penalty Clause.

- (1) Fails or neglects without reasonable cause to furnish any returns within the prescribed time he shall be taken to be guilty of wilful neglect.
- (2) Knowingly and wilfully makes any false statement in any returns or makes any false answer for the purpose of evading or enabling any other person to evade assessment or taxation, or
- (3) By any falsehood, wilful neglect, fraud, art or contrivance whatever evades or attempts to evade assessment or taxation,

he shall be liable to pay for each offence a penalty not exceeding one hundred pounds, and in any case where the offence was an evasion of assessment or taxation, or an attempt to evade assessment or taxation, the person offending shall be liable to be assessed and charged double the amount of the tax to which such person would otherwise be liable.

82. Any person who obstructs or hinders any officer acting in discharge of his duties under this Act or the regulations thereunder or refuses or wilfully neglects to answer or gives any false or evasive answer to any lawful question put by any officer relating to any land, property or income belonging to such person, shall be liable to a penalty not exceeding Fifty pounds.

Penalty of obstruction and false answers.

83. The production of the *Gazette* containing any regulations purporting to be regulations under this Act or any notice purporting to be published in pursuance of this Act or the regulations thereunder, shall be conclusive evidence that such regulation or publication was duly made and published, and the production of any assessment book or of any document under the hand of

Evidence.

No. 36—1904.

the Commissioner purporting to be a copy of or extract from any assessment book shall be conclusive evidence of the making of the assessment and, except in the case of proceedings on appeal against the assessment, shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such book or document are absolutely correct.

Short Title. 84. This Act may be cited as the "Additional Taxation Act, 1904."

FIRST SCHEDULE.

TABLE A.

TABLE FOR DETERMINING THE WEIGHT PER GALLON OF SPIRITS BY SYKES'S HYDROMETER.

1.—Spirits which on Sykes's Hydrometer indicate a number in Column A, must be taken to be of the Weight per Gallon in pounds and decimal parts of a pound of Spirits indicated by the corresponding number in Column B.

2.—To ascertain the quantity of Spirits in Cask, their net weight must be divided by the number which in Column B indicates their weight per Gallon, and the product will be the quantity of the Spirits in Gallons and decimal parts of a Gallon.

Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.
0	8·154	4	8·222	8	8·289	12	8·357
2	8·157	2	8·225	2	8·292	2	8·361
4	8·161	4	8·229	4	8·296	4	8·364
6	8·164	6	8·232	6	8·299	6	8·368
8	8·168	8	8·236	8	8·303	8	8·371
1	8·171	5	8·239	9	8·306	13	8·375
2	8·174	2	8·242	2	8·309	2	8·378
4	8·178	4	8·245	4	8·313	4	8·382
6	8·181	6	8·249	6	8·316	6	8·385
8	8·185	8	8·252	8	8·320	8	8·389
2	8·188	6	8·255	10	8·323	14	8·392
2	8·191	2	8·258	2	8·326	2	8·395
4	8·195	4	8·262	4	8·330	4	8·399
6	8·198	6	8·265	6	8·333	6	8·402
8	8·202	8	8·269	8	8·337	8	8·406
3	8·205	7	8·272	11	8·340	15	8·409
2	8·208	2	8·275	2	8·343	2	8·412
4	8·212	4	8·279	4	8·347	4	8·416
6	8·215	6	8·282	6	8·350	6	8·419
8	8·219	8	8·286	8	8·354	8	8·423

First Schedule.

FIRST SCHEDULE—(Continued.)

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Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.
16	8.426	27	8.617	38	8.813	49	9.013
2	8.429	2	8.620	2	8.817	2	9.017
4	8.433	4	8.624	4	8.820	4	9.021
6	8.436	6	8.628	6	8.824	6	9.024
8	8.440	8	8.631	8	8.827	8	9.028
17	8.443	28	8.635	39	8.831	50	9.032
2	8.446	2	8.639	2	8.835	2	9.036
4	8.450	4	8.642	4	8.838	4	9.039
6	8.453	6	8.646	6	8.842	6	9.043
8	8.457	8	8.649	8	8.845	8	9.046
18	8.460	29	8.653	40	8.849	51	9.050
2	8.464	2	8.656	2	8.853	2	9.054
4	8.467	4	8.660	4	8.856	4	9.058
6	8.471	6	8.663	6	8.860	6	9.061
8	8.474	8	8.667	8	8.863	8	9.065
19	8.478	30	8.670	41	8.867	52	9.069
2	8.481	2	8.674	2	8.871	2	9.073
4	8.485	4	8.677	4	8.874	4	9.076
6	8.488	6	8.681	6	8.878	6	9.080
8	8.492	8	8.684	8	8.881	8	9.083
20	8.495	31	8.688	42	8.885	53	9.087
2	8.498	2	8.692	2	8.889	2	9.091
4	8.502	4	8.695	4	8.892	4	9.095
6	8.505	6	8.699	6	8.896	6	9.098
8	8.509	8	8.702	8	8.899	8	9.102
21	8.512	32	8.706	43	8.903	54	9.106
2	8.516	2	8.709	2	8.907	2	9.110
4	8.519	4	8.713	4	8.911	4	9.114
6	8.523	6	8.716	6	8.914	6	9.117
8	8.526	8	8.720	8	8.918	8	9.121
22	8.530	33	8.723	44	8.922	55	9.125
2	8.533	2	8.727	2	8.926	2	9.129
4	8.537	4	8.730	4	8.929	4	9.132
6	8.540	6	8.734	6	8.933	6	9.136
8	8.544	8	8.737	8	8.936	8	9.139
23	8.547	34	8.741	45	8.940	56	9.143
2	8.551	2	8.745	2	8.944	2	9.147
4	8.554	4	8.748	4	8.947	4	9.151
6	8.558	6	8.752	6	8.951	6	9.154
8	8.561	8	8.755	8	8.954	8	9.158
24	8.565	35	8.759	46	8.958	57	9.162
2	8.568	2	8.763	2	8.962	2	9.166
4	8.572	4	8.766	4	8.965	4	9.170
6	8.575	6	8.770	6	8.969	6	9.173
8	8.579	8	8.773	8	8.972	8	9.177
25	8.582	36	8.777	47	8.976	58	9.181
2	8.586	2	8.781	2	8.980	2	9.185
4	8.589	4	8.784	4	8.984	4	9.189
6	8.593	6	8.788	6	8.987	6	9.192
8	8.596	8	8.791	8	8.991	8	9.196
26	8.600	37	8.795	48	8.995	59	9.200
2	8.603	2	8.799	2	8.999	2	9.204
4	8.607	4	8.802	4	9.002	4	9.207
6	8.610	6	8.806	6	9.006	6	9.211
8	8.614	8	8.809	8	9.009	8	9.214

FIRST SCHEDULE—(Continued).

Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydrometer.	Column B. Weight per Gallon.
60	2 9·218	70	2 9·409	80	2 9·604	90	2 9·800
	4 9·222		4 9·413		4 9·608		4 9·804
	6 9·226		6 9·417		6 9·612		6 9·808
	8 9·229		8 9·420		8 9·615		8 9·812
	9·233		9·424		9·619		9·816
61	2 9·237	71	2 9·428	81	2 9·623	91	2 9·820
	4 9·241		4 9·432		4 9·627		4 9·824
	6 9·245		6 9·436		6 9·631		6 9·828
	8 9·248		8 9·440		8 9·635		8 9·832
	9·252		9·444		9·639		9·836
62	2 9·256	72	2 9·448	82	2 9·643	92	2 9·840
	4 9·260		4 9·452		4 9·647		4 9·844
	6 9·264		6 9·456		6 9·651		6 9·848
	8 9·267		8 9·460		8 9·655		8 9·852
	9·271		9·463		9·659		9·856
63	2 9·275	73	2 9·467	83	2 9·663	93	2 9·860
	4 9·279		4 9·471		4 9·667		4 9·864
	6 9·283		6 9·475		6 9·671		6 9·868
	8 9·286		8 9·479		8 9·674		8 9·872
	9·290		9·483		9·678		9·876
64	2 9·294	74	2 9·487	84	2 9·682	94	2 9·880
	4 9·298		4 9·491		4 9·686		4 9·884
	6 9·302		6 9·495		6 9·690		6 9·888
	8 9·305		8 9·498		8 9·694		8 9·892
	9·309		9·502		9·698		9·896
65	2 9·313	75	2 9·506	85	2 9·702	95	2 9·900
	4 9·317		4 9·510		4 9·706		4 9·904
	6 9·321		6 9·514		6 9·710		6 9·908
	8 9·324		8 9·517		8 9·714		8 9·912
	9·328		9·521		9·718		9·916
66	2 9·332	76	2 9·525	86	2 9·722	96	2 9·920
	4 9·336		4 9·529		4 9·726		4 9·924
	6 9·340		6 9·533		6 9·730		6 9·928
	8 9·344		8 9·537		8 9·733		8 9·932
	9·348		9·541		9·737		9·936
67	2 9·352	77	2 9·545	87	2 9·741	97	2 9·940
	4 9·356		4 9·549		4 9·745		4 9·944
	6 9·360		6 9·553		6 9·749		6 9·948
	8 9·363		8 9·557		8 9·753		8 9·952
	9·367		9·561		9·757		9·956
68	2 9·371	78	2 9·565	88	2 9·761	98	2 9·960
	4 9·375		4 9·569		4 9·765		4 9·964
	6 9·379		6 9·573		6 9·769		6 9·968
	8 9·382		8 9·576		8 9·773		8 9·972
	9·386		9·580		9·777		9·976
69	2 9·390	79	2 9·584	89	2 9·781	99	2 9·980
	4 9·394		4 9·588		4 9·785		4 9·984
	6 9·398		6 9·592		6 9·789		6 9·988
	8 9·401		8 9·596		8 9·792		8 9·992
	9·405		9·600		9·796		9·996
						100	10·000
							10·007

SECOND SCHEDULE.

ALLOWANCE FOR NATURAL WASTE ON SPIRITS RETAINED IN THE POSSESSION OF A WINE FARMER.

No. 36—1904.
Second Schedule.

Period.	Allowance not Exceeding
Not less than 1 Month and not exceeding 3 Months ...	3 per cent.
Exceeding 3 Months „ „ 12 „ ...	6 per cent.
12 „ „ „ 2 Years ...	8 per cent.

No. 37—1904.]

[Reserved.

ACT Repealed - Act 19/1933

To Prevent the Introduction of Chinese into the Cape Colony.

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

Preamble.

1. For the purposes of this Act the following words shall have the meanings respectively assigned to them, to wit :—

Interpretation.

“Ship” shall mean any ship, steamer, vessel, or boat of any kind or description.

“Master” shall mean any person (other than a pilot) who for the time being is in charge or command of any ship.

“Person” shall include any association or body of persons, corporate or incorporate; and when any provision of this Act is contravened by such association or body the members or servants thereof who authorise or take part in such contravention shall each be liable to the penalty imposed for the same by this Act.

“Child” shall mean a minor under the age of eighteen, and shall apply in the plural.

“Minister” shall mean the Colonial Secretary, or such other minister to whom the Governor may have assigned the administration of this Act for the time being.

2. The provisions of this Act shall not extend to—

To whom Act to apply.

- (a) Members of His Majesty's Military or Naval forces.
- (b) The officers or crew of any public ship of any foreign state.
- (c) The master or crew of any other ship who shall land during the stay of such ship at any port: provided that the Master shall, if required by any duly authorized Officer, muster the crew in such Officer's presence before leaving, and that the Master shall not be

No. 37—1904.

permitted to clear his ship without having on board every Chinaman brought by him as a member of the crew.

(d) Any person (together with his wife and child) who is duly accredited to the Government of this Colony.

(e) Any person (together with his wife and child) who holds a Certificate of exemption under this Act.

Entry of Chinamen into Colony and their presence and residence therein prohibited except under Governor's Certificate.

3. From and after the passing of this Act it shall not be lawful for any Chinaman to enter into and be or reside within the Cape Colony save under and by virtue of a validly subsisting Certificate of Exemption in that behalf, signed by the Governor, and granted in each and every case on the production of evidence to the satisfaction of the Governor, either that the applicant is by birth a British subject (and a certificate of the Governor of any British Colony or of a British Consul shall be sufficient to substantiate such a claim), or that he is the holder of a Certificate of Naturalization in this Colony.

Form of Certificate and cancellation.

4. Every such Certificate shall be in the form prescribed in the First Schedule hereto.

Holders of Certificate to report to R.M. and to be registered.

5. Any Chinaman obtaining such Certificate shall, within seven days thereafter, report himself to the Resident Magistrate of the district in which he intends to reside, and shall be registered by such officer in a register to be kept for that purpose.

Chinamen in Colony at date of Act to be granted Certificate and regis-

6. As soon as may be after the passing of this Act, the Minister in charge shall cause a register to be compiled of every Chinaman resident or present in the Colony at the time of the passing of this Act, and shall issue a Certificate of Exemption to every person so registered, in the form prescribed in the Second Schedule hereto: Provided however that every Chinaman competent to receive a Certificate of Exemption in the form prescribed in the Second Schedule hereto may, in case he is able to prove that he is a British Subject by birth, or the holder of a Certificate of Naturalization of this Colony, require that in lieu of the said Certificate there be issued to him a Certificate of Exemption such as is directed in the third section of this Act.

Public notice to be issued calling on such Chinamen to report with view to registration.

7. Public notice shall be given in every Magisterial district of the Colony for the space of one month from a date to be fixed by the Minister in charge by publication in the *Government Gazette* and in any local newspaper circulating in such district, calling upon every Chinaman resident or present therein, to report himself to, and have himself registered by, an officer to be appointed for every such district by the said Minister and at such time and place as shall be in such notice appointed.

Penalty for failure to report.

8. Every Chinaman failing so to report and have himself registered without reasonable excuse appearing to the Minister in charge shall, from and after the date of registration provided for in the preceding section, become liable to the penalties of this Act.

9. From and after the compilation of the said register and the issue of the said Certificates of Exemption, every male child of Chinese parentage attaining the age of eighteen years within the Colony shall, within three months thereafter, report himself to the Resident Magistrate of the district in which he resides, and shall be entitled to receive the said Certificate; and every such Chinaman, who, without reasonable excuse, and being adjudged by the Resident Magistrate of the district who is hereby authorised so to do, to be of the said age, fails so to report and have himself registered, shall be liable to the penalties of this Act.

10. Any Resident Magistrate who judges a male child of Chinese parentage resident or present in his district, and brought before him, as in the next section provided, to be of about the age of eighteen years shall register such person and issue a Certificate to him.

11. Every Justice of the Peace, police officer, constable, or person appointed for the purpose by the Minister in charge, or the Mayor of a Town or Chairman of a Municipality, or Village Management Board, may call upon and require any Chinaman judged by such official to be over the age of eighteen years residing or found within the district or town in which any such officer, constable, or person specially appointed is employed, to exhibit to him the Certificate of Exemption provided for in the third or succeeding sections of this Act, and failing the production of such Certificate, such Chinaman shall be taken before the Resident Magistrate of the said district, who shall summarily inquire into the matter, and, if not satisfied with the *prima facie* circumstances of the case, shall have the said Chinaman arrested and tried in the ordinary course under the provisions of this Act.

12. Every Certificate of Exemption shall be renewed by the Resident Magistrate of the District in which a certificated Chinaman resides once a year on, or before, the 15th January, provided that Certificates of Exemption under section three shall be considered renewed by the Magistrate certifying thereon under his hand and stamp of office that they have been duly produced upon the date required, and every such Certificate destroyed, lost or stolen shall upon clear proof to the Magistrate of the fact, entitle the registered holder to a fresh Certificate.

13. Whenever the loss of a Certificate of Exemption is reported to the Resident Magistrate of the District in which the Chinaman concerned resides, or of any other District to which it may be suspected the Certificate in question has been removed, or whenever the Resident Magistrate of any district deems it expedient so to do, he may cause all Chinamen residing or being in his District to appear before him simultaneously and produce their Certificates of Exemption, whether granted under the third or succeeding Sections of this Act, and any Chinaman found in

No. 37—1904.

Minors attaining eighteen years to report likewise and to be granted Certificates, and to be liable to same penalties.

In certain summary proceedings Magistrates to grant Certificates where satisfied as to age.

Chinamen appearing to be over eighteen on failure to produce Certificate may be summarily dealt with by Magistrate.

Renewal of certain Certificates. Provisions for loss.

Powers of Magistrate on report of loss of Certificate.

No. 37—1904.

Powers of
Magistrate
where sus-
pected eva-
sions of Act
— Search
Warrant.

the District or Town without such Certificate shall be dealt with in manner provided in the twelfth Section of this Act.

14. Whenever the provisions of the last preceding section are put into operation, or at such other time as it may be made to appear to the Resident Magistrate of a District that there are reasonable grounds for believing that any Chinaman not having or being entitled to have a Certificate of Exemption is within the said District contrary to the provisions of this Act, it shall be lawful for such Magistrate to issue a search warrant to any police officer of the said District who shall be required and is hereby empowered with any assistance necessary for the duty, to search any premises in or on which there is reasonable suspicion to believe that any such Chinaman is concealed, and to bring any Chinaman so found, and apparently over the age of eighteen years, before the Magistrate as in the twelfth section of this Act provided.

Duties of
Certificated
Chinamen
permanently
removing to
another
Magistrate's
district.

Duties
where tem-
porarily pre-
sent in such
other district.

15. Every Chinaman leaving a District to take up his residence in another Magisterial District shall notify the fact to the Magistrates of both Districts, and shall forthwith be registered in the new District to which he removes.

16. Any Chinaman temporarily present in a District other than that in which he resides shall, upon production of his Certificate when called upon to produce the same, and upon the said Magistrate being satisfied that he is the person named in such Certificate, be allowed to remain in the said District or Town for the time required by him for the purposes of his visit.

Licences not
to be granted
to any China-
man unless
holder of
Certificate of
Exemption.

17. No liquor, mining, general dealer's, importer's, hawkers or other licence whatever to carry on a trade shall be issued to any Chinaman who is not the registered owner of a Certificate of Exemption under this Act, nor shall any such Chinaman have any direct or indirect interest in any such licence in this Colony, and no Chinaman not being the registered owner of a Certificate aforesaid shall be permitted to enter into a contract of labour either as a labourer in mining, agriculture, or any other pursuit, as a domestic servant or as a laundry man, or to be an assistant to a person holding any of the licences mentioned in this section of the Act.

Penalties for
evading pro-
visions of Act.

18. Any Chinaman who wilfully contravenes, evades, or attempts to contravene or evade the provisions of this Act shall be guilty of an offence, and on conviction thereof any Certificate of Exemption granted to him shall lapse, and he shall be liable to a fine not exceeding £100, or in default thereof to imprisonment with or without hard labour for a period not exceeding one year, or to both such fine and imprisonment.

Deportation
as additional
penalty may
be ordered.

19. Every Chinaman found guilty of an offence under this Act shall, in addition to the penalties imposed upon him in respect thereof, be liable to be deported from this Colony to China or the place from whence he came at the discretion and

upon the order of the Minister in charge before or upon the expiration or satisfaction of the said sentence, and the order of the Minister in charge shall be a sufficient warrant to any gaoler or person having such Chinaman in custody to release him for the purpose of this section.

No. 37—1901.

20. Any person who in any way wilfully aids, abets, or assists any Chinaman directly or indirectly to commit an offence under this Act shall be guilty of an offence, and shall on conviction be liable to a fine of £100 for each and every Chinaman so aided, abetted or assisted, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding two years, or to both such fine and imprisonment.

Penalty for assisting, &c. contravention of Act.

21. Any person who lets or gives occupation of any shop, store or building to be used for the purposes of trade or business to a Chinaman not having a Certificate of Exemption under this Act, shall be deemed guilty of an offence under this Act.

Penalty for letting shop, &c., to Chinaman.

22. Every master of a ship which has any Chinamen on board shall, on arriving at any port in the Cape Colony, forthwith report the fact to the local Senior Customs officer, failing which he shall be liable to a penalty in a fine not exceeding £50, or, in default of payment, to imprisonment with or without hard labour for three months.

Duties of Masters on arrival of ship with Chinamen on board.

23. The Master, Owner, and Charterers of any ship, or the owner or driver of any vehicle in or by which, with the knowledge of the Master or Owner, any Chinaman enters the Colony contrary to the provisions of this Act, shall be liable jointly and severally to and for the penalty in the twentieth section mentioned, and in addition thereto shall at the order of the Minister convey free of charge such Chinaman back to the place from which he was brought.

Liability of Master, &c., of ship, and owner, &c., of vehicle knowing contravention of Act thereby.

24. The Minister may, by an order in writing signed by him, authorise any officer to detain any ship or vehicle until the Master or owner shall have paid any penalty imposed on him under this Act, or shall have given sufficient security for the due payment of the penalty. Failing such security, or payment, such ship or vehicle may, by order of the Supreme Court, be attached and declared executable, in satisfaction of any writ issued for the recovery of such penalty.

Ship or vehicle may be detained or attached where penalties not paid or security not given.

25. Every police officer, police constable or railway official shall with any necessary assistance prevent the entry into the Colony of any Chinaman who does not possess the Certificate referred to in the third section of this Act, and no railway ticket or pass authorising a Chinaman to travel by rail into this Colony shall be accepted as such by any railway official without production of such certificate under penalty of instant dismissal.

Provision to restrain unlawful entry. Railway tickets to be of no avail without production of certificate.

- No. 37—1904.
- Jurisdiction conferred on Resident Magistrate.
- Question whether a person a Chinaman to be in discretion of Court.
- Governor may make Regulations.
- And appoint officials.
- And prescribe penalties.
- Regulations to be published in *Gazette* and laid before Parliament.
- Returns of Certificate to be laid before Parliament.
- No Certificate of Naturalization to be issued to any Chinaman after passing of Act.
- Deportation on second conviction.
26. Every Resident Magistrate shall have jurisdiction and is hereby empowered to try any offences punishable under the eighteenth, twenty-first and thirtieth sections of this Act, and committed within the limits of his District, or within two miles of the borders thereof, and shall forward to the Minister in charge a copy of the record of any case so tried by him.
27. For the purposes of any prosecutions under this Act, the Court, Judge or Magistrate may decide upon their own view and judgment whether any person produced before them is a Chinaman.
28. It shall be lawful for the Governor from time to time to make and to alter regulations having the force of law in order to secure the better carrying out of the provisions of this Act and generally in furtherance of the objects of the Act.
29. It shall be lawful for the Governor from time to time specially to appoint officers within and beyond the limits of the Colony to carry out the provisions of this Act and of regulations framed thereunder and the Governor shall prescribe the duties of such officers.
30. The Governor may prescribe penalties for the contravention of any regulation made by him under this Act provided that the penalty in respect of any one contravention shall not exceed a fine of £100 or in default of payment thereof imprisonment with or without hard labour for a period of 12 months, the said penalty shall apply to any person convicted of contravening the twenty-first section of this Act.
31. All regulations under this Act and also all appointments of officers as aforesaid shall be published in the *Government Gazette*, and copies of such regulations and lists of such appointments shall be laid before Parliament within thirty days after publication if Parliament is sitting otherwise within thirty days after the Session of Parliament begins.
32. In every Session of Parliament there shall be laid before it a return shewing particulars since the date of the last return of all persons to whom Certificates of Exemption have been granted.
33. After the passing of this Act no Certificate of Naturalization shall be issued to any Chinaman on any grounds whatsoever, and all Chinese not being British subjects born, nor being naturalized subjects of His Majesty, naturalized in this Colony before the passing of this Act, leaving this Colony, shall not be permitted to re-enter, and their Certificates of Exemption shall lapse from the date of their departure.
34. Any Chinaman not being a British subject, born or naturalized in this Colony, who shall be twice convicted after the passing of this Act of either assault or gambling, or keeping a brothel, or who shall be convicted of any other crime before a Superior Court, shall be deported from this Colony to China after the expiration of the sentence passed upon him.

35. No Chinaman shall be registered as a voter or take part in any election, Municipal or otherwise, unless he is the registered holder of a Certificate of Exemption showing him to be a British subject born or naturalized in this Colony.

No. 37-1904.
Franchise
exclusion.

36. This Act may be cited as "The Chinese Exclusion Act, 1904."

Short Title.

FIRST SCHEDULE.

First Sched-
ule.

CAPE OF GOOD HOPE.

Certificate of Exemption under "The Chinese Exclusion Act, 1904."

This is to certify that....., of....., aged....., a (insert here trade, calling or other description) is exempted from the provisions of the above Act on the ground that he is (a) a natural born British Subject (b) naturalized in this Colony.

Dated at..... this..... day of.....

(Signed)

Governor of

the Cape of Good Hope.

SECOND SCHEDULE.

Second
Schedule.

CAPE OF GOOD HOPE.

Certificate of Exemption under "The Chinese Exclusion Act, 1904."

This is to certify that....., of..... aged....., a (insert here trade, calling or other description) is exempted from the provisions of the above Act.

Dated at..... this..... day of.....

(Sgd.).....

Minister.

No. 1—1905.]

[March 31, 1905.]

ACT

To Further Amend the Post Office Act, 1882.

[Assented to 31st March, 1905.]

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

1. Notwithstanding the provisions of section 33 of the Post Office Act of 1882 the Postmaster General may on and after the taking effect of this Act authorise his officers or any of them to issue single Money Orders for sums not exceeding forty pounds. Authority to issue single Money Orders for sums not exceeding £40.

2. This Act may be cited for all purposes as the "Post Office Amendment Act, 1905." Short Title.

No. 2—1905.]

[April, 21, 1905.]

ACT

To Amend the Law regarding the Parliamentary Franchise in this Colony.

[Assented to 20th April, 1905.]

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

1. From and after the passing of this Act, notwithstanding anything to the contrary contained in the Constitution Ordinance or any other law, all soldiers, seamen and marines employed in His Majesty's Regular Forces in this Colony shall not be entitled to be registered as voters for Members of Parliament, or vote at Parliamentary Elections; provided, however, that if they possess the property or occupation qualification in respect of property occupied by them, which is liable or contributes by payment in money to local taxation, they shall be competent to be so registered and vote at Parliamentary elections. Members of H.M. Regular Forces competent as voters under property qualification if property subject to local taxation.

2. This Act may be cited for all purposes as "The Franchise Amendment Act, 1905." Short Title.

No. 3—1905.]

[April 21, 1905.]

ACT

To Facilitate the Transfer of Crown Lands mortgaged under the "Crown Lands Disposal Act and Leasing Acts Amendment Act, 1895," and to extend the Transfer Facilitation Acts referring to land mortgaged under Act No. 15 of 1887.

[Assented to 20th April, 1905.]

Preamble.

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

Notice may be given by the seller and purchaser of land disposed of under Act No. 40 of 1895, and bonded in favour of Government. Such Notice to be given to the Treasurer and to set forth particulars respecting such land and the Mortgage Bond thereon.

1. (1) Whenever any person, hereinafter called the seller, being the registered owner of any land disposed of under the provisions of the "Crown Lands Disposal Act, and Leasing Acts Amendment Act, 1895," and being debtor to the Colonial Government under any Mortgage Bond affecting such land, and passed in accordance with the provisions of the eighteenth section of the said Act, shall have lawfully agreed to give transfer of such land to any other person, hereinafter called the purchaser, the seller and purchaser may jointly give notice in writing, signed by them or their duly authorised Agents, to the Treasurer of the Colony, which notice shall be substantially in the form set forth in Schedule A hereto.
- (2) Whenever any such seller shall sell an undivided part or share, and not the whole of the land affected by such Mortgage Bond, the seller and purchaser may jointly give notice in the manner hereinbefore provided, which notice shall be substantially in the form set forth in Schedule B hereto.

Certain sections of Act No. 16 of 1890, and of Act No. 30 of 1893 to apply to this Act.

2. The provisions of the second, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth sections of Act No. 16 of 1890, and sub-sections (b) and (c) of section one and section two of Act No. 30 of 1893, shall *mutatis mutandis* apply as fully and effectually as if inserted herein, and similar fees shall be payable on the transfer under this Act of land mortgaged as aforesaid.

Treasurer may consent to the transfer of a defined share of land mortgaged under Act No. 15 of 1887 and section 18 of Act No. 40 of 1895, and to accept a separate Bond for such share from the purchaser thereof.

3. Whenever a seller of land, such as is referred to in section one of the Act No. 16 of 1890, or in section one hereof, shall sell a defined part or share, and not the whole of the land affected by the Mortgage Bond, therein referred to, it shall be lawful for the Treasurer of the Colony to consent to the transfer of such defined share, and to the reduction of the existing Bond, and to accept from the purchaser thereof a separate Bond, for such proportionate part of the original Bond as the said Treasurer may determine, and subject to the same conditions as regards repayment.

4. Section two of Act No. 23 of 1892, shall *mutatis mutandis* apply to the provisions of section three hereof.

No. 3—1905.

Section 2 of Act No. 23 of 1892 to apply to section 3 of this Act.
Short Title.

5. This Act shall be cited as the "Transfer Facilitation Extension Act, 1905."

SCHEDULE A.

Schedule A.

NOTICE UNDER SECTION 1 (1) OF ACT NO. 3 OF 1905.

To the Honourable the Treasurer of the Colony :—

Whereas I, the first undersigned A B (*a*) am the registered owner by virtue of a Title Deed, under the provisions of the eighteenth section of Act No. 40 of 1895, dated the day of , of a certain piece of land in the Division of , Field-cornetcy of , being Lot No. , called ; and whereas a Mortgage Bond on the said land for the sum of £ was passed in favour of the Colonial Government on the day of ; and there still remains due and owing on the said Bond the sum of £

Now, therefore, I do hereby give notice that I have agreed to give transfer of the said land to C D (*a*) the second undersigned.

And I the said C D (*a*) do hereby notify that I have agreed to take transfer of the said land, and that I am ready and willing to take over the liability to the Colonial Government under the Mortgage Bond aforesaid.

Dated at this day of

Witnesses :—

(*a*) Full names to be inserted.

SCHEDULE B.

Schedule B.

NOTICE UNDER SECTION 1 (2) OF ACT No. 3 OF 1905.

To the Honourable the Treasurer of the Colony :—

Whereas I, the first undersigned A B (*a*) am the registered owner by virtue of a Title Deed, dated the day of , under the provisions of the eighteenth section of Act No. 40 of 1895, of a certain piece of land in the Division of , Field-cornetcy of , being Lot No. , called ; and whereas a Mortgage Bond was passed on the said land, in favour of the Colonial Government, for the sum of £ , on the day of , and there still remains due and owing on the said Bond the sum of £

No. 3-1905.

Now, therefore, I do hereby give notice that I have agreed to give transfer of the _____ of the said land to C D (a) the second undersigned.

And I, the said C D (a) do hereby notify that I have agreed to take transfer of _____ of the said land, and that I am ready and willing to become liable jointly and severally with the first undersigned to the Colonial Government, under the Mortgage Bond aforesaid.

Dated at _____ this _____ day of _____

As Witnesses :-

(a) Full names to be inserted.

No. 4--1905.]

[May 5, 1905.

ACT

To Provide for the Custody, otherwise than in Gaol, of certain Persons.

[Assented to 5th May, 1905.]

Preamble.

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

Detention of persons otherwise than in gaol.

1. Notwithstanding any law to the contrary, it shall be lawful for the Governor to detain otherwise than in the common gaol pending trial or conveyance:—

- (1) Any person apparently under the age of sixteen years and any woman who is charged with and has been arrested or committed for trial for any crime other than murder and for whom bail has not been found;
- (2) Any juvenile offender convicted as such and condemned to serve any period at a Reformatory, and awaiting conveyance thither;
- (3) Any juvenile offender convicted as such and adjudged to be apprenticed, and awaiting apprenticeship.

And the Governor is hereby empowered to make such rules and regulations in regard to the persons or institutions to which such prisoner may be delivered for custody, the nature of the custody, visits of inspection, and generally the means by which the purposes of this Act may be effected, as to him shall seem just and meet.

Powers of head of institution.

2. Any person, or manager, superintendent or head of an institution to whom a prisoner, as in the next preceding Section mentioned, is delivered for custody under the provisions of this Act, shall have power and authority to keep, restrain and prevent from escape any such prisoner, and shall conform therein to the rules and regulations made by the Governor in that behalf.

Warrant.

3. In all cases in which the provisions of this Act are applied, the warrant under which the prisoner would, but for the Governor's intervention under this Act, have been placed in gaol,

shall have endorsed thereon by the Magistrate or officer proper to sign such warrant the fact of the prisoner's removal, the name of the person, or that of the manager, superintendent or head of the institution to which such prisoner has been removed, and the address of such person or the situation of such institution, and such endorsement shall be the gaoler's warrant for the surrender of such prisoner in terms thereof.

No. 1905.

4. All gaol returns required by law to be furnished by a gaoler shall include the name of any prisoner removed from gaol under the provisions of this Act, and shall contain the information endorsed by the Magistrate or other proper officer upon the original warrant as in the next preceding Section mentioned.

Gaol returns.

5. The Judges of the Supreme Court of the Cape Colony shall have like jurisdiction and authority in regard to any such prisoner as if he were a prisoner confined in the common gaol.

Jurisdiction of Supreme Court.

6. It shall be lawful for the Governor to commute a sentence of imprisonment against any woman to compulsory residence in any rescue home or other institution of a like character for any period not exceeding the unexpired period of such sentence, and to annex to such commutation the condition that if the said woman escape from or refuse to continue to reside in such home or institution for the period assigned, she shall be liable to be re-imprisoned in the gaol or House of Correction in which she was originally imprisoned for the unexpired period of the original sentence after deducting the period of residence aforesaid; and the Governor may make such rules and regulations regarding the detention and visiting of any such woman in a rescue home or similar institution as to him may seem just and meet.

Commutation of sentences against women.

7. Upon any such commutation as aforesaid the original warrant of commitment shall have endorsed thereon by the Judge or Resident Magistrate proper to sign such warrant the fact of the commutation and the name and situation of the home or institution to which the prisoner is to be removed, and, upon any re-imprisonment under the provisions of the next preceding Section, such warrant shall revive and shall be the warrant for the imprisonment of the said woman for the unexpired portion of the original sentence after deducting the period of residence, if any.

Endorsement on warrant.

8. The person locally in charge of any such home or institution as aforesaid shall have power and authority to keep and subject to the discipline of any such institution any woman removed thereto under the provisions of this Act, and shall conform to the rules and regulations framed by the Governor in that behalf.

Discipline of institution.

9. Nothing in this Act shall be taken to derogate from or diminish the prerogative of pardon vested in the Crown.

Saving Clause

10. This Act may be cited as the "Juvenile and Woman's Imprisonment Act, 1905."

No. 5—1905.]

[May 5, 1905.]

ACT

To Amend the Customs Act 10 of 1872, and to make Provision for the better protection of the Customs Revenue.

[Assented to 5th May, 1905.]

Preamble.

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

Keys of Bonded Warehouses may be kept by Proprietor or Occupier.

1. Notwithstanding anything to the contrary contained in section thirty-six of the Customs Act 10 of 1872, it shall be lawful for the Controller or other principal Officer of Customs, under such rules and regulations as he shall direct, to permit the keys of all Bonded Warehouses to be kept in the possession of the proprietor or occupier of such Bonded Warehouses, and allow the receipt into and delivery therefrom of goods without the presence of a Customs Officer.

Penalty if Goods entered to be warehoused are removed without permission.

2. Section thirty-nine of the said Act shall be read and construed as though at the end of the section were added the following words, "and the proprietor or occupier of the Bonded Warehouse shall forfeit a sum not exceeding treble the value thereof or a penalty not exceeding One Hundred Pounds Sterling at the election of the principal Officer of Customs, subject to the approval of the Governor."

Persons carrying on business to keep proper books or accounts, Documents, &c., to be available for inspection by Customs Officers.

3. Persons carrying on any business in this Colony shall keep reasonable and proper books or accounts of their transactions, and they must be prepared to produce the bills of lading, invoices and all other documents containing all particulars regarding imported and sold goods so that the same may at all times be open for inspection by the Controller of Customs or his deputies for a period of twelve months after the date of importation, and that the same may be attached by him if necessary. In default thereof the person or persons concerned shall be liable to a fine not exceeding £100, or to be imprisoned, with or without hard labour, for any period not exceeding one year.

Penalty for illegal importation.

4. Any person who imports or attempts to import, or assists in, or is accessory to or connives at the importing or attempted importing of any goods illegally or without payment of the duty thereon shall be guilty of an offence, and shall, in addition to any penalties already provided for by Customs law, be liable on conviction to a fine not exceeding £25, or, in default of payment, to imprisonment with or without hard labour for any period not exceeding three months, and in the case of a second or subsequent conviction within the space of two years, the person convicted shall be liable to a fine not exceeding £100 or to be imprisoned for a period not exceeding one year or to both such fine and imprisonment.

5. The Resident Magistrate of the district in which any offence, as set forth in the preceding section shall have been committed, shall have jurisdiction to impose the penalties provided.

Magistrate of District to have jurisdiction to impose penalties provided.

6. The Governor may and in such case is hereby authorised subject to the vote of Parliament to refund to the Imperial Government the amount of any duty that may have been or may be paid on any imported materials which have been actually used in the construction, under contract with the Imperial Government, of any Docks, Military or Naval Defence Works and other similar Public Works within the Colony or the territorial limits thereof.

Refund to Imperial Government of duty on imported materials used for certain works.

Short Title.

7. This Act may be cited for all purposes as the "Customs Amendment Act, 1905."

No. 6—1905.]

[May 12, 1905.]

ACT

To Amend the Railway Regulations Act

[Assented to 11th May, 1905.]

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

Preamble.

1. The Act No. 35 of 1894, commonly called the "Regulations of Railways Amendment Act, 1894," together with so much of any other Law as may be repugnant to or inconsistent with the provisions of this Act, is hereby repealed.

Repeal of Laws.

2. If any person shall .

- (a) travel or attempt to travel in any carriage of the Cape Government Railways or of any Railway Company without a ticket or pass authorising him to do so;
- (b) travel in any such carriage of a superior class to that which his ticket or pass entitles him;
- (c) travel in any such carriage beyond the distance to which his ticket or pass entitles him to travel;

Offences and Penalties.

such person shall forthwith on demand by any Ticket Collector, Inspector, Guard or other duly authorised officer, pay:—

- (a) the fare payable for the journey contemplated or completed;
- (b) the difference between the fare for the class travelled and the class for which the ticket was issued;
- (c) the ordinary fare between the destination marked on the ticket and the actual or contemplated destination;

together with a fee—to be styled a booking fee, not being less than sixpence—at the rate of ten per cent. on the above amount or amounts demanded: Provided that such fee shall not exceed two shillings and sixpence if the passenger takes reasonable steps to inform the officer in charge of the train of such irregularity,

No. 6-1905.

and in addition such person shall be liable to be prosecuted for contravening this section, and on conviction to a penalty not exceeding forty shillings, or in default of payment thereof to imprisonment with or without hard labour for any period not exceeding seven days, unless such fine be sooner paid; provided, further, that it shall be a bar to any prosecution under this section if the person accused shall prove to the satisfaction of the ticket collector, inspector or guard, as the case may be, or in case of prosecution of the Court, that in contravening this section he was not actuated by any intent to evade the payment of any lawful fare.

A refund may under certain circumstances be made.

3. The Railway Department shall refund any fare, or difference in fare, paid under the provisions of the last preceding section, provided :

- (1) that application for the refund be made within fourteen days from the date of payment, and
- (2) that the applicant had at the time he made the payment a valid subsisting ticket or pass available for the journey on which he was found without a ticket, or other bona fide reason for being without such ticket or pass.

Penalty for defrauding or attempting to defraud Government.

4. Any person who shall defraud or attempt to defraud the Government by :—

- (a) transferring or profiting by the transfer of any ticket or return half of any ticket or any free pass ;
- (b) wilfully mutilating, falsifying or rendering illegible any ticket or free pass ;
- (c) giving any incorrect or insufficient name and address ;
- (d) attempting to evade in any other manner the payment of his fare ;

shall in addition to any sums which may be due under section 2 of this Act, be liable to a penalty not exceeding ten pounds and in default of payment thereof to imprisonment with or without hard labour for any period not exceeding one month unless such fine be sooner paid.

Penalty for not fastening railway gates.

5. Every person passing through any gate erected on either side of any Railway for the accommodation of the owners or occupiers of any adjoining lands shall shut and fasten such gates as soon as the said person together with any vehicle or animals in his care shall have passed through the same.

Any person contravening this section shall be liable to a penalty not exceeding two pounds and in default of payment thereof to imprisonment with or without hard labour for any period not exceeding seven days unless such fine be sooner paid.

Jurisdiction of Magistrates' Courts.

6. Where any offence against the "Regulations of Railways Act, 1861," or any Bye-Laws or Regulations made thereunder or against this Act shall be committed on any line of Railway within this Colony, such offence may be dealt with, tried and

punished by the Resident Magistrate of any district through any part whereof such line of Railway passes in the same manner as if such offence had been actually committed in such district.

7. It shall be lawful for the Governor to make regulations for prohibiting the throwing from trains of stones, bottles, or other articles likely to be a source of danger to, or to cause injury to any person, and any person who shall contravene any such bye-law shall be liable to a penalty not exceeding two pounds, or in default of payment, not exceeding seven days' imprisonment with or without hard labour. Regulations prohibiting the throwing of stones, etc., out of trains.

8. (a) Any person who without reasonable excuse shall fail or refuse, on demand by any duly authorised officer, to pay forthwith the amount due by him in respect of railway fare, difference in railway fare or booking fee as provided by section two of this Act, may be removed from the train at any station by the Station Master or person in charge or may be allowed to proceed at the discretion of the Station Master or person in charge of the station. Penalties.

(b) Any person committing an offence against this Act may be detained by any such Station Master or person in charge of a station, and all constables or other officers of the law proper for the execution of criminal warrants may lawfully detain such person until he can conveniently be taken before a Magistrate having jurisdiction.

9. This Act may be cited as the "Railway Regulations Act, 1905," and shall be read as one with the "Railway Regulations Act, 1861." Short Title.

No. 7—1905.]

[May 12, 1905.]

ACT

To Amend the Law relating to the Theft of Stock and Produce.

[Assented to 11th May, 1905.]

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

1. The twenty-first section of the Stock and Produce Thefts Repression Consolidation Act, No. 35 of 1893, is hereby repealed. Repeal of Sec. 21, Act 35 of 1893.

2. It shall be the duty of any Court empowered to pass sentence on any person for the offence of theft of stock or produce, in addition to such sentence, in every case in which the evidence is sufficient and in which the stock or produce has not been recovered or in which it has been recovered reduced in value by at least one half of its market value at the time of the theft, and in which the owner or owners do not proceed under the provisions of Section 8 of Act 35 of 1893 for compensation, to impose a fine of not less than the value of the stock or produce so stolen, in certain cases. Imposition of fine of value of stock or produce stolen, in certain cases.

to impose on every person convicted in respect of such theft a fine not exceeding the full market value at the time of the theft of such stock or produce, such fine if not paid to be levied on the movable property of the offender under and by virtue of a warrant under the hand of the Judge or Magistrate imposing such fine, together with the costs of levy; and the amount of such fine when paid or levied shall, subject to the provisions herein following, be paid by the Resident Magistrate of the district in which the case is heard, to the owner or owners of the stock or produce so stolen; provided that when and as often as any such fine shall be imposed by a Resident Magistrate such Resident Magistrate shall forward the record of the proceedings in the said case to the Registrar of the Supreme Court in order that the sentence may be reviewed by one of the Judges, and such judge may reduce or disallow the same as shall seem to him to be most in accordance with real and substantial justice; and in every case in which such record shall have been so forwarded as aforesaid the warrant shall be executed by immediately attaching sufficient goods as aforesaid to answer the fine imposed by such Magistrate in the first instance, but such goods shall not be sold to realise the amount of such fine until the sentence shall have been finally approved or amended by such judge as aforesaid, and then only so much thereof shall be sold as shall probably be necessary to produce the amount of such fine as shall ultimately be imposed, together with the costs of levy as aforesaid.

Repeal of
 Sec. 24 of Act
 35 of 1893.

Imprison-
 ment in de-
 fault of pay-
 ment of fine.

3. Section twenty-four of the said Act 35 of 1893, is hereby repealed.

4. It shall be the duty of any Judge or Magistrate passing any sentence and imposing any fine as herein provided at the time of passing such sentence and imposing such fine to order that if, at the expiration of such sentence, such fine shall not have been paid or recovered and shall not have been disallowed on appeal or review as in this Act provided, the person or persons convicted shall be imprisoned for a further period not exceeding twelve months.

Short Title.

5. This Act may be cited for all purposes as "The Stock and Produce Theft Repression Amendment Act, 1905," and shall be read as one with the "Stock and Produce Theft Repression Consolidation Act, 1893."

[No. 8—1905.]

[May 12, 1905.]

ACT

To Amend the Native Reserve Locations Act, No. 40 of 1902.

[Assented to 11th May, 1905.]

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

Preamble.

1. For the purposes of the Act No. 40 of 1902, entitled the "Native Reserve Locations Act, 1902," and of this Act the term "Urban District" shall mean and embrace such portion of any one or more Magisterial Districts of the Colony falling within a radius of not more than five miles from the limits of and including any urban centre therein as may be prescribed and defined by the Governor by Proclamation, provided that no such area shall include any portion of any Location on Crown Land reserved for the occupation of Natives or any duly authorised private location under the provisions of Act No. 31 of 1899, without the previous consent of Parliament.

Meaning of terms "Urban District" for purposes of the "Native Reserve Locations Act, 1902," and this Act.

2. The third section of the said Act is hereby repealed except as to anything done or any liability or penalty incurred in respect of such section; and from and after the promulgation of this Act it shall be lawful for the Governor to prescribe and define the limits of any Urban District, in which a Native Reserve Location shall have been established and to proclaim such Urban District, excluding the area of such Location, to be an area within which it shall not be lawful for any Native to reside; and any Native who shall at the time of the taking effect of such Proclamation be residing in such proclaimed area, shall remove therefrom within such period as may be prescribed by such Proclamation; and any native who shall be found residing in such proclaimed area after expiration of the period aforesaid, whether he shall have so taken up his residence prior to or subsequent to the issue of such Proclamation, may be moved summarily therefrom by any Police Constable or by any person authorised by the Minister, and shall on conviction of a contravention of this section be liable to a fine not exceeding £10, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months unless such fine be sooner paid.

Governor may proclaim any "Urban District," excluding such portion as constitutes a Native Reserve Location, to be an area in which it shall not be lawful for any Native to reside.

3. Section 4 of the said Act is hereby amended and shall be read and construed as follows: The provisions of the last preceding section shall not apply to

Section 4 of the "Native Locations Act, 1902," amended.

- (1) Any Native whilst in *bona fide* employment as a domestic or farm or other servant and housed on his master's premises;

No. 8—1905.

- (2) Any Native freeholder or the widow of such freeholder owning property in the said urban district to the value of £75 ;
- (3) Any Native who by virtue of the "Native Registered Voters' Relief Act, 1887," is exempted from the operation of certain disqualifying Acts of Parliament ; or
- (4) Any Native who may be granted permission in writing to reside outside the limits of the Native Reserve Location by any person the Minister may depute for the purpose ;

Provided, however, that any Native exempt as provided for in this section who shall elect to reside within the limits of any Native Reserve Location shall *ipso facto* become liable to the provisions of the said Act.

Section 7 of "Native Locations Act, 1902," amended.

4. The seventh section of the Act No. 40 of 1902, is hereby amended as follows :

Any Native, without reasonable excuse, failing or refusing to pay rent as provided in the last preceding section within 14 days from the date upon which it becomes due and payable shall be liable to be summarily arrested and tried in any Magisterial District in which he may be found or in which the provisions of this section shall have been contravened and upon conviction shall be liable to a fine not exceeding £5, and in default of payment to imprisonment with or without hard labour for a period not exceeding one month : Provided that no fine paid or imprisonment undergone shall have the effect of cancelling any other legal remedy for the recovery of the amount of rent due by such Native.

Section 8 of said Act amended.

5. The eighth section of the aforesaid Act is hereby amended as follows :—

There shall be inserted between the words "shall" and "neglect" the words "without reasonable excuse."

Section 9 of said Act repealed and other provision made.

6. The ninth section of the said Act is hereby repealed except as to anything already done or any liability or penalty incurred in respect of such section, and from and after the taking effect of this Act any person not being a resident within any Native Reserve Location, or being no longer entitled to reside therein, or not having otherwise any right or authority to be in any such location, may be directed to remove therefrom by the Inspector or other duly authorised Officer, and any such person on being so directed who shall not forthwith remove from such location may be summarily removed by the Inspector or by any person authorised by him, and any such person who shall neglect or refuse to remove or shall resist such Inspector or authorised person in the execution of his duty under this section shall be liable on conviction to a fine not exceeding £5, and in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

Any person who shall assist, aid or abet any such person aforesaid in resisting the Inspector, or any person authorised by him, in the execution of his duty under this section shall be liable to the penalties heretofore provided in this section.

7. The following additional sub-sections shall be read as inserted in the eleventh section of the said Act:—

Additional sub-sections inserted in section 11 of the said Act.

- (17) "Providing for the establishment of Advisory Boards of Natives and defining their functions."
- (18) "Providing for the lease or grant under title of building lots to any Native residents desirous of erecting their own dwelling-places within the Reserve Location, subject to such terms and conditions as the Governor may deem expedient."

8. This Act shall be read and construed as one with the "Native Reserve Locations Act, 1902," and may be cited for all purposes as the "Native Reserve Locations Amendment Act, 1905."

Effect and Short Title of Act.

No. 9—1905.]

[May 16, 1905.

ACT

To Further Amend the Law for the Better Administration of Justice.

[Assented to 15th May, 1905.]

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

Preamble.

1. All laws inconsistent with or repugnant to the provisions of this Act are, to the extent of such inconsistency or repugnancy, hereby repealed.

Repeal of repugnant Laws.

2. From and after the date of this Act the quorum provided in Section 2 of Act 35 of 1904, entitled "The Better Administration of Justice Act, 1904," shall be a quorum of the Divisional Courts thereby constituted for the hearing and determination of appeals from Resident Magistrates' Courts, and all provisions of law applying to such appeals to the Supreme Court, the Courts of the Eastern Districts or the High Court shall apply to such appeals to any Divisional Court as aforesaid.

Divisional Court constituted a quorum for hearing appeals from R.M.'s Courts: Procedure.

3. Notwithstanding anything to the contrary in Section 20 of Act 35 of 1896 contained, no Judge of a Divisional Court, from whose judgment an appeal is heard under sub-section (2) of Section 2 of Act 35 of 1904, by the Supreme Court sitting as an Appeal Court, shall sit as a member of such Appeal Court, during the hearing of such appeal.

In appeals from Divisional Courts Judge of Court appealed from disqualified from sitting.

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Procedure
on appeals
from Divisional
Courts.

4. The law applying to appeals from any Superior Court to the Supreme Court shall *mutatis mutandis*, apply to appeals from any Divisional Court to the Supreme Court sitting as a Court of Appeal.

Short Title.

5. This Act may be cited as "The Better Administration of Justice Amendment Act, 1905."

* No. 10—1905.]

[May 16, 1905.]

ACT

To Amend the Local Works Loans Act, 1882.

[Assented to 15th May, 1905.]

Preamble.

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

Governor
may extend
term of Edu-
cational Loan.

1. (a) Notwithstanding anything to the contrary contained in the ninth section of the Local Works Loans Act, 1882, it shall be lawful for the Governor at any time to authorise the extension of the term of any loan advanced for educational purposes under the provisions of the said Act and all subsequent amendments thereof, for any fixed period beyond that determined by him at or before the granting thereof: Provided that the full term of such loan shall not in any case exceed forty years.
- (b) From and after such extension as aforesaid for the purpose of ascertaining the half-yearly payments to be made in liquidation thereof the said loan shall be taken to be a fresh loan for such portion of the original amount advanced as at the date of the extension remains unpaid, and issued for the unexpired period of the original term of years as extended.
- (c) The Registrar of Deeds shall, upon being furnished with a certificate under the hand of the Colonial Secretary that the term of any loan has been extended under the provisions of this Act, endorse upon the mortgage bond securing the loan the term of years of the loan as extended, the amount of the unpaid balance thereof, and the amount of the half-yearly payment to be made in accordance with the scale prescribed by the Schedule to the Local Works Loan Amendment Act, 1896.

Short Title
and effect.

2. This Act may be cited for all purposes as "The Local Works Loans Amendment Act, 1905," and shall be read as one with the Local Works Loans Act, 1882, and all subsequent amending Acts.

No. 11—1905.]

[May 16, 1905.

ACT

To Empower the Town Council of Port Elizabeth
to supply electricity for lighting and other
purposes within the Municipality.

[Assented to 15th May, 1905.]

WHEREAS by section 129 of the Port Elizabeth Municipal Act of 1897, the Town Council of Port Elizabeth has power to light by electricity or otherwise all streets, lanes, squares, public passages, thoroughfares and public places within the town of Port Elizabeth, but no power is given to the said Council to sell and supply electric energy for the lighting or the application of power to public buildings and places, places of worship, places of entertainment, private residences and grounds, shops, hotels, warehouses, offices and such like, and for domestic and industrial purposes, for electric traction and for supplying consumers generally :

Preamble.

And whereas it is desirable to give to the Town Council the power to sell and supply electric energy for lighting or application of power :

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

Enacting
Clause.

1. In this Act the following terms shall have the meaning assigned to them by this section, unless another meaning appears clearly from the context to be intended :—

Interpreta-
tion Clause.

Council shall mean the Town Council of Port Elizabeth.

Public Buildings and Places shall mean any library, clubs, social, political or sporting, Government buildings, such as Post Office, Railway Station, halls, schools, public hospitals, and public and private nursing homes, or any building or place of a public nature.

Places of Worship shall mean any building used as a place of worship, or church and school combined.

Places of Entertainment shall mean a building or erection of any description used for the performance of theatrical plays, operas, concerts, and other entertainments.

Private Residences and Grounds shall mean any private residence or dwelling house with any ground attached thereto.

Shops shall mean any premises used as a shop for the retail of articles or goods of whatever description or premises used for wholesale purposes.

Hotel shall mean hotels duly licensed by the Licensing Court, temperance hotels, whether requiring a licence or not, and boarding houses.

Warehouse shall mean any premises used as a store or warehouse for any articles or goods whatsoever.

Factory shall mean premises or places used for manufacturing purposes.

Offices shall mean any premises used as an office in connection with mercantile, shipping, legal, or any other business.

Domestic and Industrial Purposes shall mean the supply of electric energy for cooking or any other domestic purpose, and for any industry of whatever nature.

Electric Traction shall mean the supply of electricity for driving machinery, lifts and the like.

Company shall mean any Company registered under any of the Companies' Acts passed by the legislature of the Colony of the Cape of Good Hope.

Public Body shall mean any Municipality, Divisional Council, Village Management Board, Harbour Board, the Government, or any other body of a public nature.

Street shall include any public square, court, or alley, highway, lane, road, thoroughfare, footpath, or public passage or place whatsoever.

Power to construct necessary works for generating electricity.

2. It shall be lawful for the Council to construct, provide, and maintain generating and transforming stations and all other works necessary with a view to supplying electrical energy for the purposes aftermentioned: for the lighting or the application of power to public buildings and places, places of worship, places of entertainment, private residences and grounds, shops, warehouses, offices, and such like, and for domestic and industrial purposes, for electric traction, and for supplying consumers generally within the Municipality.

Power to lay main and branch wires, &c.

3. The Council shall have full power and authority to do all things necessary for the placing of the main and branch wires under or over the streets of the Municipality for the purpose of conveying the electric current to be used for the purpose hereinbefore set forth and so connect the said wires, lines or pipes with any premises at the request and expense of the owners or occupiers thereof subject to the provisions of the Electric Lighting and Power Act, 1895, or of any law now in force, or which may hereafter be passed amending or extending the said provisions, and to any regulations made under the said provisions and to any bye-law framed under the provisions of the 5th section of this Act.

Power to frame tariff of charges.

4. The Council shall have full power and authority subject to the provisions of the Electric Lighting and Power Act, 1895, to enter into agreements with any person, company, or public body for the supply of electricity by the Council to such places or premises and for such purposes as are hereinbefore set forth, and shall make charges for the said supply in accordance with the tariff to be framed by the said Council with the approval of the

Governor: Provided that should the Government at any time require the said Council to supply electric energy for lighting or power in respect of any building or premises within the Municipality used for Government purposes, the said Council shall supply the said Government at a price which shall be mutually agreed upon and in no case to exceed the lowest price charged to any consumer.

5. The said supply of Electricity shall be furnished in all respects in accordance with the regulations framed from time to time under the provisions of the Electric Lighting and Power Act, 1895, styled "Regulations for securing the safety of the Public," in so far as the said regulations are applicable to the said supply and in accordance with any additional bye-laws which the said Council is thereby empowered to publish from time to time with the approval of the Governor for securing the safety of the consumer and public from injury by shock, fire, or otherwise, and regulating the supply of Electricity.

Public safety secured and power to frame additional Bye-laws, &c.

6. The Council may, subject to and in accordance with the powers and restrictions of this Act and of the Electric Lighting and Power Act, 1895, and the regulations made thereunder, and for the purpose of supplying electricity by the Council as aforesaid, acquire such land, construct such works and enter into such contracts, and generally do all such acts and things as may be necessary and incidental to such supply.

Power to acquire land and enter into contracts, &c.

7. Subject to the provisions of this Act and of the Electric Lighting and Power Act of 1895 and of any law now in force or which may hereafter be passed amending or extending the provisions thereof and to any regulations framed under the provisions of the said Act, the Council may also alter the position of any pipes, lines, or wires, or any obstruction which may interfere with the exercise of their powers under this Act on previously making and securing such compensation to the owner of such pipes, lines, wires or obstructions, and on complying with such conditions as to the mode of making such alterations as may before the commencement of such alterations be agreed upon between the Council and the owners, or in case of difference as may be provided by arbitration.

Alterations of position of pipes, lines or wires subject to compensation.

8. In the exercise of the powers in relation to the execution of works given under this Act, the said Council shall cause as little damage and inconvenience as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them, by reason or in consequence of the exercise of such powers, the amount of compensation in case of disagreement to be determined by arbitration.

Provision for compensation.

9. If any company, person or body neglect without lawful excuse to pay any charge for electricity or any other sum due to the Council in respect of supply of electricity the Council may cut off such supply, and for that purpose may cut or disconnect any electric wire, line or other work through which

Power to cut off electric current in certain cases.

electricity may be supplied, and may until such charge or other sum, together with any expense incurred by the Council in cutting off such supply of electricity, are fully paid, but no longer, discontinue the supply of electricity to such company, person or persons.

Penalty for injury to installation.

10. Any person who unlawfully and maliciously cuts or injures any electric wires, line, pipe or work shall be guilty of an offence against this Act, and shall be liable upon conviction to a fine not exceeding Fifty Pounds or to be imprisoned with or without hard labour for any period not exceeding six months, or to both such fine and imprisonment.

Abstracting current a penal offence.

11. Any person who maliciously causes to be wasted or diverted any electricity, shall on conviction be liable to be punished as if he had committed the crime of theft.

Power of entering premises.

12. Any officer appointed for that purpose by the Council may at all reasonable times enter any premises to which electricity is or has been supplied by the Council in order to inspect the electric wires, lines, meters, accumulators, fittings, work, and apparatus for the supply of electricity belonging to the Council, and for the purpose of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required, or where the Council is authorised to take away or cut off the supply of electricity from any premises, for the purpose of removing any electric wires, lines, accumulators, fittings, works or apparatus belonging to the Council.

Arbitration Clauses Act to apply.

13. For the purposes of any arbitration under the provisions of this Act, the "Land and Arbitration Clauses Act, 1882," are hereby incorporated.

Works to be subject to the approval of Government.

14. All works and plant erected or installed by the Council and all other works and plant of a like nature which may be erected under the provisions of this Act shall be subject to the approval of an officer appointed by the Government and to such regulations as the Government may from time to time make in accordance with the regulations for the time being in force, and shall furnish the Government with such plans as they shall desire.

Existing rights protected.

15. Nothing in this Act shall tend or be held to interfere with the Port Elizabeth Harbour Board, Port Elizabeth Tramway Company, or such private persons or companies as have or may hereafter set up installations for providing electric lighting and power for their own use, and in connection with their own properties, but no body or person shall be at liberty to supply electric light or power, whether gratuitously or for payment, to any body or person whatever, nor shall any body or person set up any posts or standards in, or lay wires across or under any street whatever, for the supply of electric lighting or power without the consent in writing of the said Council being first had and obtained. Provided that nothing in this Act shall affect or abridge any right or remedy of the Minister or the Postmaster-General under the Telegraph Act, 1861, the Electric Telegraphs

Act Amendment Act, 1902, the Electric Lighting and Power Act, 1895, or any of them.

16. The Council shall have full power to do all things authorised by this Act notwithstanding that the conditions mentioned in the 9th, 10th and 11th of the regulations under the Electric Lighting and Power Act, 1895, as to compliance with the provisions in connection with the application to Government for authority to supply and use Electricity have not been satisfied within the periods mentioned in the said regulations.

Exemption from operation of certain clauses.

17. This Act may be cited as “The Port Elizabeth Electric Lighting and Power Private Supply Act, 1905.”

Short Title.

No. 12—1905.]

[May 30, 1905.

ACT

To Authorise the Town Council of Bedford to acquire an improved water supply from the Maasstrom Estate and to release a portion of the said Maasstrom Estate from the entail of *Fidei Commissum*.

[Assented to 29th May, 1905.]

WHEREAS the inhabitants of the Municipality of Bedford have, by virtue of certain conditions of sale, dated the 18th and 19th days of January, 1854, and the 18th day of May, 1890, acquired from the Maasstrom Estate, the property of the estate of the late Sir Andries Stockenstrom, certain rights over the water rising on the estate property, subject to conditions 7 and 8 of the aforementioned Conditions of Sale, that is to say :—

Preamble.

Both the streams of water used on the estate for irrigation shall, by means of dams, and furrows as at present in use, or in such improved manner as the proprietors of the erven, or the future municipal or other authorities of the town acting on their behalf, shall hereafter deem fit, be led from the rivers to immediately above the mill on the said estate, where they must join,—thence over the mill-wheel, or when the mill is not working, by the mill spout, or in such course by the mill as the seller shall fix, to a spot marked by a beacon, at a distance of 380 yards below the mill ; and from that spot the whole of the said water shall, during sixteen hours out of every twenty-four be led straightway to the town in one stream, that is, from four o'clock every morning to eight o'clock every evening ;—and the present and future proprietors of the Estate Maasstrom shall at all times have the right to use the said water in its passage, wholly, or in part, for working the mill,—and shall further have the right to turn off the said water at the

before-mentioned spot below the mill, and to use it at pleasure during eight hours in the night time out of every twenty-four hours—that is, from eight o'clock every evening to four o'clock every morning. The dams and furrows, by which the water is to be led from the rivers to the town shall be made, kept in order, and fenced in by and at the expense of the proprietors of the erven, without any pecuniary or other assistance from the present or future proprietors of the said estate. The persons employed by the said proprietors of Erven, or by the future municipal or other authorities of the town, acting on their behalf, shall, for the purpose of repairing and keeping in order the said dams, water furrows and fences, have free access thereto from the town lands up to the dams in the rivers on the estate, at all times between sunrise and sunset; and the said dams and furrows shall be so fenced or otherwise protected as to prevent the stock of the present and future proprietors of said estate from injuring the same; but five thoroughfares of from 30 to 60 feet wide each, over the said furrows, shall be left at such spots as the seller shall point out, for the free passage of the said stock over and across the same. And the present and future proprietors of the said estate shall not be responsible for any accidental trespass upon, or injury which may be done to the said furrows by his or their stock; nor shall such stock be liable to be detained or impounded for any such trespass or injury.

All the inhabitants of the town shall, for culinary and other domestic purposes, have free access to the water so allotted to the town, along its course from where it enters the town downwards to the south-east extremity of the Town Common, without trespass on private property however, and subject to the future Town regulations. But only the erven marked Block A, No. 1 to 4 and 20 to 30; Block B, No. 1 to 31; Block C, No. 1 to 26; Block D, No. 1 to 24; Block E, No. 1 to 23; Block F, No. 1 to 22; Block G, No. 1 to 22, 22a, and 23; Block H, No. 1 to 20; Block J, No. 1 to 8, all inclusive, on the plan of the town framed by the surveyor, shall be entitled to the use of the said stream of water for irrigation, in fair and equal proportions, according to the extent of each:

And whereas, in consequence of the water-course conveying the said water to the town being entirely uncovered, a large quantity of water is lost by percolations and evaporation, and the water generally is subjected to all forms of pollution and contamination;

And whereas the Town Council have caused surveys to be made, and are advised that an ample supply of pure water, sufficient for present and future uses of the town, can be obtained from the said two streams referred to in the said conditions of sale by means of a covered water course or pipe-track leading from a reservoir to be erected at the junction of the two streams above the said mill, without prejudicing the rights of the present or future proprietors of the said Maasstrom Estate :

And whereas it is expedient that the works necessary to accomplish the object should be constructed either by the said Council, or by a joint stock company, or co-partnership of individuals, or an individual with whom the said Council may contract, either for the whole or any portion of the said works, or supplying the material therefor :

And whereas the said Maasstrom Estate is entailed and burthened with a *Fidei Commissum* under the provisions, conditions and stipulations set forth and provided in the last Will and Testament of the said Sir ANDRIES STOCKENSTROM and Lady ELSABE HELENA STOCKENSTROM, executed before the Notary Public John Reid of Cape Town, on the 13th day of September, 1842, and the several Codicils attached thereto, filed in the office of the Master of the Supreme Court on the 19th day of July, 1864 :

And whereas it is necessary that the entail upon the said estate should be removed in so far as it relates to such portion of the said Maasstrom Estate as shall be required to be expropriated by the said Council for the purpose of constructing the said reservoir and two or more filter beds below the said reservoir ; and that the Council be authorised to make use of such stone, clay, gravel or other material on the said estate as may be required in the construction of such works ; and that the extent of such land and the compensation to be paid to the said proprietor or future proprietors of the said Maasstrom Estate by the said Council therefor, and for the said stone, clay, gravel, and other material above referred to, be determined by arbitration :

And whereas it is necessary that the said Council be allowed to cause the water to be conveyed by means of a covered pipe-track from the said reservoir into the town in the most direct route without first passing over the mill-wheel, or mill-spout and along the furrows heretofore used, as is provided in the said conditions of sale above referred to ; the mill not having been in use for the last twelve years, and being of no practical use or value as a mill to the said estate :

And whereas it is necessary, in order to procure funds for the purposes aforesaid, that the said Council shall be empowered to raise such sum or sums of money as they shall require therefor, not exceeding in the aggregate the sum of Thirteen Thousand Pounds ; and that in order that the said

Council may be enabled to pay the interest on the said loan and provide for a sinking fund, the said Council should be empowered in each and every year to impose, levy and collect such a rate or assessment as will produce an amount sufficient to pay such interest and provide for such sinking fund as aforesaid:

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

And whereas plans and sections of the proposed undertaking have been lodged with the Clerk of the House of Assembly, and with the Civil Commissioner of the Division of Bedford :

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

Entail removed from Maasstrom Estate in so far as necessary for Water Supply.

1. The burthen and entail of *Fidei Commissum* upon the said property known as Maasstrom Estate set forth in the last Will and Testament, and Codicils, of the said Sir Andries Stockenstrom and Lady Elsabe Helena Stockenstrom above referred to, is hereby removed and annulled in so far as relates to such portion of the property as is required by the said Council for the construction of the said reservoir and filter beds, and such other work as may be found necessary to be constructed for the carrying out of the said water scheme, and it shall be lawful for the said Council to expropriate such portion of the Maasstrom Estate released from the burthen and entail of *Fidei Commissum*.

Power of Council to construct Reservoir and Waterworks.

2. It shall be lawful for the said Council to construct and make, or cause to be constructed and made, the said reservoir, filterbeds, and such other works as shall be necessary for the carrying out of the said water scheme, and to lay down, or cause to be laid down, a complete underground pipe-track from the said reservoir into the town along the most direct and convenient route, without being obliged to lead the said water over the mill-wheel or mill-spout, or along the course of the existing open furrows referred to in the said conditions of sale, the whole of the said work to be situate on the plan aforesaid or within the limits of deviation thereon shewn : Provided that the present and future owners of the Maasstrom Estate shall be entitled to receive their share of the water as defined by the said conditions of the sale at a point marked "Z" on the aforesaid plan during the day time between the hours of ten o'clock in the morning and six o'clock in the afternoon, instead of in the night time: with the estate's full right to use the flow of the water during such time on any part of the estate and to conduct the same from the open furrow through properly constructed sluice gates across the pipe track at any one or more points that may be necessary, such points to be fixed within three months from the completion

of the reservoir, and provided further that the said estate shall at all times be entitled to make the fullest use of the water-power from the two streams above the proposed reservoir without stopping the flow thereof into the said reservoir during the time to which the Town is entitled thereto : and provided further that there shall be no change in the existing mode of distribution of the water until after the completion of the scheme contemplated by this Act.

3. It shall be lawful for the said Council to take and make use of any stone, clay, gravel, or other material from the Maasstrom Estate, which may be required for the construction and maintenance of any works aforesaid.

Powers of Council to take material for the works.

4. The compensation to be paid by the said Council in respect of the aforesaid expropriation, and in respect of the stone, clay, gravel and other materials which may be required as aforesaid, shall be settled and determined by arbitration under the Lands and Arbitration Clauses Act of 1882 ; and the fiduciary heir of the said estate is hereby empowered to act on behalf of himself and for the future Heirs of the said Estate in the appointment of an Arbitrator to act on their behalf, and in all other matters arising out of such arbitration, which may affect the interests of the present and future heirs.

Method of settling compensation to be paid by the Council.

5. The compensation awarded to the estate in terms of the last preceding section shall be expended by the fiduciary heir solely for the improvement and benefit of the estate, and a due and proper account of such expenditure, supported by proper vouchers, shall be rendered by such heir to the Master of the Supreme Court.

Account of how compensation expended to be rendered.

6. The said Council is hereby further authorised and empowered to construct, maintain and work for the purpose of the said waterworks and for no other purposes, telegraph and telephone lines, or either of them, along or near the said line of works, subject to the provisions of Act No. 20, 1861, or any law amending or extending the same, and to any regulations made from time to time under the provisions of such Acts.

Authority to construct lines of telegraph and telephone.

7. It shall be lawful for the said Council at all times by themselves, their engineer or engineers, contractors or workmen, and with carts or carriages, or otherwise, to have free access and right of way to, over and along the line of works, along the said pipe-track, or along the existing roads in the Maasstrom Estate, and to and from the property of the said Council to be acquired under the provisions of this Act, for the purpose of adding to, repairing, relaying, inspecting or supervising the said works, and for any other lawful purpose whatsoever, that may be deemed expedient by the said Council in or about carrying out the purposes of this Act, and for the proper management and control of the said Water Scheme.

Right of access to the works for purposes of maintenance and the like.

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Council empowered to enter into contracts for execution of works.

Penalties for injuring the Waterworks.

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

9. Any person who shall wilfully injure, damage, obstruct, or interrupt any building, erection, conduit, reservoir, dam or watercourse, drain, ditch, pipe or pipes, or other work or works, or shall obstruct, hinder or prevent the forming, constructing, completing or maintaining the works contemplated by this Act or any of them, shall, upon conviction, be liable to forfeit for the use of the said Council for each offence, a sum not exceeding Twenty-five Pounds Sterling, or be imprisoned with or without hard labour for any period not exceeding six calendar months, or to both such fine and imprisonment: Provided the present and future owners of the Maasstrom Estate shall at all times have access to the intake and pipe track for all lawful purposes.

Penalties for pollution of the Water Supply.

10. Any person who shall bathe or wash himself in the said reservoir, or in the streams flowing into such reservoir, or shall wash, throw, or cause to enter therein any dog or other animal, or shall place or throw any rubbish, dirt, or filth, or other noisome thing in such reservoir or stream, or wash or cleanse therein any wool, leather, or skin of any animal, or any clothes or other thing whatsoever, shall, for every offence on being convicted thereof, forfeit for the use of the said Council a sum not exceeding Twenty-five Pounds Sterling, and in default of payment of such fine, the party convicted shall be liable to be imprisoned with or without hard labour for any period not exceeding six calendar months; provided that nothing in this or the last preceding section contained shall be held or taken to exempt such person from any civil or criminal liability for any of the aforesaid acts to which he would have been subject if this Act had not been passed, but no person shall be prosecuted criminally, both under this Act and any other law for or in regard to one and the same act.

Power to make and publish a tariff of charges for water.

11. The said Council are hereby empowered from time to time to make and publish, alter and amend, a tariff of charges by which the supply of water by private water-leading, and the supply of water to the Railway or other Government Departments shall be regulated; and payment for all private water-leading, and for the supply of water to such Railway or other Government Departments shall be in accordance with such tariff; provided nevertheless that the said Council, or any person duly authorised by them, shall have access at all reasonable times to inspect and regulate all such private water leading; and provided further that the said Council may specially agree with any person or body corporate for the supply to such person or body of water upon such special terms as to the said Council may seem fit.

Method of framing regulations for WaterSupply.

12. It shall be lawful for the said Council at any meeting at which not less than two-thirds of the membership shall be present,

and by a majority shall agree thereto to frame from time to time such regulations or bye-laws as they shall deem necessary for regulating the system of water supply to the Municipality, such regulations and bye-laws to be framed and submitted for the approval of the Governor in manner provided for in the Municipal Act, 1882.

13. For the purpose of carrying out the said water scheme, and of paying compensation for the property to be acquired by the said Council under this Act, the said Council shall be authorised and empowered to take up on loan, by debenture or otherwise, a sum or sums of money not exceeding in the aggregate Thirteen Thousand Pounds Sterling, which sum or sums when borrowed, and every other pecuniary liability incurred by the said Council under the provisions of this Act, shall be deemed and taken to be a debt or debts within the meaning of the Public Bodies' Debts Act, 1867, and shall be subject to the terms thereof.

Power to raise a loan up to £13,000.

14. In order to pay the interest on the said loan, and to provide for an annual contribution of not less than one per cent. per annum on the said Capital, for the purpose of a Sinking Fund for the payment thereof, and for all other claims under this Act, the Council shall be empowered and compelled to impose, levy and collect a sufficient annual rate or assessment over and above what the said Council is already empowered to impose and levy upon the immovable property within the limits of the said Municipality; and every rate or assessment so imposed and made shall be of the same force and effect and be levied in the same manner as if it had been a rate imposed under the provisions of the Municipal Act, 1882, as far as the same are applicable; and all rates so imposed and assessed under the provisions of this Act shall be and be deemed to be a charge upon the property so assessed, and recoverable against the present or any future owner or occupier thereof; provided that it shall be lawful for the said Council to apply towards the payment of interest or principal or of both interest and principal of the moneys borrowed any funds or moneys coming to the said Council from any source whatever and not specially appropriated or required for any other object.

Annual rate to be imposed to pay interest on loan and for Sinking Fund.

15. The amounts for assessment entered on the assessment roll in force within the said Municipality for each and every year shall be the amounts on which the rates shall be levied for the purposes of this Act, so far as the properties included in such assessment roll are concerned, but for any or all properties not included in such assessment roll, and for all properties not liable for assessment under the provisions of the Municipal Act, 1882, the value shall be made and determined annually by such competent person to be appointed by the said Council; provided that such valuation shall be open for public inspection at the office of the said Municipality for the space of fourteen

Water rate to be levied on the amount of assessment on the Municipal Roll.

Special valuation to be made where there is no assessment.

days from the levying of the said annual rate, and the said Council shall give notice in one or more newspapers circulating within the Municipality that the same is open to inspection; and the provisions of sections one hundred and twenty-two, one hundred and twenty-three, and one hundred and twenty-four of the said Municipal Act, 1882, shall apply to the hearing and deciding upon objections to such valuation.

Notice of assessment of rate to be given.

16. Every such rate or assessment so made and assessed as aforesaid shall become due and payable upon some certain day to be fixed by the said Council, of which day or days, and of the rate or assessment, so to become payable, not less than Fourteen days' notice shall in each case be given, and every such notice shall be published by causing the same to be inserted in one or more newspapers circulating within the Municipality, and causing a copy to be affixed in some conspicuous place in or near the Town Hall.

Payment and recovery of rate.

17. As soon as any rate shall be assessed as aforesaid the sum shall become due and payable at such times and places as may be determined by the said Council; and such rate, together with interest at the rate of six per cent. thereon, shall, on non-payment thereof, be recoverable as a separate and distinct rate by action in the Resident Magistrate's Court in the district in which such defaulter resides.

Separate accounts of revenue and expenditure to be kept.

18. The said Council shall keep or cause to be kept a separate and distinct account of all moneys borrowed and all revenue received under this Act and of all moneys expended or set apart in pursuance of the provisions of this Act, and such an account shall, until all sums borrowed under this Act shall have been repaid and the aforesaid debt so incurred extinguished, be annually prepared up to the 31st December in each year, and shall be deposited and lie in the office of the said Municipality for inspection at all reasonable times by any ratepayer of the said Municipality.

Power of entry on premises supplied with water.

Right to cut off water.

19. The said Council may authorise any person for the purpose of inspection or repair, or for the purpose of detecting any waste or leakage in the water-leadings, to enter upon any premises supplied with water by the said Council at any reasonable time, and to cut off the supply to any such premises, after twenty four hours' notice in writing shall have been given of the intention so to do; provided, however, that such supply shall not, under this section, be cut off for any period longer than may be actually required for the purpose of detecting waste or making necessary repairs; and provided further that in case of emergency, such supply may be cut off without the above notice being given.

Right to cut off supply on failure to pay rate.

20. If any person shall, for one week after lawful demand, fail to pay any sum due for water supplied under the provisions of this Act, the said Council, or some person authorised on their behalf, is hereby empowered to enter upon the premises to which the water not paid for has been supplied, and to cut off the supply

until the sum due be paid; provided that nothing in this section shall prevent the recovery of any rates or moneys due by such person under this Act.

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

Cost of house connection and repairs borne by consumer.

22. Nothing in this Act contained shall be taken to affect or interfere with the powers conferred upon Municipal Councils under the provisions of the Municipal Act, 1882, or any other law affecting Municipalities.

Provisions of Act 45, 1882, not to be affected.

23. The necessary costs, charges and expenses of obtaining this Act and of raising the said loan or loans, may be paid by the said Council out of the moneys to be borrowed as aforesaid.

Costs and charges to be paid out of sums borrowed.

24. The word "Municipality" in this Act means the Municipality of Bedford, and the word "Council" the Municipal Council of Bedford.

Meaning of terms.

25. This Act may be cited as "The Bedford Water Supply Act, 1905."

Short Title.

No. 13—1905.]

[May 26, 1905.]

ACT

To Authorise the Council of the Municipality of Green Point and Sea Point to guarantee to Government payment of certain monies in respect of the taking over and working of the Sea Point Railway.

[Assented to 22nd May, 1905.]

WHEREAS it is expedient that the Council of the Municipality of Green Point and Sea Point should be authorised and empowered on behalf of the ratepayers of the Municipality to guarantee to the Government for a period of ten years from the date on which the Sea Point Railway constructed under Act No. 23, 1889, is opened for traffic by Government; payment of interest on the cost price of taking over the said Railway, and on the charges for equipment and repair, and on the cost of raising a loan for above purposes and of any loss on the working of the aforesaid line during such period:

Preamble.

And whereas it is expedient that the said Council should be authorised and empowered to pay such sum or sums of money as may become due and payable under the said guarantee either out of ordinary Municipal funds and property; or by means of a special rate to be imposed, assessed, levied and collected from time to time;

And whereas at a duly convened meeting of the Ratepayers of the Municipality, a resolution was adopted authorising the said Council to obtain the necessary power to enter into the said guarantee;

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

Repugnant laws repealed.

1. So much of the Green and Sea Point Municipal Acts, No. 14, 1859, No. 5, 1895, and No. 6, 1903, or of any other law in force which is repugnant to or inconsistent with this Act is hereby repealed.

Council may give guarantee to cover interest charges.

2. It shall be lawful for the Council of the Municipality of Green Point and Sea Point, acting on behalf of the Ratepayers thereof to enter into a contract with the Government, guaranteeing payment to Government for a period of ten years reckoned from the date on which the line of railway to Sea Point constructed under Act No. 23, 1888, was opened for traffic, of:—

- (a) Interest charges at four per cent. per annum on the cost price of taking over the said railway and appurtenances.
- (b) Interest charges at four per cent. per annum on the cost of equipping and properly repairing the said railway, including the provision of such subways or overhead bridges for foot passengers as may be deemed necessary by the Railway Department of the said Government.
- (c) Interest at four per cent. per annum on expenditure from time to time incurred on overhead bridges, additional buildings or other works to meet the reasonable requirements of the public.

Provided that to the capital cost of the line arrived at in terms of (a), (b) and (c), shall be added an amount of two-and-a-half per cent. to represent the cost of raising the loan required by Government for the purpose of taking over, equipping and repairing the said railway as aforesaid.

And loss of working line for 10 years.

- (d) The actual loss in working the said railway during such period; it being understood that any profit in working the said railway which may be made in any one year ending on the thirtieth day of June, shall be applied to the reduction of the liability in respect of interest charges as aforesaid; and that the nett shortfall only shall be the extent of the liability of the Municipality and ratepayers in any one year; provided, however, that adjustment in full be made from time to time,

taking into consideration any past surpluses of which the said Council shall not at such date have had the full benefit; and provided also that a final adjustment shall take place after the expiration of the said period of ten years.

3. It shall be lawful for the said Council from time to time to pay to the Government such sum or sums of money as may from time to time become due and payable under the aforesaid Contract of Guarantee, and if necessary for the said purpose to impose, levy and collect a special rate not exceeding two pence in the pound.

Levy of Special Rate authorised.

4. Such special rate shall be assessed by the said Council upon all property within the Municipal limits liable to assessment for Municipal rates, and shall be imposed, levied, collected and assessed in the same manner as is provided in the Municipal Act, 1882.

Assessment under Municipal Act.

5. The said Council shall cause to be kept separate accounts of expenditure and receipts arising or accruing from or out of the aforesaid Contract of Guarantee; and any refunds from Government or surplus monies arising from the levy of the special rate aforesaid in any year shall be devoted towards the discharge of liabilities under the said Contract in the succeeding year or years: provided that at the conclusion of the aforesaid period of ten years any such refunds or surplus monies in possession of the said Council after discharge of all liabilities under the said Contract may be devoted to such general Municipal purposes as to the said Council may seem fit.

Separate accounts to be kept.

Surpluses may be appropriated to general purposes.

6. This Act may be cited as "The Green and Sea Point Municipal Council/Railway Guarantee Act, 1905."

Short Title.

No. 14—1905.]

[May 26, 1905.]

ACT

To Further amend the "Glen Grey Act, 1894."

[Assented to 22nd May, 1905.]

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

Preamble.

1. The provisions of section 8 of Act No. 15 of 1899, and so much of section 24 of Act No. 25 of 1894 as is repugnant to the provisions of this section are hereby repealed, and from and after the taking effect of this Act the following proviso shall be read and construed as qualifying the table of succession as contained in section 24 of Act No. 25 of 1894 aforesaid, viz. :—

Repeal of Laws and new provisos to Table of Succession contained in Section 24 of Act 25 of 1894, inserted.

Provided that if the deceased registered holder shall leave any widow recognised as such by law or Native custom,

such widow, or in case of there being more than one widow according to Native Custom then the widow who was the great wife of the deceased registered holder under such custom shall, if she so desire, have the use and occupation of the deceased's allotment and immovable property during her lifetime or until re-marriage, under the obligations imposed by law and the conditions of title, and during such use and occupation the said allotment shall remain registered in the name of the deceased holder. Upon the death or re-marriage of such widow, any son or male heir of the deceased registered holder entitled under the table of succession to succeed to such deceased holder's allotment, shall succeed thereto and have the said allotment registered in his name.

Provided further that should any heir under the table of succession be already in possession of an allotment at the decease of the registered holder in the event of the same registered holder leaving no such widow as aforesaid, or otherwise at the death or re-marriage of any such widow as may have been left by the registered holder, he shall be and is hereby required to elect within three months after the death of the registered holder or the death or re-marriage of the registered holder's widow or the surrender of her rights as herein before provided as the case may be, upon being requested thereto by the Magistrate whether he will remain in possession of the allotment at the time held by him, or take possession of the allotment to which he is entitled to succeed, and the allotment which he does not select shall thereupon be re-allotted by the Governor to, and the title thereto transferred in favour of, some other member of the previous holder's family capable of holding an allotment, and at the same time without one, subject to settlement within the period of three months aforesaid being arranged between the parties concerned as to any claim in respect of improvements on the allotment so surrendered, and failing re-allotment as above to a member of the previous holder's family, the land shall be reallotted by the Governor to, and the title thereto transferred in favour of, any member of the tribe resident or entitled to reside within the district, not being already a registered holder, who is prepared to settle any claim in respect of improvements as aforesaid: Provided, however, that in the event of the parties concerned failing to come to an agreement as to the value of the improvements, a valuation thereof shall be fixed and determined by the Resident Magistrate of the District.

2. Notwithstanding anything to the contrary contained in section 24 of Act No. 25 of 1894 as amended by the foregoing section, if the deceased registered holder of an allotment shall leave no son or son's son and no widow living, or if he shall leave a widow, then upon her death or re-marriage, the Governor may direct that any daughter or granddaughter or more than one of such persons jointly or successively shall have the use and occupation of such allotment and immovable property during her lifetime or until marriage, under the obligations imposed by the said Act, and the conditions of the title and under such other special conditions as he may deem fit, and during such use and occupation the said allotment and immovable property shall continue to remain registered in the name of the deceased holder.

Case where no son nor son's son, nor widow of deceased registered holder of an allotment, living or widow only living.

3. The provisions of sections 33, 34 and 35 of Act No. 25 of 1894 are hereby repealed, and section 36 shall continue to have the force of law only in so far as its provisions are applicable under section 51 of the said Act, or under section 7 of Act No. 15 of 1899.

Repeal of certain Sections of Act 25 of 1894.

4. Notwithstanding anything to the contrary contained in the conditions of any title to land already granted under the provisions of Act No. 25 of 1894, any such land granted as aforesaid shall not be liable to execution for debt except as to any liability or debt already incurred.

Non-liability to Execution of land granted under Act 25 of 1894.

In any fresh title issued under the provisions of Act No. 25 of 1894, the following Clause shall be inserted in lieu of Clause V. of the Schedule A to the said Act :

New Clause in lieu of Clause V. of Schedule A to Act 25 of 1894.

V. That the land hereby granted shall not be liable to execution for debt.

5. Clause XIII. of the Schedule A to Act No. 25 of 1894 and of any title deed already issued under the said Act is hereby amended and shall be read and construed as follows:—

Amendment of Clause XIII of Schedule A to Act No. 25 of 1894.

XIII. That the land shall further be liable to forfeiture by the Governor:—

(1) If the registered holder has been convicted more than once of the crime of theft and on such second or further conviction has been sentenced to imprisonment for a period of not less than twelve months. The fact of such conviction shall be certified to the Governor by the Court by whom the sentence is imposed; or

(2) If the registered holder has failed for a period of three years to beneficially occupy his allotment in accordance with regulations to be made by the Governor. In such case the Resident Magistrate shall, after consultation with the District Council, report such failure to the Governor who shall give three months' notice to such registered holder of his intention to cancel the title, and should the registered holder fail to make proper use of the allotment within the period of notice, the title may be cancelled and the allotment granted to an approved claimant.

No. 14—1905.

Amendment
of Section 10
of Act 25 of
1894.

6. Section 10 of Act No. 25 of 1894 shall be read and construed as if the second sentence thereof were omitted and the following inserted in lieu thereof, viz:—

All moneys payable by virtue of such regulations shall be paid to the District Council who shall administer such funds and provide for any expenses which may be necessarily incurred in carrying out duties imposed under this Act: Provided always that the District Council shall have power to review and refer back for reconsideration, modify or rescind any resolution adopted or any decision arrived at by any Board: Provided further that all monies payable as aforesaid by, and received from, any particular location shall be expended and administered by the District Council within such location.

Amendment
of Section 15
of Act No. 25
of 1894.

7. The words "Civil Commissioner" shall be read as inserted in lieu of the words "Assistant Treasurer" in the fifteenth Section of Act No. 25 of 1894, and the words "belonging to" in lieu of the words "found on the allotment or premises occupied by" in the said section.

Effect and
Short Title of
Act.

8. This Act shall be read as one with the "Glen Grey Act, 1894," as amended by the "Glen Grey Amendment Act, 1899," and shall be cited for all purposes as the "Glen Grey Amendment Act, 1905."

No. 15—1905.]

[June 23, 1905.]

ACT

To Facilitate the Recovery of Certain Small Debts.

[Assented to 6th June, 1905.]

Preamble.

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

Repeal of
Laws.

1. So much of the Act No. 20 of 1856, entitled "The Resident Magistrate's Court Act," or of any other law as is inconsistent with the provisions of this Act, is hereby repealed: Provided that nothing herein contained shall be taken to affect the right of any person who elects to proceed under Act No. 20 of 1856, for the recovery of any debt whatsoever within the jurisdiction of the Resident Magistrate's Court.

Actions for
sums not ex-
ceeding £20.

2. Any person having or claiming to have a right of action against any other person, for a sum not exceeding Twenty Pounds for or in respect of goods sold and delivered, money lent, work or labour done, not due, or in respect of any unconditional acknowledgment of debt may, either personally, or by a clerk in his employ, apply to the Clerk of the Court of the Resident Magistrate of the District in which the defendant resides for a summons as in the First Schedule to this Act provided, and such

Clerk, upon issuing such summons, shall enter the particulars of the plaint in the Civil Record Book of the Court, but no such summons shall be issued until a written copy of a demand in writing previously sent to the defendant by the plaintiff shall have been filed with the said Clerk, who shall satisfy himself that the defendant has had reasonable time to reply.

3. The number of days within which the defendant or his Agent is required in the said summons to enter appearance shall be fixed by the Clerk of the Court in the said summons, and shall be such reasonable period according to the distance at which the party summoned lives as would be calculated and allowed in fixing the date of hearing under Rule eight of Schedule B to Act No. 20 of 1856.

Time for entering appearance.

4. When any defendant, having been duly served with a summons as in the next preceding Section provided, fails to enter appearance either personally or by notice in writing within two days next after the day prescribed in such summons for entering appearance, the Clerk of the said Court shall set the case down for hearing at the next sitting of the Court for Civil business, and shall on such day place the summons before the Resident Magistrate for judgment.

Failure to enter appearance.

5. If the service of the said summons shall have been personal upon the defendant, the said Court shall, without requiring evidence of the claim, give judgment for the amount claimed with costs.

If personal service, judgment.

6. If the service of the said summons shall have been according to law, but shall not have been personal upon the defendant, the said Court shall give judgment of a provisional nature against the defendant for the amount claimed with costs, without requiring evidence of the claim; and no execution shall issue upon such judgment until the plaintiff, together with someone as his surety, shall give security for the full restitution of the amount to be levied and raised under such judgment, should the same be reversed, and the form of the security shall be the same as provided under Rule 28 of Schedule B to Act No. 20 of 1856.

If service not personal, provisional judgment.

7. The defendant may, at any time within one month next after the levy made under any writ of execution issued by virtue of any such provisional judgment as in the next preceding Section mentioned, apply to the Court for leave to re-open the judgment, and if he shall prove to the Court that he was absent from his home at the time when the summons was served, and that he did not receive the same a sufficient time before the day prescribed in this Act for entering appearance to be able to obey the same, and that he did not absent himself from home for the purpose of avoiding the service of the said summons, or that he had some other reasonable excuse to the Magistrate appearing, then the said Court shall order the said judgment to be re-opened, and the proceedings thereupon shall be as provided in case appearance is entered in the first instance.

Re-opening of case.

No. 15-1905.

If appearance entered.

8. If appearance is entered by a defendant within the period mentioned in this Act, the Clerk shall record the same in a special column in the Civil Record Book, and shall appoint and specify a day for the appearance of the parties with their witnesses in order to the hearing of the said claim, and he shall inform the parties thereof and thereupon the proceedings shall be as in Rule 14 and succeeding Rules of Schedule B to Act No. 20 of 1856 provided.

Fees of Court.

9. The fees of Court chargeable for and in respect of the process and proceedings mentioned in Sections Two, Six and Seven of this Act shall be as in the second Schedule to this Act provided, and shall be payable by means of stamps affixed to the documents issued.

Short Title.

10. This Act may be cited as the "Small Debts Recovery Act, 1905."

First Schedule

FIRST SCHEDULE.

FORM OF SUMMONS.

Court of the Resident Magistrate
for the district of.....

To.....

Messenger of the said Court.

Command A.B., of.....(describing him so particularly that the officer of the Court may know where to find him), that within.....days after the service of this summons he enter or cause to be entered an appearance in the Court of the Resident Magistrate for the District of.....to answer C.D. of.....(describing his abode or place of business) in an action wherein the said C.D. claims:

(a) the sum of £..... for goods sold and delivered ;

or

(b) Do. for money lent ;

or

(c) Do. for work and labour done ;

or

(d) Do. for rent due ;

or

(e) Do. on an acknowledgment of debt to
C.D. signed by A.B. with costs of suit.

As it is said :

And return you this summons immediately after the service thereof with whatsoever you have done thereupon.

Dated at.....this.....day of.....One
Thousand Nine Hundred and.....

E.F., Clerk of the Court of the
Resident Magistrate of.....

SECOND SCHEDULE.

			£	s.	d.
Issuing summons	...	...	0	1	0
Copy to serve	...	...	0	0	6
Taking and filing security for restitution	...	...	0	1	0
Copy of Order of Court to re-open judgment to serve	...	...	0	0	6
Warrant of Execution	...	...	0	0	6

No. 16—1905.]

[May 26, 1905.]

ACT

To Provide for the Protection of Wild Flowers.

[Assented to 22nd May, 1905.]

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

Preamble.

1. It shall be lawful for the Governor by Proclamation in the *Gazette* and by notice posted up at the residence of each field cornet in the districts concerned to make regulations for preventing the uprooting of such bulbs or roots, and the plucking or gathering of such wild flowers on land, vested in the Crown, any Municipality, any Village Management Board, any Public Body or any Trustees for any public purposes or on private property without the consent of the owner, as shall on account of their scarcity and the danger of their extermination be from time to time specified in such Proclamation.

Governor may make regulations for protection of wild flowers.

2. Every regulation so made may impose a penalty not exceeding three pounds for the contravention of the same, and any person contravening any such regulation shall be liable to the penalty specially imposed, or, if no such special penalty be imposed, then to a penalty not exceeding a fine of twenty shillings, or, in default of payment thereof, to imprisonment with or without hard labour for a period not exceeding seven days, unless the said fine be sooner paid.

Penalties for breach of regulations.

3. From and after the taking effect of this Act, it shall not be lawful for any person other than the owner of the ground on which such flowers or bulbs are gathered, to sell, expose or offer for sale, or hawk, or be in possession for purposes of sale of any wild flowers, or bulbs, as shall on account of their scarcity and the danger of their extermination be from time to time specified by the Governor by Proclamation in the *Gazette*, without having previously obtained a licence for the purpose. The said licence shall be issued by the Distributor of Stamps of the district in which the applicant therefor resides, upon the payment of the sum of Three Pounds (£3) and shall expire at the end of a year from the date of issue thereof.

Licence to sell wild flowers.

No. 16—1905.

Penalty for
selling wild
flowers with-
out a licence.

4. Every person who shall sell, expose or offer for sale or hawk or be in possession for purposes of sale of any wild flowers or bulbs as aforesaid without having previously taken out the licence in the preceding section mentioned, shall be liable to a penalty not exceeding twenty shillings, or in default of payment thereof, to imprisonment with or without hard labour for a period not exceeding seven days unless such fine be sooner paid: Provided, however, that the provisions of this and the preceding section shall not apply to the sale, exposure or offering for sale of wild flowers at any Agricultural or Horticultural Show.

Short Title.

5. This Act may be cited for all purposes as "The Wild Flowers Protection Act, 1905."

No. 17—1905.]

[May 26, 1905.

ACT

To Amend the Law relating to Village Management Boards.

[Assented to 22nd May, 1905.]

Preamble.

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

Amendment
of Section 4 of
Act 29 of
1881.

1. From and after the taking effect of this Act, the Act No. 29 of 1881, entitled "The Villages Management Act, 1881," shall be read and construed as if, after the words "defined by such proclamation," in the fourth section of the said Act, there were inserted the words "or shall be liable for the payment of Divisional Council rates as owner or lessee of immovable property within such limits which is not in occupation of any occupier entitled to vote under this Act."

Loans.

2. For the purpose of enabling any community established under the Village Management Act, 1881, to obtain loans of money from Government to carry out works of irrigation or artificial storage of water, the provisions of the "Municipalities Irrigation Works Loan Act No. 28 of 1879," shall *mutatis mutandis* apply and extend to such community as if the same were a Municipality within the meaning of that Act: provided that any rates to be levied shall be levied by the Divisional Council of the Division in which such Community is situated upon the request in writing of the Chairman of the Board of Management of such Community; and the provisions of the "Irrigation Acts Amendment Act No. 24 of 1897," with regard to the redemption of and interest on loans for irrigation purposes shall apply *mutatis mutandis* to loans granted to such Communities under the provisions of this Act.

Short title
and effect.

3. This Act may be cited for all purposes as "The Villages Management Act Amendment Act, 1905," and shall be read as one with the said Act No. 29 of 1881.

No. 18—1905.]

[May 26, 1905.]

ACT

To Amend the Law Relating to Merchant Shipping.

[Assented to 25th May, 1905.]

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

Preamble.

1. All and several the provisions of the Merchant Shipping Act, 57 and 58 Victoria, Chapter 60, as amended and set forth in the Schedule to this Act, shall be and are hereby declared to be, *mutatis mutandis*, the law of this Colony: provided that the words “Cape Colony” shall be read for the words “United Kingdom,” that the powers vested in the Board of Trade and His Majesty in Council, with regard to seamen’s lodging-house licences, are hereby vested in the Governor; that the powers vested in the said Board for the purpose of granting, revoking or regulating licences to supply seamen or apprentices are hereby vested in the Colonial Secretary; that the expression “local authority” shall be construed as meaning a Municipal Council, or Village Management Board, or where no such Council or Board exists, a Divisional Council; that the words “shipping master” shall be read for the word “superintendent,” and provided further that all regulations, bye-laws and notices shall be published in the *Gazette*.

Application to Colony of certain provisions of the English Merchant Shipping Act, 1894.

2. The fees payable for any licences issued under this Act shall not exceed such amounts as shall be determined by the Governor, and shall be paid into the Treasury.

Licences payable into Treasury.

3. All persons charged with any contravention of any provision of the Statute aforesaid as hereby brought into force in this Colony, or of any bye-law or regulation made by the Governor, or by any local authority hereunder, shall be tried in the Court of the Resident Magistrate of the district, and, if found guilty, shall be liable to the maximum penalties provided by the Statute aforesaid, as amended: provided that in the event of any fines being levied under the provisions of this Act one-half shall be paid to any person, other than the police, lodging evidence which may lead to a conviction.

Person charged with contraventions prosecuted before a Resident Magistrate.

4. This Act may be cited as the “Merchant Shipping Act, 1905.”

Short Title.

SCHEDULE.

Schedule.

(a) *Licences to Supply Seamen.*

110. The Board of Trade may grant to such persons as the Board think fit licences to engage or supply seamen or apprentices for merchant ships in the United Kingdom, and any such licences shall continue for such period, and may be granted and revoked on such terms and conditions as the Board think proper.

111. (1) A person shall not engage or supply a seaman or apprentice to be entered on board any ship in the United Kingdom, unless that person either holds a licence from the Board of Trade for the purpose, or is the owner or master or mate of the ship, or is *bona fide* the servant and in the constant employment of the owner, or is a superintendent.
- (2) A person shall not employ for the purpose of engaging or supplying a seaman or apprentice to be entered on board any ship in the United Kingdom any person unless that person either holds a licence from the Board of Trade for the purpose, or is the owner or master or mate of the ship or is *bona fide* the servant and in the constant employment of the owner, or is a superintendent.
- (3) A person shall not receive or accept to be entered on board any ship any seaman or apprentice, if that person knows that the seaman or apprentice has been engaged or supplied in contravention of this section.
- (4) If a person acts in contravention of this section, he shall for each seaman or apprentice in respect of whom an offence is committed, be liable to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for a period not exceeding two months, and, if a licensed person, shall forfeit his licence.
112. (1) A person shall not demand or receive directly or indirectly from a seaman or apprentice to the sea service, or from a person seeking employment as a seaman or apprentice to the sea service, or from a person on his behalf, any remuneration whatever for providing him with employment other than any fees authorised by this Act.
- (2) If a person acts in contravention of this section, he shall for each offence be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for a period not exceeding one month.

(b) *Protection of Seamen from Imposition.*

212. Subject to the provisions of this Act an assignment or sale of salvage payable to a seaman or apprentice to the sea service made prior to the accruing thereof shall not bind the person making the same : and a power of attorney for the receipt of any such salvage shall not be irrevocable.

213. A debt exceeding in amount five shillings incurred by any seaman after he is engaged to serve shall not be recoverable until the service agreed for is concluded.

214. (1) A local authority within or in proximity to whose district a seaport is situate may, with the approval of the Board of Trade, make bye-laws relating to seamen's

lodging houses in their district, and these bye-laws shall be binding upon all persons keeping houses in which seamen are lodged and upon the owners thereof and persons employed therein.

- (2) The bye-laws shall, amongst other things, provide for the licensing, inspection, and sanitary conditions of seamen's lodging houses, for the publication of the fact of a house being licensed, for the due execution of the bye-laws, for preventing the obstruction of persons engaged in securing that execution, for the preventing of persons not duly licensed holding themselves out as keeping or purporting to keep licensed houses, and for the exclusion from licensed houses of persons of improper character, and shall impose sufficient fines not exceeding fifty pounds or terms of imprisonment, with or without hard labour, for a period not exceeding six months, for the breach of any bye-law.
- (3) The bye-laws shall come into force from a date therein named, and shall be published in the *London Gazette* and in one newspaper at the least circulating in the district, and designated by the Board of Trade.
- (4) If the local authority do not within a time in each case named by the Board of Trade, make, revoke, or alter, any bye-laws under this section, the Board of Trade may do so.
- (5) Whenever His Majesty in Council orders that in any district or any part thereof none but persons duly licensed in pursuance of bye-laws under this section shall keep seamen's lodging houses or let lodgings to seamen from a date therein named, a person acting in contravention of that order shall for each offence be liable to a fine not exceeding one hundred pounds, or to imprisonment, with or without hard labour, for a period not exceeding six months.
- (6) A local authority may defray all expenses incurred in the execution of this section out of any funds at their disposal as sanitary authority, and fines recovered for a contravention of this section or of any bye-law under this section shall be paid to such authority and added to those funds.
- (7) In this section the expression "local authority" means in the administrative County of London the County Council, and elsewhere in England the local authority under the Public Health Acts, and in Scotland the local authority under the Public Health (Scotland) Act, 1867, and the Acts amending the same, and in Ireland, the local authority under the Public Health (Ireland) Act, 1878, and the expression "district" means the area under the authority of such local authority.

215. If a person demands or receives from a seaman or apprentice to the sea service, payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine not exceeding ten pounds or to imprisonment, with or without hard labour, for a period not exceeding two months.

216. (1) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice to the sea service, and does not return the same or pay the value thereof, when required by the seaman or apprentice, subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board and lodging or otherwise, or absconds therewith, he shall for each offence be liable to a fine not exceeding ten pounds or to imprisonment, with or without hard labour, for a period not exceeding two months.

(2) A Court of summary jurisdiction may, besides inflicting a fine, by summary order direct the amount of the money, or the value of the effects, subject to such deduction as aforesaid (if any), or the effects themselves, to be forthwith paid or delivered to the seaman or apprentice.

217. If at any time after the arrival of a ship at a port in the United Kingdom, a person then being on board the ship solicits a seaman to become a lodger at the house of a person letting lodgings for hire, or takes out of the ship any effects of a seaman, except under the personal direction of the seaman, and with the permission of the master, he shall for each offence be liable to a fine not exceeding five pounds or to imprisonment, with or without hard labour, for a period not exceeding one month.

218. Where a ship is about to arrive, is arriving, or has arrived within the territorial waters of the Colony and any person, not being in His Majesty's service, or not being duly authorised by law for the purpose,

(a) goes on board the ship, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement, or are discharged (whichever last happens); or

(b) being on board the ship, remains there after being warned to leave by the master, or by a police officer, or by any officer of the Board of Trade or of the Customs, that person shall for each offence be liable to a fine not exceeding twenty pounds, or, at the discretion of the Court to imprisonment for a period not exceeding six months; and the master of the ship or any officer of the Board of Trade may take him into custody, and deliver him up forthwith to a constable to be taken before a Court capable of taking cognizance of the offence.

(c) *Enticing to Desert and Harboursing Deserters.*

236. (1) If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine not exceeding ten pounds or to imprisonment, with or without hard labour, for a period not exceeding two months.
- (2) If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine not exceeding twenty pounds or to imprisonment, with or without hard labour, for a period not exceeding three months.

No. 19—1905.]

[May 26, 1905.]

ACT

To Authorise the Council of the Municipality of Somerset West Strand on behalf of the ratepayers of the said Municipality to conclude a certain Contract of guarantee with the Government in connection with the construction, equipment, working and maintenance of a certain line of Railway.

[Assented to 25th May, 1905.]

WHEREAS it is desirable that a line of Railway should be constructed, equipped, worked and maintained from a point on the existing Government Railway at or near the present Somerset West Station or Strand Halt Siding to a point in the Municipality of Somerset West Strand at or near the Main Road to Mostert Bay;

Preamble.

And whereas whilst it is expedient that the said line of Railway be constituted, equipped, worked and maintained by the Government, it is at the same time necessary in order to induce the Government to undertake such construction, equipment, working and maintenance, that the Council of the Municipality of Somerset West Strand acting on behalf of the ratepayers of the said Municipality should enter into a Contract with the Government guaranteeing certain payments in connection with the said line, for a term of ten years;

And whereas it is desirable that the said Council be authorised to enter into the said Contract of guarantee, and to pay such sums as may from time to time become claimable thereunder to

the Government either out of the ordinary rates of the Municipality or by means of a special rate to be imposed, levied and collected from time to time ;

And whereas at a meeting of ratepayers of the said Municipality held on the 21st day of February, 1905, a resolution was adopted authorising the said Council to enter into a Contract of guarantee in connection with the said line, and to secure legal effect for such guarantee.

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

Municipal Council authorised to furnish guarantee of certain interest charges.

1. Notwithstanding the provisions of Act No. 45 of 1882, commonly called "The Municipal Act, 1882," and of any other law it shall be lawful for the Council of the Municipality of Somerset West Strand to enter into and conclude a Contract with the Government, guaranteeing, on the security of the Municipal funds, rates and property, the payment to the Government of :—

(a) Interest at the rate of four per centum per annum on the capital cost of the construction and equipment by the Government of a line of Railway from a point at or near Somerset West Station or Strand Halt Siding on the existing Government Railways to a point at or near the Main Road in the Municipality of Somerset West Strand to Mostert Bay for a period of ten years from the date of the opening for traffic of the said line, such capital cost to include :—

- (1) The acquisition of land, the erection of station buildings, and all other appurtenances and appliances as are usual on similar lines on the Cape Government Railways ;
- (2) The actual cost of all betterments or new works which it may be necessary to provide after the opening of the line, for safe and proper working ; and
- (3) An additional sum not exceeding five per cent. of the expenditure to cover the cost of raising loans and interest during construction.

(b) The actual loss incurred by Government in the working of the said line during the said period of ten years. Provided that any profit in working the said railway which may be made in any one year ending on the 30th day of June shall be applied to the reduction of the liability in respect of interest charges as aforesaid ; and that the nett shortfall only shall be the extent of the liability of the Municipality and ratepayers in any one year.

Provided however that adjustment be made from time to time, the period of the first adjustment to be within three years from the date of the opening of the said railway and thereafter

And loss of Working Line for 10 years.

annually taking into consideration any past surplus of which the said Council shall not at such date have had the full benefit; and provided also that a final adjustment shall take place after the expiration of the said period of ten years.

Levy of Special Rate authorised.

2. For the purpose of giving effect to the said guarantee the said Council is hereby authorised to pay from time to time such sums as may become due thereunder, either out of the ordinary funds of the Council or by means of a special rate not exceeding twopence in the pound, levied for the purpose annually or in such year or years as may be required.

Assessment under Municipal Act.

3. Such special rate shall be assessed by such Council upon all property within the Municipal limits liable to assessment and shall be made, levied, collected and recovered in the same manner as other rates provided for by the said "Municipal Act, 1882."

4. The said Council shall cause to be kept separate accounts of expenditure and receipts arising or accruing by reason of the said Contract of Guarantee, and any refunds from Government or surplus funds arising from the levy of the special rate aforesaid in any year shall be devoted towards the discharge of liabilities under the said Contract in the succeeding year or years; provided that at the conclusion of the aforesaid period of ten years any such refunds or surplus monies in the possession of the Council after discharging all liability under the said Contract may be devoted to general Municipal purposes.

Separate accounts to be kept.

Surplus may be appropriated.

5. This Act may be cited for all purposes as "The Somerset West Strand Railway Municipal Guarantee Act, 1905."

Short Title.

No. 20—1905.]

[May 30, 1905.]

ACT

To Enable the Mayor, Councillors and Townsmen of East London to transfer to the Colonial Government certain piece of land as a site for an Animals Quarantine Station.

[Assented to 29th May, 1905.]

WHEREAS the Mayor, Councillors and Townsmen of East London, hereinafter styled "the Council," applied to the Colonial Government for the grant of certain land, measuring 203 morgen 493 square roods, known as "Bats Cave Beach Lands," to which application the said Government acceded, upon condition that the same should be used for the purposes of a park, the construction of a drive along the Beach, and for improving bathing facilities, and further, upon condition that the bush and plantations should not be disturbed except by the necessary road and tracks, that the Council should undertake all responsibility with regard to the drift sand on the ground, and further, that the Council should transfer to the Government as a site for an Animals Quarantine

Preamble.

Station certain piece of land, in extent about three acres, situated in the Municipality of East London, between the Native Location and the Amalinda Stream.

And whereas the grant of the "Bats Cave Beach Lands" was, subject to such conditions, duly approved by resolution of the House of Assembly, bearing date the 27th May, 1904, and by resolution of the Legislative Council, bearing date the 28th May, 1904. And whereas the grant of the said "Bats Cave Beach Lands" has been duly effected and it is now necessary that the Council should transfer the said Animals Quarantine Station site to the Colonial Government; And whereas doubts exist whether such transfer can legally be made, and it is expedient to remove such doubts, and to empower the Mayor, Councillors and Towns-men of East London to effect the said transfer to the Colonial Government.

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

Transfer of
Animals'
Quarantine
Station Site
authorised.

1. It shall be lawful for the Mayor, Councillors and Towns-men of East London to transfer to the Colonial Government certain piece of ground situated between the Native Location and the Amalinda Stream, in extent about 3 acres, as a site for an Animals' Quarantine Station, in terms of the agreement set forth in the preamble.

Repeal of
Repugnant
Laws.

2. So much of Acts No. 23 of 1880 and No. 11 of 1895 and any other Act or law which may be inconsistent with the provisions of this Act are hereby repealed.

Short Title.

3. This Act may be cited for all purposes as "The East London Animals' Quarantine Station Site Transfer Act, 1905."

No. 21—1905.]

[May 30, 1905.]

ACT

To Provide for the grant of Farms N.W. 14 and 15, Division of Barkly West, to Joseph Hayward in satisfaction of his claim to certain Lands in Bechuanaland, appropriated by the British Bechuanaland Government for the use of Natives.

[Assented to 29th May, 1905.]

Preamble.

WHEREAS the British Bechuanaland Land Commission in 1886 awarded certain grants of land and grazing rights to Jan Fourie at Fourie's Puts, Joseph Hayward at Banks Drift East, N. J. de Kock at Baas Jan's Place and Mrs. M. W. Wall at Garamakata, Bechuanaland, subject to certain quitrents:

And whereas the Government decided to appropriate the land and grazing rights aforementioned for the use of natives, and award land elsewhere in lieu of the same:

And whereas Joseph Hayward has purchased the claims of the other persons aforementioned, and is thus entitled to a total grant of 6,750 morgen of land subject to a quitrent of ten pounds sterling per annum :

And whereas his claim has remained unsettled up to the present time and there is no land of corresponding value and position now available in Bechuanaland :

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

1. Notwithstanding anything to the contrary contained in the "Crown Lands Disposal Act, No. 15 of 1887," or any other Law, it shall be lawful for the Governor to grant the following lands unto Joseph Hayward in satisfaction of his claim to a grant of land in lieu of the land and grazing rights awarded by the British Bechuanaland Commission in 1886, the said grant to be subject to the general conditions set forth in section five of the said Act 15 of 1887, and subject to the provisions of any Law for the time being regulating the working of and prospecting for precious stones and minerals, that is to say :—

Governor may grant him certain lands, subject to conditions.

The farms N.W. 14 and 15, situated on the Hartz River, in the Division of Barkly West, in extent respectively 6,215 Morgen 271 Square Roods, and 4,619 Morgen 328 Square Roods ; Provided that the grant shall further be subject to the payment of a perpetual quitrent of ten pounds sterling per annum for 6,750 Morgen and a proportionately increased quitrent for the excess over this area,—such quitrent to be subject to the provisions of section two of Act No. 40 of 1895, as regards redemption and apportionment.

2. This Act may be cited as "The Hayward Land Grant Act, 1905."

Short Title.

No. 22—1905.]

[May 30, 1905.

ACT

To Amend the Law relating to the Extermination of Burrweed and other noxious weeds and plants in Native Locations.

[Assented to 29th May, 1905.]

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

Preamble.

1. Notwithstanding anything to the contrary contained in any Law it shall be lawful for any Headman charged, under the provisions of the "Divisional Councils Act, 1889," with the duty of eradicating Xanthium Spinosum (Burrweed) or other noxious or destructive weeds or plants growing in a Native Location on

Natives occupying land in Native Location, to assist in eradicating Burrweed &c.

No. 22—1905.

Crown Land, to call upon and require any able-bodied male native occupying land in such Location to assist in eradicating any such noxious or destructive weeds or plants growing on land in such Locations, and any such male native who shall, when so called upon and required, fail or neglect, without reasonable excuse, to render or arrange for the rendering of such assistance shall be liable to a penalty not exceeding £5 or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding one month, unless such fine be sooner paid.

Short Title. 2. This Act may be cited for all purposes as "The Extirpation of Noxious Plants and Weeds in Native Locations Act, 1905."

No. 23—1905.]

[May 30th, 1905.]

ACT

To Amend the Law relating to the Rehabilitation of Insolvents.

[Assented to 19th May, 1905.]

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

Rehabilita-
tion of fraud-
ulent insol-
vents.

1. After the lapse of seven years from the date of the conviction of any insolvent of fraudulent insolvency, or, in case the sentence of imprisonment shall exceed seven years, after the expiration of such sentence, such insolvent shall for the purposes of the Law relating to the Discharge and Rehabilitation of Insolvents be deemed to be in the same position in every respect as an insolvent who has not been so convicted, anything to the contrary in the Insolvent Ordinance No. 6 of 1843, the Insolvent Law Amendment Act No. 38 of 1884, or any other Law, notwithstanding.

Short Title. 2. This Act may be cited for all purposes as "The Insolvents Rehabilitation Law Amendment Act, 1905."

No. 24—1905.]

[June 3, 1905.]

ACT

To Prevent the supply of Tobacco to Youths.

[Assented to 2nd June, 1905.]

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

Sale of to-
bacco, etc., to
persons under
16 prohibited.

1. From and after the promulgation of this Act it shall be unlawful for any dealer to sell, supply or give any tobacco, cigars or cigarettes, to any person under the age of sixteen years, unless on production of a written order signed by the parent, guardian or employer of such person known to the said dealer, and any

person contravening this section shall be liable to a penalty not exceeding five pounds for each and every offence, or in default of payment to imprisonment for a period not exceeding one month.

2. From and after the promulgation of this Act, the teacher or teachers of any school, and the head or heads of any boarding establishment attached to such school, shall have the power of taking from pupils under sixteen years of age, attending such school, any tobacco, tobacco pipes used for smoking, cigars, cigarettes, or cigar and cigarette holders found in possession of such pupils for the purpose of handing the same to the parents or guardians of such pupils, and using tobacco in any form by such pupils within the jurisdiction of the school authorities shall be punishable as a school offence. Any person found guilty of giving an order to any person under the age of sixteen years for the purchase of tobacco not being the parent, guardian or employer shall be liable to a fine not exceeding five pounds, or to imprisonment for a period not exceeding one month.

Confiscation
of tobacco,
etc., by teach-
ers.

3. This Act may be cited as the "Youths' Smoking Prevention Act, 1905."

Short Title.

No. 25—1905.]

[June 3, 1905.]

ACT

To Empower the Town Council of Beaconsfield to supply electricity for lighting and other purposes within the Municipality.

[Assented to 2nd June, 1905.]

WHEREAS it is expedient that the Beaconsfield Town Council, constituted under Act 45 of 1882, should be granted power to supply electricity for the purpose of lighting, heating or applying power to all streets, lanes, squares, public passages, thoroughfares, public buildings, places of worship, places of entertainment, private residences and grounds, shops, hotels, warehouses, offices and such like, and for domestic and industrial purposes, for electric traction and for supplying consumers generally with electricity (except for telegraphs, telephones or other electric signals) within the Municipality of Beaconsfield,

Preamble.

And, whereas, it is desirable to give the Town Council the power to establish a system of electricity for lighting and other purposes, to sell and supply electric energy for lighting or application of power :

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

Enacting
clause.

1. In this Act the following terms shall have the meaning assigned to them by this section, unless another meaning appears clearly from the context to be intended :—

Interpreta-
tion clause.

"Council" shall mean the Town Council of Beaconsfield.

- “Public Buildings and Places” shall mean any library, clubs, social, political or sporting, Government buildings, such as post office, railway station, halls, schools, public hospitals, and public and private nursing homes, or any building or place of a public nature.
- “Places of Worship” shall mean any building used as a place of worship, or church and school combined.
- “Places of Entertainment” shall mean a building or erection of any description used for the performance of theatrical plays, operas, concerts, and other entertainments.
- “Private Residences and Grounds” shall mean any private residence or dwelling house with any ground attached thereto.
- “Shops” shall mean any premises used as a shop for the retail of articles or goods of whatever description or premises used for wholesale purposes.
- “Hotel” shall mean hotels duly licensed by the Licensing Board, temperance hotels, whether requiring a licence or not, and boarding houses.
- “Warehouse” shall mean any premises used as a store or warehouse for any articles or goods whatsoever.
- “Offices” shall mean any premises used as an office in connection with mercantile, shipping, legal, or any other business.
- “Domestic and Industrial Purposes” shall mean the supply of electric energy for cooking or any other domestic purpose, and for any industry of whatever nature.
- “Electric Traction” shall mean the supply of electricity as motive power for tramways, and for driving machinery and lifts and the like.
- “Company” shall mean any Company registered under any Companies’ Act passed by the legislature of the Colony of the Cape of Good Hope.
- “Public Body” shall mean any Municipality, Divisional Council, Village Management Board, the Government or any other body of a public nature.
- “Street” shall include any public square, court, or alley, highway, lane, road, thoroughfare, footpath, or public passage or place whatsoever.

Power to
construct
necessary
works for sup-
plying elec-
tricity.

2. It shall be lawful for the Council to construct, provide and maintain transforming stations and all other works necessary with a view to supply electrical energy for the purposes aftermentioned: for the lighting, heating or the application of electric power to streets, lanes, squares, public passages, thoroughfares, public buildings and places, places of worship, places of entertainment, private residences and grounds, shops, warehouses, offices, and such like, and for domestic and industrial purposes, for electric traction, and for supplying consumers generally with electricity within the Municipality.

3. It shall be lawful for the Council to provide, erect, and maintain or grant leave to any person or persons, company or companies to provide, erect and maintain under such conditions as they may see fit, such a number of lamps, lamp-posts, lamp-irons and other appliances and appurtenances as may be necessary for the purpose of lighting by electricity or otherwise the whole streets, lanes, squares, public passages, thoroughfares and public places within the town, and to light or enter into contracts for lighting and cause to be lighted such lamps by means of electricity or otherwise, and the Council are hereby authorized to order and require such lamp-posts, lamp-irons and other appliances and appurtenances to be put or fixed upon the sides of the pavements, footpaths, streets or roads or the centre of roads, in parks, grounds and open spaces, or subject to the consent of the owner or owners thereof upon or against walls and palisades of any buildings on the sides of the streets, footways or roads.

Public lighting and power to erect lamp-posts and other appliances.

4. The Council shall have full power and authority to do all things necessary for the placing of main and branch wires underground or overhead, to convey the electric current to be used for the purposes hereinbefore set forth underneath the streets of the Municipality, and to connect the said wires, lines, or pipes with any premises at the request of the owners or occupiers thereof and to make such deviations as may be necessary within the limits of the Municipality subject to the provisions of the Electric Lighting and Power Act, 1895, or of any law now in force, or which may hereafter be passed amending or extending the said provisions, and to any regulations made under the said provisions, and to any bye-laws framed under the provisions of the 6th Section of this Act.

Power to lay main and branch wires, &c.

5. The Council shall have full power and authority, subject to the provisions of the Electric Lighting and Power Act, 1895, to enter into agreements with any person, company, or public body for the purchase of the supply of electricity for such places or premises and for such purposes as are hereinbefore set forth, and shall make charges for the said supply in accordance with the tariff which the Council is hereby authorized and empowered to frame: Provided that, in agreements for the supply of electricity to the Government, in respect of any building or premises used for Government purposes within the Municipality, the price and extent of the supply shall be subject to mutual agreement, but the price shall not exceed the lowest price charged to any consumer.

Power to frame tariff of charges.

6. The said supply of electricity shall be furnished in all respects in accordance with the regulations for the time being in force framed under the provisions of the Electric Lighting and Power Act, 1895, or of any law amending or extending the same styled "Regulations for securing the safety of the public," in so far as the said regulations are applicable to the said supply and in accordance with any additional bye-laws which the said Council is hereby empowered to publish from time to time with the approval

Public safety secured and power to frame additional bye-laws, &c.

of the Governor for securing the safety of the consumer and public from injury by shock, fire, or otherwise, and regulating the supply of electricity.

Power to acquire land, and to enter into contracts, &c.

7. The Council may, subject to and in accordance with the powers and restrictions of this Act and of the Electric Lighting and Power Act, 1895, and the regulations made thereunder, and for the purpose of supplying electricity as aforesaid, acquire such land, construct such works and enter into such contracts, and generally do all such acts and things as may be necessary and incidental to such supply.

Alterations of positions of pipes, lines or wires subject to compensation.

8. Subject to the provisions of this Act and of the Electric Lighting and Power Act of 1895, and of any law now in force or which may hereafter be passed amending or extending the provisions thereof and to any regulations framed under the provisions of the said Act, the Council may also alter the position of any pipes, lines, wires, or any obstruction which may interfere with the exercise of their powers under this Act on previously making and securing such compensation to the owner of such pipes, lines, wires, or obstructions, and on complying with such conditions as to the mode of making such alterations as may before the commencement of such alterations be agreed upon between the Council and the owners, or in case of difference as may be provided by arbitration.

Provision for compensation.

9. In the exercise of the powers hereunder, the Council shall cause as little inconvenience as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount of compensation in case of disagreement to be determined by arbitration.

Power to cut off electric current in certain cases.

10. If any company, person or body without lawful excuse fails to pay any charge for electricity or any other sum due to the Council in respect of supply of electricity, the Council may cut off such supply and for that purpose may cut or disconnect any electric wire, line or other work the property of the Council through which electricity may be supplied, and may until such charge or other sum, together with any expenses incurred by the Council in cutting off such supply of electricity are fully paid, but no longer, discontinue the supply of electricity to such company, person or persons.

Abstracting current a penal offence.

11. Any person who wilfully causes to be wasted or diverted any electricity shall on conviction be liable to be punished as if he had committed the crime of theft.

Power of entering premises.

12. Any officer appointed for that purpose by the Council may at all reasonable times enter any premises to which electricity is or has been supplied by the Council in order to inspect the electric wires, lines, meters, accumulators, fittings, work, and apparatus for the supply of electricity belonging to the Council, and for the purpose of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required,

or where the Council is authorised to take away and cut off the supply of electricity from any premises, for the purpose of removing any electric wires, lines, accumulators, fittings, works or apparatus belonging to the Council.

13. For the purposes of any arbitration under the provisions of this Act, the "Lands and Arbitration Clauses Act, 1882," is hereby incorporated. Arbitration Clauses Act to apply.

14. All works or plant erected or installed by the Council and all other works and plant of a like nature which may be erected under the authority of this Act, shall be subject to the approval of an officer appointed by the Government, and to such regulations as the Government may from time to time make in accordance with the regulations for the time being in force and the Council shall furnish the Government with such plans as may be required. Works to be subject to the approval of Government.

15. Nothing in this Act shall tend or be held to interfere with such private persons or companies as have or may hereafter set up installations for providing electric lighting and power for their own use and in connection with their own properties, but no body or person shall be at liberty without the consent of the Council to supply electric power, whether gratuitously or for payment to any body or person whatever (such consent not to be withheld if the Council is unable to supply the current) nor shall any body or person for such purpose set up any posts or standards on or lay wires across or under any street whatever, and any person, company or body, who may have so placed wires across or under any public thoroughfare shall be bound to remove the same upon notice in writing so to do duly delivered or posted, by the said Council: provided that nothing in this section or Act contained shall in any way prejudicially affect or limit the rights of the said Council and the firm of Gibson Brothers in respect of existing agreements whereby the said Gibson Brothers have acquired certain concessions for constructing, using and maintaining tramways within the Municipality of Beaconsfield. Existing rights protected.

16. The Council shall have full power to do all things authorized by this Act notwithstanding that the conditions mentioned in the 9th, 10th and 11th Clauses of the regulations under the Electric Lighting and Power Act, 1895, as to compliance with the provisions in connection with the application to Government for authority to supply and use electricity have not been satisfied within the periods mentioned in the said regulations. Exemption from operation of certain clauses.

17. Nothing in this Act shall be construed as entitling the Council to exercise any of the powers conferred therein upon, over or under any land or building for the time being vested in the Colonial Government and appropriated for railway purposes, except with the written consent of the General Manager of Railways, first had and obtained and under such reasonable conditions and terms as may be imposed by him; and all works carried on and things done in pursuance of this Act under, upon or over such Government property shall be carried on and done. Land appropriated for railway purposes.

No. 25—1905.

under the supervision of an officer to be appointed by the General Manager of Railways therefor, and at the Council's expense; and the Council shall in addition bear the cost of such supervision.

Short Title. 18. This Act may be cited as "The Beaconsfield Electric Lighting and Power Private Supply Act, 1905."

No. 26—1905.]

[June 2, 1905.]

ACT

To Impose an Excise Duty on Foreign Spirits, and to continue Part II. of the "Additional Taxation Act, 1904."

106

[Assented to 1st June, 1905.]

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

Duty payable on Foreign Spirits.

1. From and after the 15th day of June, 1905, there shall be payable to the Colonial Revenue upon every gallon of Foreign Spirits sold, removed, or disposed of by a Retail Dealer, or sold, removed or disposed of by a Wholesale Dealer to any person other than a Licensed Dealer in Spirits, and on every gallon of Foreign Spirits in excess of 5 gallons, in the custody or possession of any person other than a Wholesale or Retail Dealer on that date, and on every gallon which may thereafter come into the possession of such other person, and in respect of which the duty hereby imposed has not been paid, a duty of Excise at the rate of six shillings per gallon, if the Spirits do not exceed the strength of proof with a proportionate increase in case the Spirits be of greater strength.

Definition of term Foreign Spirits.

2. The term Foreign Spirits as defined in Section 2 Part I. of the Additional Taxation Act No. 36 of 1904, shall not include for the purposes of this Act Spirits manufactured in any Colony or Territory in the Customs Union, from the growth or produce of such Colony or Territory.

Certain provisions under Act 36 of 1904 to apply.

3. The provisions of Part I. Sections 2, 26, 28, 29, 30, 31, 32, 33, 34, 35 and 38 of the Additional Taxation Act No. 36 of 1904, and of the several other Sections of such Act and the Regulations framed thereunder in so far as they apply to the rendering of returns of stocks in hand on the 15th day of June, 1905, or making entry of premises and of casks, vessels and utensils used for storing Spirits on such premises, the keeping of Stock Books and rendering of Returns, the purchase, receipt, storage, warehousing, sale, removal or disposal of Colonial Spirits, and the accrual of or payment of Excise Duty in respect of Colonial Spirits, shall also apply to Foreign Spirits.

4. Any person who shall contravene any of the provisions of this Act in so far as they apply to Excise or of Part I. of the Additional Taxation Act of 1904, or of any Excise Regulations made under the said Acts, shall, upon conviction before the Court of the Resident Magistrate of the District in which the offence was committed or of any other competent Court, be liable to the penalty provided for, or to a penalty not exceeding fifty pounds when no penalty has been provided, in addition to any forfeiture by the said Acts provided, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months unless such penalty be sooner paid.

Penalty clause.

5. Notwithstanding anything to the contrary contained in any law, any Excise Duty accruing under any law for the time being in force, and which shall remain unpaid, shall be recoverable in the Court of the Resident Magistrate of the District in which the Duty accrued.

Duty recoverable in Magistrate's Court.

6. Notwithstanding anything contained in Part I. of the Additional Taxation Act of 1904, or this Act, the Governor shall have power under such Regulations as he may determine, to dispense, wholly or in part, with the keeping of Stock Books or the rendering of Returns by Wholesale or Retail Dealers who receive into Stock or sell Colonial or Foreign Spirits the Excise Duty on which has been paid.

Governor empowered to dispense with keeping Stock books or Returns.

7. The duties and authority vested in the Chief Inspector of Excise by the several Excise Acts shall devolve upon and be exercisable by the Controller of Excise or other Chief Excise Officer appointed by the Governor.

Duties of Controller of Excise.

8. The income tax provided and charged under and by virtue of Part II. of the Additional Taxation Act No. 36 of 1904 shall be and is hereby continued, and shall be charged, levied, collected and paid from and after the First day of July, 1905, to the Thirtieth day of June, 1906, and until the assessments made under this Act shall be completed, levied, collected and paid, for the service of the financial year ending 30th June, 1906, upon and in respect of incomes arising and accruing during the twelve months ending 30th June, 1905, taxable under the provisions of the said Act No. 36 of 1904, as herein applied, and all matters, duties, powers and liabilities provided by the said Act in respect of income tax shall apply *mutatis mutandis* to the income tax charged under and collected and paid under this Act.

Extension of period during which Income Tax payable.

9. This Act may be cited as the "Additional Taxation Act, 1905."

Short title.

No. 27—1905.]

[June 3, 1905.]

ACT

To Constitute the Borough of King William's Town a Municipality under its own Act of Incorporation and for Regulating the Municipal Corporation and Government thereof.

[Assented to 2nd June, 1905].

Preamble.

WHEREAS by Proclamation No. 29 of 1903 the Municipality of King William's Town was constituted a Municipality under the provisions of the Municipal Act 1882 and whereas it is expedient that the Borough of King William's Town should again be constituted under its own Act of Incorporation and whereas it is expedient to amend and add to the existing Law regulating the Municipal Government of the said Borough and to confer upon the Council of King William's Town rights, powers and privileges with regard to Municipal property, works, and undertakings, and the acquisition of movable or immovable property for Municipal purposes, with regard to the levying of rates for Municipal purposes, with regard to Municipal Officers, and with regard to the good, cleanly, healthy order and condition of the said Borough and the inhabitants thereof, and the advancement and improvement thereof, and with regard to the maintaining and developing of Municipal Government therein by means of suitable rules and regulations made by the Council and approved of by the Governor, and whereas it is expedient to confirm and ratify the sales of certain lands made in terms of the 51st section of Ordinance No. 9 of 1864 of the late Colony of British Kaffraria subsequent to the promulgation of Act No. 17 of 1869 ;

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

Repeal of
Repugnant
Laws.

1. The Proclamation No. 29 of 1903 bringing the Borough of King William's Town under the operation of the Municipal Act No. 45 of 1882 and Act No. 12 of 1894 from section Five to the end of the said Act and any other law, proclamation or ordinance repugnant to or inconsistent with this Act are hereby repealed except as to property vested, acts and things done or commenced, rights, privileges and protection acquired, liabilities incurred, offences committed and proceedings taken, provided however that the provisions of Act No. 21 of 1881 shall remain of full force and effect.

2. Notwithstanding the repeal of the laws hereby repealed :—

- (1) All creditors of the Borough of King William's Town constituted under the Act 45 of 1882 shall have the same rights and remedies as if this Act had not been passed.

Provisions
to apply at the
coming into
force of this
Act.

- (2) All Borough regulations in force in such Borough shall (unless repugnant to the provisions of this Act) continue in force, until altered or amended under this Act.
- (3) The Councillors in office under the said Act 45 of 1882 shall continue in office until the election and first meeting of Councillors under the provisions of this Act.
- (4) All rates due or payable to, or recoverable by the said Borough shall be vested in and recoverable by the Borough newly constituted under this Act, and the valuation or assessment roll in use first prior to the taking effect of this Act shall continue to be used until a new one shall be completed under the provisions of this Act.
- (5) All works and undertakings authorised to be executed, all rights, liabilities, and engagements existing, and all actions, suits, and proceedings pending by or against or in respect of such Borough, shall be vested in, attached to and be enforced, carried on, and prosecuted by or against the Borough newly constituted: and no such action, suit or proceeding shall abate or be discontinued or prejudicially affected by such constitution.
- (6) All property movable and immovable, and all moneys of or vested in such Borough, shall be vested in and belong to the Borough constituted under this Act.

3. All sales of land heretofore or hereafter approved by the Governor and purporting to be made by the Borough Council constituted under the Ordinance No. 9 of 1864 of the late Colony of British Kaffraria, in terms of the Fifty-first section of that Ordinance are hereby ratified and confirmed.

Land sold
under Section
51 of Act 9 of
1864.

4. The Borough of King William's Town shall comprehend the land included within the undermentioned boundaries: From the junction of the Balazi with the Buffalo River; down the Buffalo River to the Gwokkobi; up the Gwokkobi to the drift on the road to Masingati's Kraal from King William's Town; thence in a straight line to where the Utiti falls into the Estchoxa; thence in a straight line to the head of the Isana, where it first becomes defined; down the Isana to the Buffalo; down the Buffalo to where the Kloof known by the name of "Sweet Waters" joins it; up the "Sweet Waters," and along the upper part of the boundary of the Race Stand ground to the old road at Fort Murray; along the watershed between the Yellowwoods River and Buffalo River to the Kei Road; along the Kei Road to the large vlei on the left hand side of the road (commonly used as an outspan ground); down the Kloof at the head of which the vlei is situated to the Balazi; down the Balazi to the point first-named (viz., its junction with the Buffalo).

Boundaries
of Borough.

CONSTITUTION OF THE BOROUGH.

Incorporation of the Borough.

5. There shall be in the said Borough a body corporate which shall bear the name and designation of the "Mayor, Councillors and Burgesses of the Borough of King William's Town," with perpetual succession, and a common seal, with power to alter and change the same from time to time, and shall by such name be capable in law of suing, and being sued, of purchasing, holding, and alienating land, and of doing and performing such other acts and things as bodies corporate may by law do and perform, subject to the provisions of this Act.

Mayor and Councillors to be the governing body.

6. The Council of the said Borough of King William's Town shall consist of twelve (12) Councillors, one of whom shall be Mayor, and all acts of the Council shall be deemed to be acts of the Borough.

Division of Borough into Wards.

7. The said Borough shall be divided into four wards :—

- (1) All the land to the north of the right bank of Fleet Ditch.
- (2) All land between the boundary of Ward No. 1 and the northern side of Hay Street, Ayliff Street and Queen's Road.
- (3) All land between the boundary of Ward No. 2 and a line drawn through the Borough along the northern side of Grey Street and Maitland Road.
- (4) All land to the south of the last-mentioned line.

Council may alter boundaries of Wards, but notice of intended alteration to be given.

8. The said Council shall from time to time, if they shall think fit, alter the boundaries of the said Wards : Provided that the Council shall, before making any such alteration, give in the *Government Gazette* and one or more of the newspapers in King William's Town, public notice of the intention to make such alteration, and of the particular alteration intended to be made, which notice shall be published for not less than thirty-one days before any such alteration shall be made, and a copy of the said notice shall also be posted in some conspicuous place upon or near the Town Hall.

BOROUGH COUNCIL.

Three Councillors for each Ward.

9. Three Councillors shall be elected for each Ward, in manner hereinafter mentioned.

Qualification of Councillors.

10. Every male person of full age, who is qualified to vote at Elections of Councillors under this Act, shall be eligible to be elected a Councillor, and qualified to hold office as such, but so long only as he shall continue to possess such qualifications, and shall not be disqualified under the terms of this Act, or as otherwise provided. The provisions of this Act, however, shall not in any way affect the status of existing Councillors during their present term of office.

11. No person who has assigned his estate for the benefit of, or whose affairs are being liquidated by arrangement with his creditors, no insolvent who shall not have obtained his rehabilitation; no alien who has not been naturalised; no person convicted of treason, murder, rape, theft, perjury, or other infamous crime, and who shall not have received a free pardon; no person of unsound mind; and no person who is not qualified or who is disqualified by this Act, shall be capable of being elected or continuing a Councillor.

Disqualification of Councillors.

12. No person holding any office or place of profit under Government, or under or in the gift of the Council, or who is directly or indirectly by himself or his partner concerned or participating in the profit of any contract with the Council, or concerned in, or in the profit of, any work to be done under the authority of the Council, shall be capable of being elected or continuing a Councillor: provided that nothing in this section contained shall extend or apply to any contract entered into by any company, partnership or association consisting of seven or more persons, or by any incorporated company, when such contract is entered into for the general benefit of such company, partnership or association; and provided that it shall be lawful for any Councillor to purchase at public sale any property or right which the Council shall offer to sell by public competition.

Further disqualifications.

13. No person elected a Councillor shall have or receive any salary, or shall exact, take or accept any fee or reward whatsoever for or on account of anything done as such Councillor, nor shall he act as agent at any election of the Councillors in terms of section Forty-six of this Act.

No Councillor to accept salary, &c.

14. All proceedings of the Council or of any person acting as Mayor, Chairman, Councillor, Auditor, or Municipal Clerk, as the case may be, shall, notwithstanding that it be afterwards discovered that there was some defect in the election or appointment of any such Mayor, Chairman, Councillor, Officer, or person as aforesaid, or any disqualification, be as valid and effectual as if every such Councillor, Officer, or person had been duly elected and qualified.

Proceedings of Councillors to be valid though defect existed in mode of election.

15. Any Councillor who shall cease to possess the qualification by this Act provided, or shall absent himself from meetings of the Council for three months without leave from the Council having been had and obtained, or who is a paid agent for a candidate at any Municipal election under this Act, during his term of office shall, *ipso facto*, vacate his office, and the Mayor may at any meeting of the Council declare any such vacancy which may have occurred; and in case any person elected a Councillor shall die, or become disqualified under the terms of this Act, or cease to be qualified to be a Councillor, or shall resign, or shall refuse to accept the office of Councillor, or in case of any vacancy happening in any manner whatever, then such vacancy shall forthwith be filled up in the manner directed by

In cases of disqualification of Councillors.

this Act; but subject nevertheless to the provision hereinafter made as to vacancies occurring within three months of the annual election; provided that any person aggrieved by any such declaration of the Mayor may apply to the Supreme Court of the Colony by motion for relief.

VOTERS.

¶ Last Voters' Roll remains till new Roll framed under new Act.

16. The list of persons qualified to vote at the election of Councillors in force at the time of the taking effect of this Act, shall remain conclusive evidence of the qualification of any person to vote at any election of members of the said Council, or at any meetings of voters, and upon the taking of a poll of the voters of the Borough, until a Voters' Roll shall have been made in pursuance of the provisions of this Act.

Qualification of Voters.

17. Every male person of full age not disqualified under the provisions of this Act who, on the first day of June in any year, is the owner or occupier of any immovable property in the Borough, of not less than the assessed value of One Hundred and Fifty Pounds Sterling, and who shall have paid all sums, if any, then payable by such person in respect of any rates made payable three months or more before such day, shall be entitled to be enrolled upon the Voters' Roll for the Borough, and to vote at all elections and polls held under this Act.

Qualification of Voters where property jointly owned or occupied.

18. Where more persons than one are jointly liable to be rated in respect of any property, each of such persons, not exceeding three in all, shall, for the purposes of the last preceding section, be deemed to be liable to be rated in respect of rateable property equal to that of the whole of such first-mentioned property, divided by the number of persons so rated not exceeding three. In case more than three persons are liable to be rated in respect of any property, the persons to be deemed liable and qualified to vote shall be any three whom the remaining or other persons so liable shall nominate in writing, and, failing such nomination, those three whose names stand first in order upon the rate book in use, or, if no rate book has been made, upon the valuation roll: Provided that in any such case the assessed value of the property liable to be rated shall be of an amount which, when divided by the number of persons jointly liable to be rated not exceeding three, shall give a sum of not less than One Hundred and Fifty Pounds Sterling for each such person.

Companies as Voters.

19. Every Society, Association or Company owning or occupying property in the Borough shall be entitled to be enrolled on the Voters' Roll aforesaid with the same rights and subject to the same restrictions as are hereinbefore given to or imposed upon persons of full age, and shall be entitled to vote by a Director, Manager, Secretary or other official of the Society, Association or Company, duly authorised to that end, whose name shall have been duly placed upon the said Voters' Roll as representative of the Society, Association or Company.

20. Every person entitled to be registered as a voter and who shall be the owner or occupier, joint owner or joint occupier of immovable property in more than one of the Wards of the Borough shall be entitled to elect the Ward in which he will be registered and should he decline or fail to make such election before the completion of the Voters' Roll he shall be registered as a voter in such district as the Council may think proper.

Enrolment
of Voter in a
single district

21. The following persons shall not be qualified to vote at any elections held under the provisions of this Act :—

Persons dis-
qualified as
Voters.

- (1) Persons who have not paid all sums due from them in respect of any rates due and payable three months or more before the day of voting.
- (2) Persons at any time convicted of treason, or murder, or until the lapse of five years from the date of release from prison of any person convicted of rape, theft, perjury, bribery, of receiving a bribe, or of any other corrupt practice at any election, or any infamous crime, unless a free pardon shall have been granted.
- (3) Persons whose names do not appear upon the Voters' Roll for the time being.

22. The Council shall before the first day of June in every year cause a list of all persons qualified to be enrolled on the Voters' Roll under the provisions of this Act to be made out, which list shall be subdivided into four parts so as to show the persons entitled to vote within the several Wards of the Borough each of which parts shall respectively shew :

List of Vo-
ters to be made
annually.

1. The names in full of the Voters arranged according to the alphabetical order of surname.
2. Description of the property giving title to vote.
3. Whether the Voter be Owner or Occupier.
4. The assessed value of such property.

23. The Municipal Clerk shall, immediately after the said list is made out, notify by advertisement in some newspaper generally circulating in the neighbourhood, and in such other manner as the Council shall from time to time direct, that a copy of such list is ready for inspection at the Municipal Office, and if the Council shall so direct, at such other place as may be appointed, and a copy of such list shall be open to inspection at the Municipal Office, and at each appointed place as aforesaid, during office hours, for a period of seven days ; the said advertisement shall also intimate that on a certain day and hour, and at a place therein to be set forth, claims to be inserted in or objections to, the said list will be heard and determined as hereinafter in the next succeeding section is provided.

Notification
that lists are
ready for in-
spection.

24. The Mayor or Chairman of the Council for the time being and two Councillors elected for that purpose by the Council shall, on the day so notified, sit in open Court to hear all such claims and objections as aforesaid, and shall determine thereon, and may

Court to
hear objec-
tions.

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adjourn the sitting of such Court from time to time as may be necessary.

Directions
for guidance
of such Court.

25. The Mayor or Chairman and Councillors shall, in revising the Voters' Roll, be guided by this Act, and the following directions and provisions; that is to say, they shall:

- (1) Insert the name of every person who shall prove to their satisfaction that he is entitled to be inserted in the Voters' Roll according to the provisions of this Act.
- (2) Except in the case of death, insanity, insolvency or conviction of any crime under section Twenty-one of this Act, retain on the list the names of all persons to whom no objection has been made.
- (3) Retain on the list the name of every person objected to, unless the person objecting appears by himself, or someone on his behalf, in support of such objection, and establishes the same by satisfactory proof.
- (4) In case any objection be made and satisfactorily proved, expunge the name of the person objected to from the Voters' Roll.
- (5) Expunge from the Voters' Roll the name of any person inserted therein who is proved to be dead, become insane, who has been convicted of any crime as aforesaid, or who has permanently removed his residence from the Borough.
- (6) Correct any mistake or supply any omission which may appear to have been made in the Voters' Roll.

Revised Roll
to be in force
until new one
framed.

26. The revised roll certified by the Mayor or Chairman presiding over the said Court, shall be the Voters' Roll for the Borough, and shall continue in force and shall not be added to, or otherwise altered, until a new roll has been made for the Borough and revised under the provisions of this Act, whether the same be duly made at the time appointed or afterwards.

Printed
copies signed
by Mayor to
be evidence.

27. Any printed or written copy purporting to be a copy of the Voters' Roll of the Borough or of any ward or sub-division of the Borough, signed by the Mayor or Chairman presiding over the said Court, shall be *prima facie* evidence of such roll and of the contents thereof.

Omission of
certain prior
formalities
not to invali-
date Roll.

28. No omission to make any notification by advertisement or otherwise with regard to any list, or to exhibit, or to keep any list for inspection, shall be deemed to prevent, invalidate or render imperfect any of the proceedings by this Act prescribed with regard to the compilation or completion of any list or roll, or to invalidate any such list or roll.

In case list
not revised
within re-
quired time.

29. If from any cause the revision of any list awaiting revision under this Act has not been made or completed within the proper time appointed or allowed for that purpose, the Governor may appoint a day for holding such Court for revising such list, and such day shall, as to all such acts and proceedings as then remain to be done or had with respect to such list, be deemed to be for

all intents and purposes the day appointed for such revision, and all further proceedings shall be had and taken accordingly.

30. If from any cause the preparation or revision of the Voters' List has been omitted or not completed, the Governor may at the request of the Council of the Borough direct the same to be done within such time as may be prescribed by the order in Council authorising it, and upon the publication of such order in the *Government Gazette*, such omission or non-completion shall be rectified, and such list validated in accordance with the terms of such order.

In case list not prepared in time.

31. A first election of Councillors of the Borough of King William's Town in terms of this Act shall be held on the first Wednesday in August in the year 1905.

The first election of Councillors.

32. At the said first election of Councillors in the said Borough, the whole number of Councillors required under this Act shall be elected.

Whole number of Councillors assigned to be elected.

33. In the said Borough an annual election of Councillors shall be held on the first Wednesday in August in every year.

Annual election of Councillors.

34. At every annual election after the first election as mentioned in the Thirty-first section hereof, one-third of the whole number of Councillors shall be elected in equal numbers for every Ward to replace an equal number of Councillors retiring in terms of section Sixty-three of this Act.

One-third of Councillors elected yearly.

35. On the occurrence of any extraordinary vacancy in the office of Councillor of the Borough, an election to fill such vacancy shall be held on a day not being more than thirty days after the occurrence of such vacancy.

In cases extraordinary vacancies.

36. In case any extraordinary vacancy occur in the office of Councillor within one month before any annual election and the Councillor vacating office would have gone out of office at such election, or was one of several Councillors who might have gone out of office by rotation at such election, such vacancy shall not be filled up, and the person vacating office shall be reckoned one of the Councillors going out of office at such election.

Exceptions.

37. There shall be a separate election in respect of the representations of each and every Ward, but the proceedings at the election in one or more Wards may be held at the same time and place.

Ward elections.

38. Every election shall be held before the Mayor or before such person as the Council or, in case there is no Council, the Governor may appoint. And such Mayor or other person shall be the returning officer at such election.

Returning Officer.

39. No person, other than the Mayor, specially appointed to act as returning officer as aforesaid shall be or become a candidate for office at such election.

Returning Officer not to be a candidate.

40. But not less than twenty-one days before the day appointed for the first or any subsequent election of Councillors the Mayor shall give public notice of such election and by such notice shall

Notice calling for nominations.

specify a day not being more than fourteen days from the date of giving such notice as the day of nomination and some place within the Borough where and at which candidates shall be nominated. Such notice shall be posted in some conspicuous place at the Town Hall and shall be published in one of the local newspapers.

Manner of nomination.

41. No person shall become or be deemed a candidate at any election or qualified to be elected a Councillor unless he shall have received a requisition signed by at least five enrolled voters of the ward for which he seeks election and shall have transmitted such requisition with his acceptance thereof given under his own hand or that of his duly qualified agent to the Town Clerk before four o'clock in the afternoon of the day before the day appointed for receiving nominations; provided that if any voter shall sign more requisitions than there are vacancies in his ward the Town Clerk shall erase his name from all such requisitions which shall for the purpose of nomination be deemed never to have been signed by him. If the number of candidates who are nominated as aforesaid for each Ward does not exceed the number of Councillors to be elected such candidates shall be deemed and taken to be duly elected on the day of nomination and the Returning Officer shall at or after noon on the day of nomination at the place appointed publicly declare such candidates to be duly elected. If however there shall be less than the required number of candidates nominated for each Ward then fresh nominations shall be called for in manner aforesaid to fill the vacancies.

Notice of election.

42. In the event of the number of nominations exceeding the number of Councillors to be elected in any Ward the Town Clerk shall forthwith after the expiry of the nomination day inform the Mayor of the necessity of an election being held and the Mayor shall forthwith cause a notice to be published in one or more local newspapers stating the names of the candidates nominated the day upon which a poll will be taken for the election of Councillors not being less than six days nor more than fourteen days from the date of such notice nor less than twenty-one days from the date of the notice calling for nominations the number of vacancies in each ward to be filled and the places where the poll will be taken. And the poll shall take place accordingly and shall commence at eleven o'clock in the forenoon and close at six o'clock in the afternoon on the day fixed.

Election arrangements.

43. For the purposes of every election the polling station or stations of the Borough shall be at the Town Hall or such other place or places as the Council may determine. For all elections the returning officer shall provide such compartments, desks, ballot boxes, ballot papers, stamping instruments, copies of register of voters and other things, appoint presiding officers and polling officers and do such other acts and things, and make such arrangements to facilitate the taking of the poll as he may deem advisable for effectually conducting the election; and everything done by the returning officer shall be at the expense of the Council.

44. The presiding officer and other officers at the polling station shall keep order thereat, shall regulate the number of voters to be admitted at a time, and shall exclude all other persons except the returning officer, the clerks, the candidates, the agents of the candidates, and the constables on duty.

Presiding Officer.

45. If after a poll has been appointed at any election any candidate nominated for election shall be desirous of retiring from the candidature, he may, not later than three days before the day of polling, sign and deliver a notice of his retirement to the Town Clerk, who shall forthwith hand the same to the returning officer, who on receipt of such notice shall, if the number of candidates is by such retirement reduced to the number of persons to be elected at such election, declare the remaining candidates to be on that day duly elected, and if the said number is not so reduced shall omit the name of the person so retiring from the list of candidates, and such person shall not be capable of being elected at such election.

In case candidate desire to retire from contest.

46. Every candidate may, if he think fit, appoint by writing under his hand, a person to represent him at a polling station to see that the votes are fairly taken, and may also appoint in writing an agent to represent him at the counting of the votes by the returning officer.

Candidate's agents.

47. No inquiry shall be made at any election as to the right of any person to vote, except that the polling officer may himself, or at the request of the agent of any candidate, put to any voter the following questions, or any of them, and no other :—

Inquires as to right to vote.

- 1st. Are you the person whose name appears as A.B. on the Voters' Roll in this Ward ?
- 2nd. Have you already voted at this election ?
- 3rd. Have all sums due and payable by you, or for which you are liable, in respect of rates payable three months or more before this date, been paid ?

And no person who shall refuse to answer any such question, or who shall not answer the first and third of such questions in the affirmative, and the second of such questions absolutely in the negative, shall be permitted to vote.

48. Any person who shall wilfully make a false answer to any of these questions shall be liable to a penalty not exceeding ten pounds, to be recovered in the Court of the Resident Magistrate, or in default of payment to imprisonment for a term not exceeding three months.

Penalty for false answers.

49. All the acts enumerated as acts of bribery and corruption, personation, or undue influence in any Act for the time being in force regulating or in respect of elections of Members of Parliament, shall *mutatis mutandis*, be deemed to be acts of bribery, corruption, personation, or undue influence with reference to all elections under this Act ; and every person committing any act forbidden or made punishable by any such Act relating to elections of Members of Parliament, in reference to any elections

Bribery at elections.

under this Act, shall upon conviction incur and be liable to the same penalty or punishment as by any such Act may be provided.

Voter re-
quired to vote
without de-
lay at Polling
Station.

50. Every voter coming to record his vote shall vote without undue delay, and any voter who delays unduly in recording his vote may, unless he shall forthwith proceed to vote upon being thereunto required by the presiding officer, be removed from the polling station, upon the instruction of the presiding officer, and shall not be entitled to vote at the election.

Manner of
voting.

51. The voting at all elections held under the provisions of this Act shall be by ballot, which shall be conducted in substance and as nearly as is material as follows :—

(a) The polling officer shall ascertain that the person desiring to vote is a voter enrolled upon the Voters' Roll, and having ascertained that such person is so enrolled and his number on such Roll, shall enter his name upon the counterfoil in the voting ticket book, and shall then tear out the ticket corresponding to such counterfoil, and having stamped the same with an official stamp provided for that purpose, shall hand it to the voter. And every voting ticket shall be in the form set forth in the Schedule, with such printed instructions as the Council may approve.

(b) When the voter has received such ticket, on which shall be printed in alphabetical order the names of all the duly nominated candidates at such election, he shall take the same to the compartment and desk provided for that purpose and signify for whom he desires to vote by secretly placing a cross opposite the name of each candidate or candidates whom he wishes elected, not exceeding the number to be elected, at such election. He shall then fold the ticket so that the official stamp may be visible, and having held up the ticket so that the polling officer can recognise the official mark, shall drop the ticket in the ballot box in front of the polling officer.

(c) Should the voter either sign his name on the ticket or make any mark or word by which his voting paper could become recognisable, then such voting ticket shall be considered blank and not taken into account.

Spoilt bal-
lot papers.

52. If a voter inadvertently spoils a ballot paper he may return it to the presiding officer, who will, if satisfied with such inadvertence, give him another paper, and retain the spoilt paper, and the spoilt ballot paper shall be immediately cancelled and the fact of such cancellation shall be noted upon the counterfoil.

Blind, &c.,
voters.

53. Any presiding officer on the application of any voter who is incapacitated by blindness, or other physical cause, from voting in manner prescribed by this Act, shall, before such agents of the candidates as may be present, cause the vote or votes of such

voter to be marked on a ballot paper or papers in manner directed by such voter, and the ballot paper or papers to be placed in the ballot box; and the name and number on the Voters' Roll of every voter whose vote is marked in pursuance of the terms of this section, and the reason why it is so marked, shall be entered on a list in this Act called the "list of votes marked by the presiding officer."

54. If a person representing himself to be a particular voter applies for a ballot paper after another person has voted as such elector the applicant shall, upon duly answering the questions permitted by this Act to be asked of voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (hereinafter called a "tendered ballot paper") shall not be put in the ballot box, but shall be given to the presiding officer appointed for that purpose by the Council, and endorsed by him with the name of the voter and his number in the Voters' Roll, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his number on the roll shall be entered in a list in this Act called the "tendered votes list."

Tendered
ballot papers

55. Every polling officer shall be subordinate to some presiding officer, and such presiding officer as soon as practicable after the close of the poll shall, before such agents of the candidates as shall be present, receive from such polling officer and make up into separate packets sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals:—

Sealing up
of ballot
boxes, &c.

- (1) Each ballot box entrusted to any polling officer under his direction unopened but with the key attached;
- (2) The unused and spoilt ballot papers placed together;
- (3) The tendered ballot papers;
- (4) The marked copies of the Voters' Roll and the counter-foils of the ballot papers; and
- (5) The tendered votes list, and the list of votes marked by him as presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the head "physical incapacity," and shall deliver such packets to the returning officer.

The packets shall be accompanied by a statement made by each presiding officer showing the number of ballot papers entrusted to him and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers.

56. Upon receipt of the aforesaid packets from such presiding officers by the returning officer, the latter shall take charge of the same, and shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare the candidate or candidates who are elected under the provisions of this Act according to the vacancies to be filled up. In the event of the

Declaration
of Poll.

number of votes being found to be equal for any two or more candidates all of whom cannot be declared elected to fill an ordinary or casual vacancy in the Council as the case may be, the returning officer shall by lot immediately determine the election. The decision of the returning officer shall be final, subject to reversal on petition to or action in the Supreme Court questioning the election or return in like manner, *mutatis mutandis*, in which elections or returns of members of Parliament may by law be brought in question.

What ballot papers shall be rejected.

57. The returning officer shall reject and not count any ballot papers which :—

- (a) Do not bear the official mark.
- (b) Give more than one vote to any candidate or vote for more candidates than there are vacancies to fill.
- (c) Bear any writing or mark by which a voter can be identified otherwise than is in this Act prescribed.
- (d) Are unmarked or void for uncertainty.

Marking of rejected ballot papers.

58. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to" if an objection be in fact made by any agent against his decision.

Sealing up of papers by returning officer.

59. The returning officer shall, immediately after the declaration of the poll, enclose in separate packets the counted and rejected ballot papers. He shall not open any sealed packet of tendered ballot papers or marked copy of the Voters' Roll and counterfoils, but shall proceed, before such agents of the candidates as are present, to reseal after examination each of the sealed packets received by him from the presiding officers. All the packets aforesaid, together with a certificate stating the names of the Councillors declared to be elected, shall be enclosed together in one sealed packet and delivered to the Town Clerk, who shall safely keep such sealed packet for six months, after the expiration whereof the said packet and all papers contained therein shall be destroyed in the presence of two Councillors.

Sealed papers to remain unopened.

60. No such sealed packet as aforesaid shall be opened during the said period of six months unless by order and in presence of the Council or by order of the Resident Magistrate, the Supreme Court or any Judge thereof; and if any person shall, contrary to the provisions hereof, wilfully break the seal or open any such packet he shall, upon conviction, be liable to a penalty not exceeding twenty pounds, which may be recovered in the Court of the Resident Magistrate.

Council may make regulations.

61. The Council shall have power from time to time to issue instructions and make regulations for the purpose of more effectually carrying out the provisions of this Act as to the proceedings for election by ballot, provided that such instructions and regulations are not inconsistent with the terms of this Act.

62. No election shall be declared invalid by reason of any mistake or non-compliance with the terms of this Act if it appears to the Court having cognisance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such mistake or non-compliance did not affect the result of the election.

Immaterial mistakes not to affect validity of election.

63. At the annual election in every year, one Councillor for each of the Wards of the said Borough shall go out of office by rotation, and the Councillors who shall go out of office shall be the Councillors who shall have been the longest time in office without re-election. In the event of there being any doubt or uncertainty as to which of two or more Councillors who shall have been in office at the same time shall retire at any time, the one who shall have received the least number of votes at the last election shall be the one to retire, and if they shall have received an equal number of votes the Mayor shall in the presence of any two Councillors and the Town Clerk decide by lot who shall retire.

Retirement of Councillors.

64. Any Councillor elected under this Act may resign such office by any writing addressed to the Town Clerk, and the resignation shall be complete from the time of its being notified to the Council by the Town Clerk.

Any person holding office may resign.

65. The Office of Mayor, or Deputy Mayor, or Councillor, shall become vacant, and every such vacancy shall be deemed to be an extraordinary vacancy within the meaning of this Act, in case such Mayor, Deputy Mayor, or Councillor shall :—

When offices shall become vacant.

- (1) Die ;
- (2) Resign his office ;
- (3) Be declared incapacitated from holding office by any competent Court ;
- (4) During the time for which he is elected cease to be qualified ;
- (5) Be absent for three months from the ordinary meetings of the Council, without leave of the Council ; or
- (6) Be disqualified under the provisions of sections eleven and twelve hereof ; or be convicted and sentenced to imprisonment for any crime without the option of a fine.

66. For the purpose of determining the time of his retirement, every Mayor and every Councillor elected to supply an extraordinary vacancy shall be deemed to have been elected at the same time, and in the same manner, and in the case of a Councillor to have received the same number of votes (if any) as the last holder of the seat he was elected to fill who was elected otherwise than to fill an extraordinary vacancy.

How to determine date at which officers must retire.

67. Every Councillor going out of office at any annual election shall retain office until the Councillors elected at such election are declared duly elected, and shall thereupon, unless he be one of such Councillors, go out of office.

Interim between retirement and election of new Councillors.

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Mayor, &c., 68. Any person vacating office as Mayor, or Councillor, may be vacating of- re-elected to such office, if for the time being he is eligible under re-elected. the provisions of this Act of being or continuing a Mayor, or Chairman, or Councillor.

MAYOR AND DEPUTY MAYOR.

Appoint- 69. At the first meeting of the Council held after every ment of annual election of Councillors, the Councillors present shall elect Mayor. of one Councillor to be Mayor, who shall be styled Mayor of the Borough of King William's Town, and who shall forthwith enter upon his office and continue therein until his successor be appointed after the next ensuing annual election of Councillors, unless his office be sooner vacated, and in case of such vacancy then a successor shall at the meeting next but one of the Council after such vacancy be chosen by the Councillors from amongst themselves, who shall forthwith enter upon his office, and serve as Mayor for the remainder of the period for which the vacating Mayor was elected: provided always that should a Mayor for any reason not be elected at a meeting as herein prescribed, he may be elected at the first ordinary meeting of the Council held thereafter, or at a special meeting called for the purpose. And further, at any such aforesaid election should the number of votes for any two or more Councillors be found to be equal it shall by lot be determined which shall be elected.

Deputy Mayor. 70. That Councillor in office at the time of the election of a Mayor after the annual election aforesaid who shall last have held the office of Mayor in the Council at any time prior to the then elected Mayor, and failing any such Councillor still in office, such other Councillor as the Council shall elect shall be Deputy Mayor, and shall during the absence or illness of the Mayor do all acts which the Mayor as such might do. The fact of the absence or illness of the Mayor shall be notified by the Town Clerk or his deputy to the first meeting of the Council after the illness or absence of the Mayor has happened, and be recorded in the Council's Minutes. Such record shall be a sufficient authority for all acts done within the scope of this Act by the Deputy Mayor in lieu of the Mayor.

Mayor to be 71. The Mayor of the Borough shall during his tenure of office ex-officio Jus- be a Justice of the Peace for the District of King William's tice of the Town: provided that he may at any time be removed from being Peace. a Justice of the Peace by the Governor, and from the date of notification in the *Government Gazette* of such removal his powers to act as a Justice of the Peace shall cease and determine.

First meet- 72. The first meeting of the Council constituted under this ing of first Act shall be held on the first Wednesday after the first election Council. of Councillors.

PROCEEDINGS OF COUNCIL.

Ordinary 73. The Council shall hold ordinary meetings not less than Meetings. once in each month for the transaction of business, on such days

and at such hours as the Council shall from time to time appoint, and, when such appointment is made, the Town Clerk or his deputy shall give notice thereof to each of the Councillors, and they shall afterward, until the time of each ordinary meeting is changed and notice of the change given to the Councillors, be required to attend such ordinary meetings without notice.

74. The Mayor or any three Councillors may at any time convene a special meeting of the Council for any day other than the ordinary day of meeting of the Council. Special Meetings.

75. All notices of any special meeting or adjourned meeting of the Council shall be in writing, and shall be delivered, or sent by post or otherwise, to the usual place of business within the Borough or to the residence of each of the Councillors, twenty-four hours at least previous to such meeting, and in case of a special meeting shall specify the object thereof, and no business shall be transacted at any special meeting except such as is stated in the notice thereof. But want of service of such notice on any member of the Council shall not affect the validity of a meeting: provided, that in the event of any special emergency not admitting of delay the Mayor may convene an extraordinary meeting of the Council in such manner and upon such notice as he shall deem fit. Notice of adjourned and special meetings.

76. The Councillors present at any meeting may from time to time adjourn such meeting; and if at any meeting of the Council a quorum be not present, the Councillors present or the major part of them voting, or any one Councillor, if only one be present, may adjourn such meeting. Meetings may be adjourned.

77. All meetings of the Council shall be open to the public.

78. At every meeting of the Council the Mayor, if present, shall be Chairman. If the Mayor be absent, then the Deputy Mayor shall be Chairman. If neither the Mayor nor Deputy Mayor be present, such Councillor as the members of the Council then present choose shall be Chairman. Meetings to be open to public. Chairman of meetings.

79. All acts of the Council and all questions coming or arising before the Council may be done and decided by the majority of such Councillors as are present and vote at a meeting held in pursuance of this Act; provided the whole number present at the meeting whether voting or not be not less than seven. Quorum.

80. In case of an equality of votes the Chairman at any meeting of the Council or of a Committee shall have a second or casting vote. Casting vote of Chairman.

81. Minutes of the proceedings of every meeting of the Council, or any Committee, shall be drawn up and entered in books kept for that purpose, which shall be signed at the same or the next ensuing meeting by the Mayor, or by a member of the Council or of the Committee, describing himself as, or appearing to be, Chairman of the meeting at which the minute was signed, and such minutes so signed, or a copy of, or an Minutes.

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extract therefrom, attested by the Mayor and Town Clerk shall be received in evidence in proceedings criminal or civil without further proof.

Minutes, &c.,
in the English
language.

82. All minutes of the proceedings of the Council, and all books, writings, accounts, and records thereof, shall be made and kept in the English language.

Minute books
open for in-
spection.

83. The before-mentioned minute books of the proceedings of the Council shall, at all reasonable times, be open to the inspection of any of the Councillors, or of any ratepayer or creditor of the Borough, any of whom may at all reasonable times, without fee, make any copy of or take any extract therefrom.

Acts of Coun-
cil unaffected
by vacancy.

84. No act or proceeding of the Council shall be questioned on account of any vacancy in their body or any lack of qualification or any disqualification in regard to any Councillor taking part in such act or proceeding.

Committees.

85. The Council may from time to time appoint out of their own body such and so many Committees, either of a general or special nature, and consisting of such number of Councillors as they think fit, for any purpose which, in the opinion of the Council, would be better regulated and managed by means of such Committees, and may also delegate to any Committee such powers as they may think fit, and fix the quorum of every such Committee; and every such Committee may from time to time appoint one of the members to be Chairman thereof.

Powers of
Committees.

86. The acts of a Committee shall not be binding upon the Council until submitted to and approved by the Council, excepting in those cases in which the Council shall by resolution have authorised a Committee to manage, regulate, or conclude any matter or matters without further reference to the Council.

Decision by
majority of
Committee.

87. All questions brought before any Committee shall, provided a quorum be present, be decided by a majority of the votes of the members present and voting.

Meetings to
be presumed
to be duly
held.

88. Until the contrary be proved, every meeting of the Council, or of a Committee, in respect of the proceedings whereof a minute has been so made, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a Committee, the Committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

Rules of
Order.

89. The Council may from time to time make Rules of Order, not inconsistent with the terms of this Act, for the regulation of the proceedings and business of the Council or any Committee, and may vary or revoke the same; and, until it shall do so, the existing Rules of Order shall be and remain in full force, excepting, in so far as they may be opposed to the provisions of this Act, and in the said Rules of Order, the Mayor, Deputy Mayor, or Chairman (as the case may be) shall have power to name a Councillor, and by motion made and adopted by not less than

two-thirds of the Councillors present and voting on the question, to suspend a Councillor for a period not exceeding the conclusion of the next succeeding ordinary meeting of the Council.

90. The Mayor, or in his absence the Deputy Mayor shall be *ex-officio* a member of all Committees.

Mayor *ex-officio* a member of all Committees.

91. No Councillor shall vote upon or take part in the discussion of any matter in or before the Council in which he has directly or indirectly by himself or his partners any pecuniary interest. And any Councillor contravening the provisions of this section shall, for every offence, be liable to a penalty not exceeding fifty pounds.

Councillor not to vote where interested pecuniarily.

92. No resolution at any meeting of the Council shall be revoked or altered at any subsequent meeting, unless notice of the intention to propose such revocation or alteration be given to each of the Councillors two days at least before holding the meeting, nor unless such revocation or alteration be determined upon by a majority consisting of two-thirds of the Councillors present at such subsequent meeting, if the number of Councillors present at such subsequent meeting be not greater than the number present when such resolution was come to, but if the number of Councillors present at such subsequent meeting be greater than the number present at such former meeting, the question may be determined by a bare majority.

Resolutions not to be revoked except upon notice.

93. On a day to be fixed in each year by the Council, the Mayor shall, by public notice of not less than seven days in one or more of the newspapers of the Borough, call a public meeting of ratepayers for the purpose of electing two persons to be Auditors of the Borough, who shall continue in office for the space of one year from the date of their election.

Auditors.

94. Every candidate for the office of Auditors shall be proposed by a ratepayer qualified to vote for Councillors, and shall be seconded by some other such ratepayer.

Candidates must be proposed by a Burgess.

95. In case at such meeting as aforesaid only two Auditors shall be nominated in manner aforesaid for the post, then the Mayor shall forthwith declare such persons nominated as aforesaid, to be the Borough Auditors.

If only two nominated they are elected.

96. In case at such meeting aforesaid, more than two Auditors shall be nominated, the Mayor shall, after at least seven days' notice in one or more of the local newspapers, fix the time and place for a poll, which shall be in form and manner as provided for election of Councillors; but for the purpose thereof the Borough shall not be considered as divided into Wards.

If more than two nominated poll to be taken.

97. No person shall be eligible as an Auditor who shall be a Councillor, Town Clerk or other officer of the Borough; or who shall be an unrehabilitated insolvent, or who shall have been convicted of any crime or offence in the eleventh section mentioned, and shall not have received a free pardon for same, or who shall have compounded with his creditors.

Who not eligible as Auditors.

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Vacancies filled.

98. If any Auditor shall die, resign, become incapable of acting, or be declared insolvent, or compound with his creditors, or resign his estate for the benefit of his creditors, or who shall be convicted of any crime or offence, as in the last section mentioned, another Auditor shall be elected in his stead in manner and form hereinbefore prescribed.

Payment to Auditors.

99. The Auditors shall be paid out of the Borough Funds such remuneration as the Council may from time to time determine.

Governor may remove Auditors.

100. The Governor may at any time remove any Auditor elected for the said Borough upon petition of the Council.

Proper accounts of moneys received and paid to be kept.

101. The Council shall cause books to be provided, and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the Borough, and of the several purposes for which such sums of money have been received and paid, which books shall be audited quarterly and shall at all reasonable times be open to the inspection of any Councillor, ratepayer, or creditor of the Borough. And any such person may take copies of or extracts from the said books without paying anything for the same.

Books to be balanced yearly and audited.

102. The Council shall at the end of each Municipal year cause the accounts of the Borough to be balanced, and after each such balancing the Auditors shall audit the said accounts as soon as conveniently may be. And the Council shall, by the Town Clerk, produce and lay before the Auditors the accounts so balanced as aforesaid, with all vouchers in support of same, and all books, papers and writings in their custody or power relating thereto; and if the Auditors, after due inquiry, shall be satisfied that all moneys received have been duly accounted for, and that all payments charged have been duly authorised and made, they shall sign the said accounts, in token of their allowance thereof, but if they think there is just cause to disapprove of any part of the said accounts, they may disallow any part of the said accounts so disapproved of.

Accounts may be inspected and objected to.

103. Any person interested in the said accounts, either as a creditor of the Borough or as a ratepayer, may be present at the audit of the said accounts, by himself or his agent, and may make any objection in writing signed by such person or his agent to any part of such accounts.

Financial statements to be laid before Council.

104. Yearly statements, showing the financial position of the Borough to the 31st day of May in each year, shall be prepared and laid before the Council. Such statements shall be audited by the Auditors, and shall contain an account of all moneys paid and received by the Council during the preceding twelve months, and of all assets and liabilities of the Borough.

Statements to be open to inspection.

105. The Council shall cause every such audited statement to remain for inspection at the office of the Council, and any creditor or ratepayer of the Borough, or any person acting on his behalf, may at all reasonable times inspect such statements.

and compare the same with the books and documents relating thereto in the possession of the Council.

106. The accounts of the Council so balanced as aforesaid and audited, and either allowed or disallowed by the Auditors as aforesaid, together with the said statement, shall be produced at the next ordinary meeting of the Council, or at some adjournment thereof, at which meeting all creditors, ratepayers and other persons interested as aforesaid may be present, and the accounts shall then be finally examined and settled by the Council, and if the same be found just and true they shall be passed by the Council and certified accordingly, under the hand of the Chairman of such meeting. And a copy of such abstract shall be kept by the Town Clerk at the office of the Council, and shall be open to be inspected by any creditor or ratepayer during office hours.

How accounts to be finally settled.

107. The Governor may from time to time appoint some person to examine the accounts of the Borough, and the Council shall by the Town Clerk produce and lay before the person so appointed all books and accounts of the Borough for the preceding twelve months, with all vouchers in support of the same, and all books, papers, and writings in its power relating thereto: provided that seven days' notice in writing shall be given to the Mayor and Town Clerk of any such intended examination.

Governor may appoint person to examine in accounts.

108. For the purpose of any examination under the provisions of the last preceding section, it shall be lawful for the person so appointed to hear, receive, and examine evidence upon oath (which oath such person is hereby empowered to administer), and by summons under his hand to require such persons as he may think fit to appear personally before him at a time and place to be stated in such summons, and to produce all such books and papers as may be necessary for such examination. Any person so required who shall without lawful excuse refuse to attend in obedience to such summons, or who having appeared shall refuse to be examined upon oath or affirmation, or to take such oath or affirmation, or having taken such oath or affirmation, to answer such questions as shall be put to him, shall incur and be liable to a penalty not exceeding ten pounds for every act of offence, and in default of payment to be imprisoned with or without hard labour for any period not exceeding three months unless such fine be sooner paid: provided that no conviction under this section shall be taken to exempt the person convicted from liability to do or perform the act, matter, or thing required to be done or performed by him, or from being successfully convicted and punished for every distinct commission of the same act or offence.

Powers given to such examiners of accounts.

109. The Auditors on the occasion of each quarterly audit shall, *inter alia*, certify that they have examined every voucher, that the books agree therewith and that the accounts referred to therein have been correctly entered in the books in accordance

Further duties of Auditors.

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with the votes of the Council. They shall further render an account of all unauthorised expenditure and set out in detail all the accounts in which the expenditure shall have exceeded the amount voted by the Council.

Examination
of cash by
Auditors.

110. The Auditors shall further, not less than once in every three months, make an examination, without previous notice to anyone, of the books and cash in the hands of the Treasurer, and shall compare the cash with the books, and personally check the various balances, the cash in hand and the bank account, and thereafter make a special confidential report to the Council of the result of such examination.

Estimates of
revenue and
expenditure.

111. The Council shall in the month of June, in every year, draw out an estimate of the probable revenue and expenditure for the current year, showing the several taxes or rates to be levied or assessed during the same, which estimate after the same shall have been considered and passed by the Council shall be signed by the Treasurer, Mayor, and Town Clerk, and shall be open to the inspection of any enrolled voter, and an abstract thereof advertised in one or more papers published in the said town before the 30th day of the said month of June in every year. And after such publication of the said annual estimate a special meeting of the Council shall be held upon fourteen days' notice, for the purpose of finally considering and confirming the said estimate, and at such meeting it shall not be competent or lawful to place any new item on said estimates or to increase any item.

CONTRACTS.

Powers as
to contracts.

112. The Council may carry out any works departmentally, and may from time to time enter into any contract with any person or company whatsoever, for any work to be done and performed, or for any materials to be furnished to and for the Council by virtue and for the purposes of this Act, or in connection with any work authorised to be done by the Council, which contract shall specify the work to be done, and the price to be paid for the same, and the time when the work shall be completed, and the penalty to be suffered in a case of non-performance thereof. Every contract shall be deemed to be duly executed on behalf of the Council if signed by the Mayor and Town Clerk, or by two Councillors authorised by resolution of the Council. As also all warrants to sue or defend in any action brought by or against the Council in its corporate capacity. No contract above the value of fifty pounds in respect of any goods, land, or materials to be purchased or hired or of any work to be done for the Council within the division of King William's Town shall be entered into, unless fourteen days' notice be previously given in one or more of the public newspapers published in King William's Town, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered and presented to the Council at a certain

time and place in such notice to be mentioned : provided, always, that if the Council shall be of opinion that it will not be advantageous to contract with the person offering the lowest price or with any other person making a proposal, it shall be lawful for the Council to contract with such other person or persons as they shall think proper, and such person or company so contracting shall give security for the due performance thereof to the satisfaction of the Council : provided, however, that any Councillor who shall either directly or indirectly become a contractor or tender for any contract, either in his name or in the name of, or jointly with, any other person, shall forfeit all his share and interest in such contract for the benefit of the Council, and shall also be considered to have vacated his office of Councillor.

113. No Councillor shall be deemed or taken to have vacated his office of Councillor or to have incurred any penalty or forfeiture whatever, by reason merely that the Council shall have entered into any such contract as in the last preceding section mentioned, or any other dealing or transaction with any joint stock company in this Colony of which such Councillor shall be a shareholder, or in which he shall be otherwise interested in any joint stock company with which company the Council shall have entered into any executed or still subsisting contract, dealing or transaction, be deemed or taken to be ineligible to be elected or act as a Councillor by reason merely of such contract, dealing or transaction ; provided, always, that no Councillor who is also such a shareholder or so otherwise interested as aforesaid shall be allowed to vote as a Councillor upon the question of making or entering into any contract, dealing or transaction with the joint stock company in which he is interested, or upon any matter in connection with such interest, dealing or transaction ; and any Councillor who shall so vote in contravention of this restriction shall for every such offence forfeit the sum of One Hundred Pounds ; provided, also, that nothing herein contained shall be deemed or taken to prevent the Mayor, being such a shareholder as aforesaid, from signing any such contract as by this Act is required.

Contracts with companies in which Councillors have interest.

OFFICES.

114. The Council shall from time to time appoint a fit person, not a Councillor, to be Town Clerk of the Borough of King William's Town, who shall hold office during the pleasure of the Council, shall perform such duties as the Council may determine, and shall have the charge and custody of and be responsible for the deeds, records and documents of the Council, which shall be kept as the Council direct.

Town Clerk.

115. In case of the illness or absence of the Town Clerk, or in case the office of Town Clerk be vacant, the Council may appoint a Deputy or Acting Town Clerk from among the Council's officers to hold office during their pleasure, and all things required

Deputy Town Clerk.

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or authorised by law to be done by or to the Town Clerk may be done by or to the Deputy or Acting Town Clerk.

Treasurer. 116. The Council shall from time to time appoint a fit person, not being a Councillor, to be Treasurer of the Borough of King William's Town, who shall hold office during their pleasure.

Officers of Council. 117. The Council shall from time to time appoint such other officers as they may think necessary and, unless it shall be otherwise stipulated in the contract with or appointment of any such officer, may at any time remove such officer upon a notice of not less than one month, or in case of misconduct without notice.

Duties and remuneration of officers. 118. The Council shall require the Town Clerk, the Deputy or Acting Town Clerk, the Treasurer and all officers charged with the collection or administration of moneys or the custody of documents or property of the Council to give such security as they think proper for the due execution of their offices, and may assign to every officer such duties and responsibilities as they may see fit, and shall allow him such remuneration as they think reasonable.

Duties of Treasurer and other officers as to accounts and moneys. 119. Every Treasurer and other officer appointed by the Council, shall at such time and in such manner as the Council shall direct, deliver to the Mayor, or such person as they shall appoint, true and perfect accounts, in writing, of all matters and things committed to his charge, and also of all moneys which shall have been by such officer received by virtue or for the purpose of this Act, and of how much thereof shall have been expended or disbursed, and for what purposes, together with proper vouchers for such payments; and every such other officer shall pay all money due from him to the Treasurer or as the Council shall direct, and if any such Treasurer or officer refuses or neglects to make or render such account, or to deliver up the vouchers relating to the same, or to make payment as aforesaid, or refuses or wilfully neglects to deliver to the Mayor or to such person appointed to receive the same forthwith, after being thereunto required by the Mayor by notice, in writing, under his hand, given to or left at his last or usual place of abode, all books, papers, and writings in his custody or power belonging to the Council, or relating to the execution of his duties, or to give satisfaction to the Mayor or such other person as aforesaid respecting the same, then and in every such case, upon complaint made by the Mayor or by such person as aforesaid to the Supreme Court, Eastern Districts Court, Circuit Court, or any other competent Court, or any Judge thereof, the said Court or Judge may, if they or he shall see fit, order the officer so refusing or neglecting, to appear at an appointed time and place, and if it shall appear to the said Court or Judge upon the hearing of the case, that any moneys remain due from such officer, such Court or Judge may, by decree of the said Court, or warrant under the hand of the said Judge, cause such money to be levied by distress on the salary of the said officer, and if no

goods and chattels of such officer shall be found sufficient to answer and satisfy the said money, and the charges of distraining and selling the goods and chattels, or if it shall appear to such Court or Judge that such officer had refused, or wilfully neglected, to render and give such account, or to produce the vouchers relating thereto, or that any books, papers, or writings belonging to the Council or relating to the execution of his duties remained in the hands or in the custody or power of such officer, and he refused or wilfully neglected to deliver or give satisfaction respecting the same as aforesaid, then and in every such case it shall be lawful for such Court or Judge to make such order as to justice shall appertain, and, if such Court or Judge think fit, to commit such offender to the common gaol within the Borough or elsewhere, there to remain without bail until he shall have given a true and perfect account as aforesaid, or until he shall have paid such moneys as aforesaid, and until he shall have delivered up such books, papers and writings, or given satisfaction in respect thereof, to the Council, or to such other person as aforesaid, or until such other or future time as the said Court or Judge shall direct: provided that nothing herein contained shall prevent such Treasurer, officer, or other person being tried, and, if found guilty, convicted and sentenced according to law for any crime or offence which he may have committed relative to any matter or thing entrusted to him under the provisions of this Act; and provided, further, that nothing herein contained shall prevent the Council from bringing an action for the recovery of any sum or sums due by the Treasurer, officer or other person to the Council.

120. No prosecution or commitment of any Treasurer or other officer or person shall acquit and discharge any surety or security that shall or may have been taken by or given to the Council, for the due and faithful execution of his or their office, or the payment of the moneys received or to be received by him or them respectively.

Liabilities of sureties for officers.

121. The Act No. 11 of 1867, known as the "Public Bodies' Debts Act, 1867," shall apply in the case of all debts due, or which may hereafter become due, by the Council, anything in the said Act to the contrary, notwithstanding.

Incorporation of Public Bodies Debts Act of 1867.

RULES AND REGULATIONS.

122. The existing rules and regulations of the Borough of King William's Town in so far as the same are not contrary to law, and not repugnant to or inconsistent with the true intent and meaning of this Act, shall remain as legal, valid and effectual as if the same had been word for word inserted in this Act, until such time as the same shall have been altered by the Council in due form of law.

Existing regulations to continue till changed.

123. The Council may from time to time repeal, alter, add to or amend any of the Borough rules and regulations, and may frame any new rules and regulations within the scope of existing rules

Power to make and alter regulations.

and regulations and the provisions of this Act, and from time to time add to, alter or amend the same.

Matters upon which regulations may be made. 124. The Council may also from time to time make, alter, revoke, or amend rules and regulations for all or any of the following purposes:—

- (1) For regulating the proceedings of the Council and the duties of their officers and servants, and preserving order at Council meetings.
- (2) For regulating the level, width, direction and construction of new streets made by the Council or by owners of private property, and the sewerage or drainage thereof;
- (3) For regulating the structure of walls, foundations, roofs and chimneys of new buildings, also their height and cubical contents, and the fixing of fire-proof doors and shutters at internal and external openings; for securing stability, the observance of sanitary precautions, the prevention of fires, and for purposes of health and public safety.
- (4) For regulating the sufficiency of space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings;
- (5) For regulating the drainage and sewerage of buildings and for compelling the connection at the owner's expense of private drains with public drains, sewers or pipes, and for regulating the construction by the Council at the owner's expense of all house drains in so far as they connect with and extend from the main sewer to the kerb of the street;
- (6) For regulating waterclosets, earthclosets, privies, ashpits and cesspools in connection with buildings and to prohibit the use of such of them as the Council consider ought not to be allowed to continue;
- (7) For securing the regularity of lines and levels of buildings, the class of architecture of buildings, and the removal, alteration and prevention of projections or obstructions in front of buildings, upon compensation being paid to the owners thereof for any damage they may sustain by reason of such removal or alteration; provided that such projection or obstruction shall be in existence at the date of the passing of this Act, and shall have been made with the knowledge of the Council;
- (8) For regulating the giving of notices, and the deposit for the Council's approval of plans and sections by persons intending to lay out streets or to construct or alter buildings; the supervision by the Council or its officers of buildings in course of construction or alteration; and as to the power of the Council to prevent, remove, alter, or pull down at the expense of the owner any work begun or done in contravention of its regulations; also for

- preventing the owners of property which has been subdivided and sold in building lots from closing any roads or streets shown upon any plan which has been approved of by the Council ;
- (9) For enabling the Council to prevent the alteration, erection, or use of buildings, the class or character of which are, either in themselves, or from the circumstances or nature of the locality in which they are placed, a disfigurement to the town, or an annoyance to the inhabitants thereof ;
 - (10) For compelling the pulling down, removing, or rendering safe all buildings, walls, bridges, earthworks and stoeps of an unsafe or dangerous character, or which have been allowed to fall into a dilapidated or ruinous condition, and for doing so at the cost of the owner ;
 - (11) For regulating the inspection of buildings and structures by the Council and its officers ;
 - (12) To provide for the due and proper care of the common pasture and other Borough lands, and therein to specify and regulate the quantity and kinds of live stock which each inhabitant shall be allowed to keep and depasture on the said lands, and to regulate shooting or hunting thereon ;
 - (13) For establishing, maintaining, regulating and preserving public parks, walks, avenues, botanical gardens, public libraries, museums, cabmen's shelters, coffee stalls, public places of recreation and open spaces, and preventing offences, nuisances and annoyance therein ; and for regulating bathing and the hours of bathing near public thoroughfares ;
 - (14) For regulating and restricting the storing, carriage, removal and use of gunpowder, dynamite, petroleum, oils, fireworks and other combustibles, explosives and inflammable or dangerous substances, and for regulating the use of firearms ;
 - (15) For regulating the keeping of dogs and imposing a tax upon the keeping of dogs and providing with regard to the seizure, sale and destruction of ownerless dogs and those in respect of which the tax has not been paid ;
 - (16) For causing vehicles to be kept under proper control ; for preventing and removing obstructions in the streets, roads, public thoroughfares, squares, open spaces, foot pavements and sidewalks of the town ; for dealing with diseased animals, and the burial of dead animals, and the driving of live stock through the streets, and as to live stock found straying in the streets ;
 - (17) For regulating the naming from time to time of the streets, roads, thoroughfares, and open spaces in the Borough, and the numbering and renumbering the houses

- buildings and places therein, and imposing duties and obligations upon the inhabitants in respect thereof ;
- (18) For providing that cattle, dogs, live-stock and poultry shall not be kept in such places, or in such manner as to be a nuisance or annoyance to the inhabitants ; for prescribing the situations or places in which swine may be kept, and for prohibiting, if deemed advisable, the keeping of swine ;
 - (19) For regulating the beating or shaking of carpets, rugs or mats in streets or public places generally, and the hours within which carpets, rugs or mats may be beaten ;
 - (20) For regulating the supply and distribution of any water under the control or management of the Council, the quantity of water to be supplied to and taken by the inhabitants, the price to be paid therefor, the time of payment, the time or times at which such supply is to be received, and for the purpose of preventing any waste of water within the Borough ;
 - (21) For establishing one or more pounds within the Borough and providing for the management of pounds, the appointment of poundmasters, and for making such pound regulations as may seem necessary or expedient ;
 - (22) For preventing any person or persons from carrying any board, basket or burden so as to obstruct or incommodate passengers on any sidewalk or foot pavement, and for preventing the wheeling of perambulators, wheelbarrows and anything propelled on wheels on any sidewalk or foot pavement, except for the purpose of crossing the same to or from any house or building ;
 - (23) For preventing persons from congregating with others and thus causing an obstruction in the footpath, foot pavement, sidewalk or crossing, and for preventing the flying of kites, the use of catapults, and playing of games in public streets, thoroughfares and open spaces, and for preventing the obstruction of public streets, thoroughfares and open spaces, and for regulating processions and traffic therein ;
 - (24) For regulating the width, kerbing, paving, guttering, gravelling, cleansing and watering of roads and streets ;
 - (25) For supervising and licensing pleasure boats and vessels, and prescribing the fees to be paid ;
 - (26) For granting licences or permits for the making of bricks and for digging or removing sand, clay or gravel, and for quarrying stone, and for cutting firewood, brushwood or grass upon Borough lands, and to prescribe the fees (if any) to be paid for the same ;
 - (27) For regulating, supervising and licensing hackney carriages and cabs, for fixing the amount of licence fees to be paid, the number of passengers to be carried, the fares to

- be charged, amount of luggage allowed to passengers, for regulating disputes as to fares, the position of cabs on stands to be appointed by the Council, and for providing for the safety and convenience of passengers and the public, and fixing the speed limit thereof ;
- (28) For regulating, supervising and licensing wagons, carts, carriages, motor cars and other conveyances or vehicles drawn by any horse, mule, donkey, or ox, or drawn or propelled by steam, hand, electrical or mechanical power, kept or used within the Borough or plying for hire or profit, and for fixing the licence fees to be paid, and fixing the speed limit thereof ;
- (29) For regulating the supervising and licensing of tramcars and omnibuses and for fixing the licence fees to be paid, the number of passengers to be carried, precautions to be taken, and provisions to be made against accidents, and regulating for the safety and convenience of the public, and fixing the speed limit thereof ;
- (30) For regulating the keeping in repair and paving of tramway and railway lines running over public streets or roads and the keeping in repair and paving by tramway and railway companies and owners of tramcars and railways of the roadway between and adjacent to their rails ;
- (31) For regulating the use and speed limit of and the licensing of bicycles, tricycles, and velocipedes, and other wheeled things within the Borough ;
- (32) For regulating or prohibiting the cleaning and training of animals, repairing, cleaning and outspanning of vehicles in streets and public places.
- (33) For planting and preserving trees, shrubs, and flowers and plants in public parks, grounds, streets and open places ;
- (34) For regulating and registering houses let or occupied as common lodging houses and sublet tenement houses, boarding houses and hotels, and inspecting such houses and hotels, and the keeping the same in a cleanly and wholesome state ;
- (35) For establishing and regulating public markets and market dues and regulating public sales ;
- (36) For regulating the lighting of and the providing of lighting for the streets and the Borough generally, with gas, electricity or otherwise ;
- (37) For preserving public decency ;
- (38) For regulating and licensing boatmen, porters, public carriers, carters, and drivers of vehicles plying for hire ;
- (39) For establishing, maintaining, and controlling ferries, pontoons or bridges, and levying and collecting tolls and dues thereon ;

- (40) To grant temporary grazing rights over the common pasture lands to carriers and others frequenting or passing through the Borough or attending the markets thereof, or to travellers, and to charge such reasonable dues therefor ;
 For allotting and setting apart and from time to time changing the position of portions of the Borough, as locations for the residence of natives and Asiatics, and within which natives and Asiatics may be compelled to reside, and for abolishing such locations ;
- (42) For regulating the condition upon which natives and Asiatics shall be required to or may reside in such locations, and the fees, rents, and hut tax to be paid by them in respect of such residence, and for the providing for the registration of such residents, and any horses, cattle, oxen, sheep, goats, pigs or poultry belonging to them, and for regulating or prohibiting the use of the commonage by the same ;
- (43) For providing for the appointment of superintendents and headmen of such locations, and regulating their duties and authority, and preventing the obstruction of such officers in charge of their duties ;
- (44) For regulating, permitting or prohibiting of shops, trading stations and trading within such locations ;
- (45) For the removal or destruction of unauthorised or abandoned huts in the locations or upon the commonage ;
- (46) For the issuing or refusing of permits to natives and Asiatics to reside in such locations, and for regulating the manner in which persons no longer entitled to reside therein may be removed ;
- (47) For fixing and from time to time altering the limits within which it shall not be lawful for natives and Asiatics to reside, and for fixing the hours within which it shall not be lawful for natives and Asiatics to be in the streets, public places or thoroughfares within such limits without a written pass or certificate from their employer or the Inspector or Superintendent of Police, or a superintendent of a location : provided that no such regulation shall apply to such natives as are by Act No. 39 of 1887 exempted from the operation of certain disqualifying Acts of Parliament, or to those who have received certificates of good character from the Resident Magistrate, which certificates shall be renewed annually and may at any time be withdrawn ;
- (48) For regulating and setting apart portions of the rivers where natives and Asiatics may not bathe, and where clothes may or may not be washed ;

- (49) To make due provision for the confining or killing of pigs, goats, or fowls;
- (50) For regulating the traffic and fixing the limits within which traction engines may be driven within the Borough;
- (51) For maintaining generally the good rule and government of the Borough, and the safety, convenience and comfort of its inhabitants; and in framing regulations the Council may prescribe the time within which any works or things required to be done shall be executed, done or completed, and may provide in case of default for the execution by the Council of any such work or thing at the expense of the defaulter.

Provided that nothing in the sub-sections forty-two, forty-seven, and forty-eight, shall apply to any native or Asiatic who is at the present time, or may hereafter become, the registered owner or the occupier of landed property within the Borough valued for Borough purposes at not less than One Hundred and Fifty Pounds, and who shall produce to any police constable, or other person entitled to enforce the provisions of this Act, or of any bye-law made hereunder, a certificate under the hand of the Town Clerk, that he is such owner or occupier aforesaid, which certificate the Town Clerk shall be bound to give free of charge to any native or Asiatic entitled to the same, under a penalty of Five Pounds for reference in any such case; and provided further that any two or more natives or Asiatics who shall be joint owners or occupiers as aforesaid shall be entitled to such certificate, if the total value of the property owned or occupied by them jointly shall, when divided by the number of such owners or occupiers, yield a sum of not less than One Hundred and Fifty Pounds in respect of each such owner or occupier.

Sub-sections 54, 59 and 60 do not apply to Natives or Asiatics registered owners or occupiers of landed property valued at £150.

125. Any rule or regulation made under this Act may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches thereof, but no such penalty shall exceed Twenty Pounds for each offence; and in the case of a continuing offence may impose a further penalty not exceeding Forty Shillings for each day on which such offence is continued after written notice thereof not less than seven days from the Council.

Power to impose Penalties in Bye-laws.

126. Whenever any penalty shall have been imposed under the provisions of this Act or of any rule or regulation made thereunder, the Court may in the same or by subsequent order direct that in default of payment of such penalty such person be imprisoned with or without hard labour for a period not exceeding three months, or in the case of a second or subsequent offence for a period not exceeding six months, and such person shall be detained and kept to hard labour accordingly, unless he shall sooner pay the penalty.

Punishment if Penalties not paid.

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Approval of regulations by Governor.

127. After any regulation has been passed by the Council a copy of the same shall be posted at the Town Hall and a notice published in one or more of the local newspapers (if any) calling attention thereto, and three weeks after such notice shall have been advertised it shall be submitted for the approval of the Governor and, if approved, shall be published in the *Gazette*, and thereupon shall have the force of law in the Borough.

Production of *Gazette* to be evidence of regulation.

128. A copy of the *Gazette* containing any bye-law or regulation shall be evidence of the due making of such bye-law or regulation and of the contents.

MAKING OF VALUATIONS.

Making of valuation.

129. The Council shall from time to time, but not less than once in five years, cause a valuation of all immovable property within the Borough to be made by one or more competent persons who shall be sworn appraisers appointed by the Master of the Supreme Court.

Declaration by valuer.

130. Every valuer shall, before entering upon the valuation entrusted to him, make before some Justice of the Peace a solemn declaration in the terms following:—

“I.....do solemnly and sincerely declare that I will to the best of my skill and knowledge, and without fear, favour or prejudice, truly and impartially appraise and value all such property as I shall be required to value in the Borough of King William's Town for the purpose of assessment, and that I shall conscientiously value the same at and for the full and fair price or sum which such property would, in my judgment, be likely to realise if brought at the time of valuation to voluntary sale and sold upon the usual terms and conditions; and I make this solemn declaration, conscientiously intending to fulfil the same.

Declared at.....this.....day of.....
Before me.....”

Particulars in Valuation Roll.

131. The valuer or valuers shall frame the Valuation Roll in such a manner as to show:—

- (a) The name and address of the owner.
- (b) The name of the occupier (or if unoccupied such fact to be stated).
- (c) Description of the property valued.
- (d) Name and situation of property.
- (e) Rateable value.

Objection to Valuation Roll.

132. When this Valuation Roll has been completed it shall be laid before the Council, and a copy thereof shall lie at the office of the Council for the inspection of every owner or occupier of any property included therein who may at all reasonable times inspect the same, and the Council shall by notice published in one or more local newspapers, and by circular call upon occupiers and owners to lodge in writing with the Town Clerk any objec-

tions they may have against the valuation of any property whether owned by them or not, within a specified time not being less than fourteen days from the first publication of such notice.

133. After the expiration of the time specified in such notice the Council shall appoint from among themselves a committee consisting of the Mayor and not less than two other Councillors and shall form a Valuation Court, and such Court shall there after at meetings duly called by the Town Clerk upon the instruction of the Mayor, proceed to consider the Valuation Roll and the objections made as aforesaid, and shall hear the objectors in support thereof and shall take evidence thereon and shall be entitled to make such alterations or amendments in the Valuation Roll as by them may seem expedient; provided that no valuation shall be increased by the said Court unless notice of intention to make such increase shall first have been given in writing to the owner and occupier of the property.

Council to appoint Committee to settle Valuation Roll.

134. When such Court has completed its examination of the Valuation Roll and has made such alterations and amendments therein as to it may seem necessary the Town Clerk shall cause a copy of such Roll as settled to be made for the inspection of persons interested, and shall cause an advertisement to be published in one or more local newspapers not less than three times within a period of one week of the publication of the first advertisement and also a circular to be sent informing all owners and occupiers of landed property of the completion thereof, and that the same will become fixed and binding upon all parties interested who shall not, before a date fixed in such notice not being less than fourteen days from the date of the first advertisement, give two clear days' notice in writing to the Town Clerk of his intention to appeal against the decision of the Valuation Court to the Resident Magistrate having jurisdiction within the Borough, who is hereby authorised and required to hear such appeal, the notice aforesaid to the Town Clerk specifying the time and place of such hearing; provided, however, that no person shall be entitled to take any proceedings whatever for review who shall not have duly lodged an objection to the valuation as originally made or be interested as owner or occupier in a property the valuation of which shall have been increased by the Valuation Court, and that no valuation shall be set aside or varied merely by reason that the circular notice referred to in this and section One Hundred and Thirty-three of this Act shall not have been duly sent.

Notice of final valuation to be given to persons interested.

135. Notwithstanding anything to the contrary in this Act stated, the Council may at any time direct that a valuation be made of any property discovered to have been omitted from the Valuation Roll, or of any buildings erected or improved, or of any property sub-divided, or of portions of any property which are occupied by different persons after any general valuation of property made as aforesaid, and upon the making of any interim

Interim valuation.

valuation, the same forms shall be observed as are in the last preceding section set forth with regard to general valuations, excepting that in the option of the Council the prescribed notice may be served, in writing, either upon the owners or occupiers of the property or properties affected instead of being published as aforesaid.

Power of entry by valuer. 136. Every valuer provided with written authority signed by the Town Clerk shall, for the purpose of making any valuation as aforesaid, have power to enter at all reasonable hours in the day-time into and upon any immovable property within the Borough without being liable to any action on account thereof.

Rates leviable upon valuation. 137. All rates made or levied by the Council under the provisions of this Act shall be made or levied upon the valuation of immovable property framed in terms of this Act; and until such a valuation be made such rates shall be levied according to the existing valuation.

MAKING OF RATES.

Council to levy rates. 138. It shall be lawful and competent for the Council annually to impose levy and assess a rate, whereof public notice shall be given in one or more of the newspapers published in the Borough; and the Council shall in like manner, if any further or unforeseen expenditure shall arise or become necessary during the same year, assess and impose a second or further rate, whereof public notice shall be given in manner aforesaid, provided that it shall not be lawful for the Council in any one year to levy any rates (exclusive of water licences, special water rate, sanitary or other fees, imposed, assessed or levied by virtue of any bye-laws or regulations framed under or rendered valid by this Act or Acts 45 of 1882 and 21 of 1881), amounting in the aggregate to more than 4d. in the £ on the value of the immovable property assessed, without obtaining the consent of the majority of the ratepayers present and entitled to vote at a public meeting to be called for the purpose of considering such rate or rates, of the object and time and place of holding of which meeting at least seven days' notice shall be given in manner hereinafter mentioned; and provided it shall be lawful for any two or more ratepayers present and entitled to vote at such meeting to demand a poll of the ratepayers in the Borough, entitled to vote at such meeting if present, which poll shall be taken on the day following such meeting, to commence at 10 o'clock in the forenoon, and to be finally closed at 4 o'clock in the afternoon of the same day.

Who primarily liable for rates. 139. The person or persons in whom shall be vested on the first day of September in each year the legal title to any immovable property, shall be the person or persons primarily liable for the rates imposed during that year in respect of such property, including the water licence, or sanitary fees imposed under any bye-law or regulation framed under this Act: provided, that any person entitled to the usufruct or any other limited interest for

life in respect of any such property shall be deemed to be invested with the legal title for the purposes of this section: and provided always, that nothing in this Act contained shall in any way affect the provisions of the Crown Property Rating Act of 1891 and the Public Libraries and Museums Relief Act of 1892, or render liable to be rated for more than one-fourth of such rate any places used exclusively for public worship, public schools, or institutions supported by public charity.

140. The rate in the last preceding sections mentioned shall be voted and levied for all Borough objects, purposes and services, including water supply and waterworks, sewerage, drainage, improving, cleaning, repairing and improving streets and squares, the construction and repair of Borough buildings, payment of Borough servants, and all and every other Borough object or purpose necessary, in such manner as the Council shall deem advisable and expedient, and at the time of making the said levy it shall be determined how the amount to be so raised shall be apportioned and appropriated amongst and to such objects, purposes and services.

Application
of moneys
received from
rates.

141. As soon as possible after the passing of a resolution to levy a rate on immovable property, in addition to every other notification required by law, a notice shall be posted to the address of each person by whom any money is payable because of such resolution, which notice shall set forth the rate levied, the property assessed, the amount payable, the latest date when and the place at which payment must be made; provided, however, that the non-receipt of such notice shall not be any defence in any proceedings instituted for the recovery of any such rate.

Notice of
rates payable.

142. All rates levied under this Act shall be due and payable at the office of the Treasurer of the Council on the first day of September in each year, and every person who shall be in default in payment of any such rates after the 30th day of November in each year, shall become liable to pay and shall pay in addition to the rate in regard to which he shall have made such default, interest thereon at the rate of 6 per cent. per annum, which together with the ordinary rate shall be deemed to be rate payable under this Act, and shall be recoverable as such by any of the means provided by this Act. But with regard to any property valued under and by virtue of the provisions of clause One Hundred and Thirty-six the amount of the year's rate payable by the person responsible therefor as compared with the whole of the rate payable shall be in the same proportion as the number of months of the year left at the time of such interim valuation as compared with the whole year calculated as from the first September and three months' grace shall be given each person rated under such interim valuation of such property in respect of the payment of such rates after which the aforesaid provisions as to interest shall likewise apply.

When rates
payable.

No. 27—1905.

Recovery of rates.

143. Every charge, licence or fee assessed or imposed by the Council, with the exception of sanitary fees, shall become due and payable, upon the first day of January in every year, of which date, and the amount of the said charge, licence or fee, the Council shall give at least thirty days' notice by advertisement in one or more of the local newspapers published in the Borough, and in such other mode as the Council shall by resolution direct.

Proceedings in default of payment of rates.

144. Whenever the Council shall have given such notice as aforesaid of the day on which any rate will become due and payable, it shall be the duty of all persons liable for such rate to pay the amount thereof to the Town Clerk or any collector duly authorised by the Council to collect and receive the same, failing which defaulters will be liable to legal proceedings for the recovery of the amounts due by them respectively.

How defaulters to be sued.

145. If after the expiration of the time fixed for the payment of any such rate, charge, licence or fee as aforesaid, any person fail to pay the same when due by him, it shall be competent for the Council to cause a demand in writing to be made upon such person, requiring such person to pay the amount stated in such demand within fourteen days after service thereof. And in case any person who shall have had any such demand delivered to him personally, or left at his ordinary place of residence, or place of business, or office shall make default, it shall be lawful for the Mayor or Chairman of the Council to issue his warrant directed to an officer to be appointed by the Council, requiring such officer to levy and raise the amount stated therein by sale of the goods and chattels found belonging to the person by whom such amount shall be due, and every such officer receiving any such warrant shall execute the same as if it were a warrant issued out of the Court of the Resident Magistrate of the District, and shall conform to such rules and make such charges in respect of the execution of such warrant as are for the time being applicable to warrants of such Magistrate's Court.

Actions for rates in Magistrate's Court.

146. Notwithstanding the provisions of the last preceding section the Council may at their discretion after the expiration of the time fixed for the payment of any rate, charge, licence or fee as aforesaid, recover from any person in default (without further notice or demand) the amount thereof due by such person by action in the Court of the Resident Magistrate, as hereinafter in this Act is provided.

Jurisdiction in regard to rates.

147. Any rates assessed as aforesaid, and any charge, licence or fee due and unpaid after the date when the same fell due shall be recoverable at the suit of the Council or its collector appointed in writing, by action of the Court of the Resident Magistrate of the district of King William's Town, or in case the person liable for such rate shall not reside within such district, then either in the Court of the Resident Magistrate of such district, or in the Court of the Resident Magistrate of the district in which such person shall reside.

148. In any proceedings to levy or recover rates or consequent on the levying or recovering of any rate under the provisions of this Act, the valuation rolls and rate books of the Council, and all entries purporting to be made therein in manner by this Act required, extracts or certified copies thereof signed by the Town Clerk and sealed with the seal of the Borough, shall upon production thereof alone be *prima facie* evidence of such rate, and of the contents thereof, without any evidence that the notices required by or other requirements of this Act, have been complied with ; provided that it shall be competent for any person proceeded against to offer evidence to prove the contrary.

Evidence in suits for recovery of rates.

149. When the owner of any rateable property has been rated in respect thereof and the rate remains unpaid for three months the Council, or their collector as aforesaid, may, at any time within twelve months after the making of the rate, demand the amount of such rate or any part thereof from the occupier for the time being of such rateable property, and on non-payment thereof may, after one month from the date of such demand, recover the same in like manner as rates may be recovered from any occupier liable to be rated. And every such occupier shall be entitled, subject to any agreement to the contrary, to deduct from any rent payable by him to such owner so much as was so paid by or recovered from him or to claim the amount from such owner ; and the production of the receipt for such rates so paid by or recovered from such occupier shall, subject as aforesaid, be a good and sufficient discharge for the amount so paid or recovered as payment of rent to the owner.

When owner in default, demand against occupier.

150. If on the request of the Council or any collector of rates duly authorised by them as such, the occupier of any property refuses or wilfully omits to disclose, or wilfully misstates to the Council or collector making such request, the name of the owner of such property, or of the person receiving or authorised to receive the rents of the same, such occupier shall be liable to penalty not exceeding Five pounds.

When occupier refuses to disclose name of owner.

151. Where any rateable property in the Borough, is unoccupied and the rates thereon accrued and due at the time of the Borough shall come under the operation of this Act, or any rates thereon accrued under this Act, shall have been unpaid for five years, the Council may, in the name of the Borough take possession of such property and grant leases of the same subject to the provisions of this Act.

When property rated may be seized and leased.

152. Every such lease shall be for such term, not exceeding five years, as the Council may deem fit, and shall be granted for the best rent which may be reasonably had for such property, and subject to such covenants and conditions as the Council may determine.

For what term.

153. The Council shall not take possession of any such property until three months after a notice in writing setting forth that rates in respect of such property are unpaid, and demanding payment

Notice before the seizure.

thereof, and stating that in default of payment the Council will take possession of such property under the provisions of this Act, has been served upon the owner of such property, if within this Colony, and whose name and address is known to the Council, or if there is no such owner within this Colony, or no such owner whose name and address is so known, until such notice has been affixed to some conspicuous place on such property and published in the *Government Gazette* at least once a month during three months; and every such notice shall contain a sufficient description of the property to identify the same; but every lease granted by the Council otherwise than in accordance with the provisions of this Act shall be valid notwithstanding the non-compliance with the provisions of this section, unless all arrear rates and interest thereon are paid within twelve months after the Council shall have taken possession.

How owner
of rents may
regain
possession.

154. Within three months after demand by the owner of any property taken possession of by the Council as aforesaid, made within thirty years after the date of taking possession, and after payment of all arrears of rates due in respect thereof and interest upon such arrears at the rate of six per centum per annum, such owner shall be entitled to resume possession of such land, subject to the terms of any lease theretofore lawfully granted by the Council under the provisions of this Act.

Application
of rents ac-
cruing under
the leases.

155. All rent and other moneys payable under any such lease shall until the payment of all arrears and interest as aforesaid by the owner, or the expiration of thirty years from the date of taking possession of such property by the Council, whichever shall first happen, be received by the Council and shall be applicable,

- (1) In defraying the expenses of and incidental to the giving of the notices as aforesaid and the execution of such lease and the collection of the rents;
- (2) In payment to the Council of all arrears of rates and other payments due in respect of such property, together with interest on all arrears of rates at the rate of six per centum per annum, from the time when interest upon such rates shall accrue respectively, and in payment of all rates and other payments becoming due thereon.

And the residue of such money shall belong to such person as would have been entitled to receive the rents or profits of such property if this Act had not been passed.

After pre-
scriptive pos-
session of
thirty years
property seized
to vest in
Council.

156. Unless some person entitled to resume possession of any property of which the Council has taken possession as aforesaid shall within thirty years after the date of taking possession pay all arrears of rates, interest and incidental expenses properly chargeable under this Act, such property and all accumulations of rent and other moneys received in respect of such property shall vest absolutely in the Borough.

LOANS.

157. Subject to the provisions of this Act, the Council may borrow money for public works or undertakings, or to liquidate the principal moneys owing by the Borough on account of any previous loan.

Borrowing
power for
works.

158. Before proceeding to borrow any money for the construction of public works and undertakings, the Council shall cause to be prepared plans and specifications, and an estimate of the cost thereof, and also a statement showing the proposed expenditure of the money to be borrowed, and such statement shall be open to the inspection of the ratepayers for one month after the publication of the notice next hereinafter mentioned at all reasonable times.

Plans and
specifications
of works to be
prepared.

159. No proposition for borrowing money for any of the purposes aforesaid shall be adopted by the Council, unless a notice thereof has been published in the *Gazette* and also twice in some newspaper published in the Borough not less than one month nor more than three months before such proposition is adopted, stating the amount of the moneys proposed to be borrowed and the purposes for which the loan is to be applied, and in case such loan is to be expended in the purchase of any land, works, or undertakings, specifying such land, works or undertakings, and in case such loan is to be expended in the construction of works or undertakings, stating that the plans and specifications and estimate of such works, and the statement hereinbefore mentioned, are open to inspection at the office of the Council.

Notice to be
given of in-
tention to
borrow.

160. Within one month after the last publication of such notice as aforesaid, of any proposition to borrow money, not being a proposition to borrow money to liquidate any loan lawfully incurred, any twenty ratepayers may by writing under their hands delivered to the Mayor or Town Clerk demand that the question whether or not such loan shall be incurred, be submitted to the election of the ratepayers.

When pro-
posal to bor-
row must be
submitted to
ratepayers.

161. When any such demand has been made, the votes of the ratepayers shall be taken upon such questions on a day to be fixed by the Council, of which day not less than fourteen days' notice shall be given, and on such a day a poll shall be taken in the manner by this Act prescribed for holding elections of all ratepayers who desire to prohibit the Council from proceeding further with such loan.

Proceedings
on demand
for such sub-
mission.

162. One scrutineer shall be appointed by the Council, and the persons demanding a poll may, by writing under the hands of a majority or the whole of them, also appoint one scrutineer to be present at every polling place.

Scrutineers.

163. Immediately after the close of the poll the number of votes recorded thereat shall be ascertained in the manner provided for ascertaining the number of votes at elections, and the returning officers shall, as soon as conveniently may be on or after the day

How result
of poll to be
ascertained.

of the poll, give notice to the Council of the number of votes recorded, and the Council shall be prohibited from proceeding further with such loan if the number of votes recorded against the loan exceeds one-half of the total number of votes cast at such poll.

In case proposal to borrow be not opposed, or fail to be prohibited.

164. If no such demand is made as aforesaid, that the question whether or not such loan be incurred be submitted to the election of the ratepayers, or if on such demand being made, the ratepayers fail to prohibit the Council from proceeding further with the loan, the Council may at any time, not more than six months after the last publication of such notice as aforesaid, pass a resolution for borrowing money for the purposes mentioned in the notice.

Majority necessary to support proposal to borrow.

165. No resolution for borrowing money shall be adopted by the Council, unless at the meeting of the Council at which the resolution is confirmed as herein required, the resolution for confirmation is carried by a majority of the whole number of members of the Council; nor shall any such resolution be adopted if the sum proposed to be borrowed, together with any sums previously borrowed and not repaid, would exceed a sum equal to ten times the then annual revenue of the Borough.

Separate accounts to be kept of borrowed money.

166. The Council shall cause a separate account to be kept in some bank, for every loan incurred by them, and all money forming part of such loan shall be paid into such account, and shall be applied solely to the purpose for which the same was borrowed.

Advances from Banks.

167. For the temporary accommodation of the Council it shall be lawful for it to obtain advances from banks, by overdraft of the current account upon the credit of the Borough, but no such overdraft or accommodation shall at any time, under any circumstances, exceed the prior year's income.

When councillors personally liable for loans.

168. If the Council shall borrow any money as on the credit of the Borough which it is not legally bound to pay, all councillors who have consented to the borrowing of such money shall be jointly and severally liable to repay the same and all interest thereon to the persons from whom the same was borrowed, and the same may be recovered from such Councillors or any of them as money lent by such persons to such Councillors in any Court of competent jurisdiction, but in no case shall such money be recoverable from the Borough.

MUNICIPAL LANDS.

Common lands, &c., of inhabitants vested in Council.

169. The property of and in all lands, streets, roads, and buildings to which the inhabitants of the Borough shall at any time have or acquire a common right, shall be vested in the Council.

All lands, with certain exceptions to be vested in Corporation.

170. All the land within the boundaries of the Borough, except any which has already been alienated by the Government or the Borough Council, and except such land as has been set apart, or

reserved, or appropriated for any particular bodies, persons or purposes (including in such exceptions, amongst other things, what is contained within the area known as the Military Reserve, the land reserved for Churches, public buildings, for a public library, and for discharged soldiers, the sites of the present gaol, police barracks, and cemetery, and the land within the Grey Hospital fence) is hereby vested in the Corporation hereby established, for the public uses of the said Borough; subject, however to the right of the Military Authorities to the exclusive use, so long as they may require the same, of the land now occupied by the mule train establishment, and the land now used for a rifle range; and subject to the privilege which has been given to the Royal Engineers to quarry stone and make bricks; and subject to any servitudes, such as watercourses, which have already been created; and provided that it shall be lawful for the Governor, whenever the same shall be required for public purposes, to take, without compensation, such of the waste land hereby vested in the said Corporation as may from time to time be so required, upon giving to the Council at least one month's notice to that effect, and the land so required shall thereupon, and at the expiration of such notice, revert to His Majesty as if the same had not been hereby alienated; and provided, also, that in case any dispute or doubt shall arise as to what land is contained within the above exceptions, or the extent of any such land, or what land is to be used for the mule train establishment or for the rifle range, or what is the extent of the said privilege given to the Royal Engineers or what servitudes have been created, the same shall be decided by the Governor, whose decision shall be final.

171. When and as often as the Council shall at any meeting duly convened for that purpose, resolve that it is expedient to dispose of or alienate or permit to be built upon, enclosed, or cultivated any part or portion of the common pasture lands of the Borough, or any other lands that shall be vested in the said Council, it shall and may be lawful for the Council to apply in writing for the consent of the Governor to the proposed sale, or alienation of any part or portion of such lands, and upon obtaining such consent, but not otherwise, to execute, or carry into effect such sale, alienation, or other arrangement: provided always that any monies realised by any such sale shall be applied to some public work or improvement of a permanent nature.

172. No such application shall be made to the Governor aforesaid until a notice in writing of such intended application shall have been posted for general information at the Town Hall for a period of not less than fourteen days, and published once a week for three consecutive weeks in a newspaper published or circulating within such Municipality, which notice shall in some part thereof describe the part or portion of land proposed to be sold or alienated, and the object, terms and conditions of the proposed sale or alienation, and shall require any person objecting

As to disposing of, enclosing, &c., such lands.

Notice of application for such dealing with lands to be given.

to the proposed proceeding to lodge with the Council, within fourteen days from and after the date of the posting of notice, his objections thereto in writing.

Copy of notice and of objections to be sent to Governor.

173. In every case in which the Council as aforesaid shall apply to the Governor for such consent as aforesaid, they shall transmit, together with such application, a copy of the notice posted as aforesaid, and of all objections which shall have been lodged in pursuance thereof, with such observations, if any, upon such objections as they shall deem necessary and fitting.

Contract of sale, &c., to be completed when Governor's assent given.

174. When and as soon as the Governor shall have signified his assent to such application as aforesaid, all powers, contracts, or other instruments necessary to effect the object of such application may be signed or executed.

Other property vested in Council.

175. The property of and in the lamps, lamp-irons, lamp-posts, bridges, sluices, dams, reservoirs, sewers, drains, market houses, pipes, posts, chains, pales, and rails in or about, belonging to the said streets and places within the Borough, and of and in all iron, timber, stone, bricks and other materials, appurtenances and furniture and things of, in and belonging thereto (except when the same shall be otherwise regulated by contract with the Council), also all the movable property which now is under the administration of the Council, and employed by them for the use of the Borough, shall be, and the same is hereby, vested in the Council, and any movable property may be used, sold, and disposed of by it from time to time as it shall deem necessary; and the money arising from such sale shall be applied towards the purposes of this Act; and the Council are hereby authorised and empowered to bring or cause to be brought any civil or criminal action or proceedings in manner as is herein provided, against any person or persons who shall steal, break or otherwise damage any of the buildings or other things, the property in which is vested in the Council, subject, however, to the provisions of the law for the time being in force in that behalf; and in all such actions and proceedings it shall be deemed and taken to be sufficient to state generally that the article or thing for or on account of which such action or proceeding shall be brought is the property of the Council.

Penalties for injuring Council property.

176. If any person shall wilfully break, throw down, spoil, or damage any lamp, lamp-iron, lamp-post, pale, rail, chain, or other furniture thereof, or wilfully extinguish the light of any lamp, or shall break, spoil or damage any building, the property in which is vested in the Council, or shall wilfully break or damage any public watercourse sewer, drain, pipe or ditch within the Borough, it shall be lawful for any person who shall see the offence committed, to apprehend, and also for any other person or persons to assist in apprehending the offender, and by the authority of this Act and without any warrant to deliver to any constable, who is to keep him in safe custody, and with all reasonable dispatch to convey him before the Resident Magistrate of King William's

Town, or any Justice of the Peace having jurisdiction, and if the party accused shall be convicted of any such offence by such Resident Magistrate he shall forfeit any sum not exceeding five pounds for every such offence, and shall also make full satisfaction for such damage not exceeding twenty pounds sterling as the Magistrate may at the instance of the Council summarily adjudge, and one moiety of such forfeiture shall be paid to the person or persons apprehending such offender, and the other moiety shall be applied for the purpose of this Act; and in case any such offender shall not on conviction pay the said forfeiture, such Magistrate is hereby required to commit him to the common gaol or house of correction, there to be kept at hard labour if such Magistrate shall so order, for any time not exceeding one calendar month unless such forfeiture shall be sooner paid: provided nothing herein contained shall prevent the Council from electing to bring any civil action for damages against such offender before any competent Court, should it consider the amount of such damages to exceed the jurisdiction of the said Magistrate.

POLICE.

177. The Borough Special Police shall be under the control and management of the Council.

Board of Management of police.

178. The said Board shall have power to appoint and remove Constables, and to provide them with clothing, arms, ammunition, and weapons, and to make regulations touching their number, pay, allowances, and duties; and such Constables shall have all such powers, and be subject to all such liabilities, as Policemen and Constables may, by any law now or hereafter to be in force, have or be liable to, and obey all lawful directions touching the execution of their office, which they may from time to time receive from the Resident Magistrate or Justice of the Peace having jurisdiction within the Borough.

Powers of Board and of Constables and Street-keeper.

179. The cost of maintaining the Borough Special Police shall be paid out of the funds belonging to the Borough.

Defray of cost of police.

POWERS AND DUTIES OF THE COUNCIL.

180. The Council shall make and maintain at all times in serviceable order and efficient repair all dams, tanks, reservoirs and other works necessary for the impounding of an adequate supply of water to the inhabitants of the Borough of King William's Town: as also all mains, branch service pipes and other appurtenances required to convey that supply to every locality or district entitled to it by the provisions of this Act.

Council's duty as to maintenance of water supply.

181. The Council is hereby empowered to construct and make all such works as may, in the opinion of the said Council, be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking, or conveying the said water, whether by reservoirs, dams, water courses, or leadings, pipes,

Power to construct waterworks.

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conduits, drains, ditches or other means, and to erect such buildings as may be deemed requisite for the purpose of the said works, for securing an adequate supply of water for the inhabitants of the Borough; and for such irrigation purposes as the said Council may deem necessary and expedient.

Tariff of charges and power to compel taking of water.

182. The Council is hereby empowered from time to time to make and publish a tariff of charges by which the supply of water by private water-leavings and the supply to industrial establishments shall be regulated, and the payment of all private water-leavings and for the supply of industrial establishments shall be in accordance with such tariff; the Council, or any person duly authorised by it, shall have access at all reasonable times to inspect and regulate all such private water-leavings.

Power to construct bridges, sluices, &c.

183. The Council shall cause to be made, provided, erected, and built, covered in or removed, such bridges, sluices, dams, or reservoirs, watercourses, drains, and ditches as now are or shall be deemed necessary within the Borough, and shall cause the same to be kept at all times in good and efficient repair.

Provisions for water supply.

184. It shall be lawful for the Council to excavate, construct and lay down within the limits of the Borough, watercourses, water pipes, conduits, sluices, dams, reservoirs, aqueducts, wells and other works for supplying water to the inhabitants of the Borough and to keep the same in repair; and to carry out any preliminary works in connection with a contemplated water supply from any quarter; and to enter into contracts for the supply of water to the Council and the inhabitants, or for any of the purposes aforesaid.

Compulsory supply of water.

185. The Council shall have power to call upon the owner or occupier of each and every separate building, house and tenement entitled to a supply of water under the terms of this Act to take from the Council at his own expense a water-leading, and upon being so called upon every such owner shall be obliged so to do.

Council's duty to maintain water supply.

186. The Council is hereby required to maintain, at all times as far as may be practicable, an adequate supply of water to every public fountain erected by or with the consent of the Council, and to every fire-plug, and to all dwelling-houses and private water leadings; and in order to enable the Council to supply every dwelling-house with water, the owner of every such dwelling-house shall within twenty-one days after receiving written notice to that effect lay on a private service pipe to the main branch or service as may be directed, and in all cases when the owner shall refuse or neglect, he shall be liable to a penalty not exceeding five pounds sterling, and the Council is hereby empowered to supply and lay on such private service pipe at his expense; and for such purpose, and in case of renewing or relaying such pipes as may already have been lawfully laid, or in the laying-on, at the expense of owners, private service pipes or water-leavings to dwelling-houses the Council shall have power to enter on private property.

Abatement of nuisances.

187. The Council is hereby authorised and required to remove, put down and abate all nuisances of a public nature within the

said Borough, or which may tend either to injure the health or in any way affect the safety or reasonable comfort, peace and quiet, or the rights of the inhabitants at large, and if need be, to proceed at law before any competent Court, against any person or persons so committing any such nuisance for abatement thereof and recovery of damages, if any ; and the Council shall and they are hereby required to cause all streets, watercourses, drains, roads and places within the said Borough to be kept clean and free from dirt, filth, or rubbish ; and any person convicted upon complaint made by the Council to the Resident Magistrate, of throwing dirt, filth or rubbish into any such street, road, watercourse, drain or place as aforesaid shall forfeit and pay any sum of money not exceeding five pounds and in default thereof be imprisoned for any period not exceeding two months unless such fine shall be paid sooner.

188. The Council shall cause the public streets, roads, and places, within the Municipality, to be at all times kept in good and efficient repair ; and as far as the funds of the Borough shall permit shall cause such new streets and roads to be made as may be necessary for the public use, and shall keep the same in good and efficient repair.

Repairs to streets, &c. and making of new streets.

189. It shall be lawful for the Council to make provision for lighting in a suitable manner the streets, lanes, squares, public passages, thoroughfares and public places within the city, and to provide, erect and maintain, or grant leave to any person or persons, company or companies to provide, erect and maintain, under such conditions as it may seem fit, such a number of lamps, lamp-posts, lamp-irons, and other appliances and appurtenances as may be necessary for that purpose, and to light or enter into contracts for lighting, and cause to be lighted such lamps by means of oil, gas, electricity or otherwise ; and the Council are hereby authorised to order and require such lamp-posts, lamp-irons and other appliances and appurtenances to be put or fixed upon the sides of the pavements, footways, streets and roads, or upon or against the walls and palisades of buildings on the sides of the streets, without being liable to any claims for compensation ; and the Council may also from time to time make such regulations thereon as it shall find necessary.

Lighting of streets, &c.

190. It shall be lawful for the Council from time to time to cause such sewers, drains and pipes to be made, laid, altered, deepened, covered over and maintained within the Borough as shall be necessary for the effectual draining of the same or any portion thereof, and from time to time to cause to be made and maintained all such reservoirs, sluices, engines, ventilating shafts and other works as shall be necessary for cleansing and ventilating such sewers, drains and pipes, and if needful it may carry such sewers, drains, pipes and ventilating shafts through and across private lands or beneath or against private buildings, making compensation for any damage done, which compensation shall, if

Drainage of Borough.

No. 27—1905.

not mutually agreed upon, be settled by arbitration; and the Council or any persons duly authorised by them shall have right of access for maintenance of such sewers and drains.

Power to carry sewer across public roads and streets, and to expropriate vacant Crown land.

191. The Council may within the limits of the Borough, carry any sewer through, across or under any public road or street or any place laid out as, or intended for a public street, and through, across or under any vacant or unimproved Crown land, or any vacant or unimproved land belonging to the Borough, and may with the consent of the Governor expropriate any vacant or unimproved Crown land for a sewage farm, pumping station, or for other purposes connected with the drainage and sewage of King William's Town, without paying compensation.

Sewage farms, &c.

192. The Council shall have power to take and expropriate at such price as may be fixed by arbitration any landed property within the King William's Town division required by it for the purpose of a sewage farm or farms and pumping stations and generally for any purpose connected with the drainage and sewage of the town and may carry its drains and sewers through or beneath any landed property lying within the King William's Town division along any proposed route for such sewers from the town to the said sewage farm or farms, paying such compensation for damage done as may be ascertained by arbitration, and the Council and its officers and servants shall have right of access to private property for maintenance and inspection of all such sewers and drains.

Council's power to deal with land held by it for the purpose of sewerage.

193. The Council may deal with any land held by it for the purpose of receiving, storing, disinfecting, or distributing sewage in such manner as it deems most profitable, either by leasing the same for a period not exceeding twenty years for agricultural purposes, or by contracting with some person to take the whole or part of the produce of such land, or by farming such land and disposing of the produce thereof; provided always that in dealing with land for any of the above purposes, provision shall be made for effectually disposing of all the sewage brought to such land without creating a nuisance.

Council may enter into agreements with public bodies.

194. It shall be lawful for the Council from time to time to enter into agreement with the Colonial Government, the Councils of other Municipalities and other public bodies in the King William's Town or adjoining Divisions, with a view to carrying out any public works or for any public purposes which in the opinion of the parties to the agreement it is advisable should be dealt with jointly, and such agreements shall be in such terms and upon such conditions as may be mutually agreed upon.

Establishment of markets.

195. The Council may from time to time, as occasion may require, keep up and establish within the Borough, a market or markets for the sale of cattle, meat, fish, game, poultry, vegetables, fruit, and other produce of South Africa, and may cause suitable land, houses and buildings to be purchased, built, erected, and kept in repair for the convenience of persons attending, holding,

and superintending such market or markets, and in connection therewith may lease or let out stalls or portions of such market or markets upon such terms and conditions as it may deem fit, and may also frame and make such regulations and impose such fines as they shall think necessary for ensuring order and cleanliness within the said market or markets.

196. The Council may from time to time make regulations for the due and proper care of weights and measures and with reference to the quality and assize of bread, and the quality of meat and other eatables; and may empower any person, at all times, to visit and enter into the shops or places where bread, meat, fish and other eatables are sold for the purpose of assizing the bread and examining the weights and measures, and also of taking proper care that the bread, meat, fish, game or other eatables therein sold are good and wholesome, and to seize, confiscate, remove and destroy all bad or unwholesome bread, meat, fish and other eatables.

Assize of weights and food.

197. The Council may from time to time out of its revenues, other than rates, pay such sums as it may deem necessary for public or charitable purposes, towards public functions, public demonstrations, and to defray the expense of the representation of the Council as such on any such occasion: provided, always, that nothing herein contained shall be construed so as to permit any Councillor to make any profit out of such sums; and the Council may further annually pay to the Mayor, to be expended by him, as Mayor, for the purpose of public hospitality, a sum not exceeding five hundred pounds sterling, anything to the contrary in this Act notwithstanding.

Contributions and allowances to public functions, &c.

198. The Council may pay to such officers and servants of the Borough as shall be superannuated or become unfit for duty, such pensions or retiring allowances as they may deem proper or expedient, and may pay such allowances and gratuities to the wives and families of deceased officers or servants as they may deem proper and expedient.

Pensions and allowances to officers and families.

199. The Council may from time to time make, establish, construct and maintain tramways, refuse destructors, cabmen's shelters, coffee stalls and public bathing places for the use and accommodation of the inhabitants of King William's Town, and for such purpose may expropriate, purchase and acquire lands and buildings and may utilise Borough property, and may from time to time fit up, furnish and supply the same respectively with all requisite furniture, fittings, requirements and conveniences, and may from time to time alter, enlarge, repair, renew and improve the same respectively and afford the use thereof respectively to such inhabitants at such reasonable charges and under and subject to such regulations as the Council may deem expedient.

Construction of public baths, wash-houses, &c.

200. Whenever any public baths, bathing places, abattoirs, refuse destructors, urinals, latrines, cabmen's shelters, coffee stalls, wash-houses or drying grounds are deemed by the Council to be

Sale of public baths wash houses, &c.

unnecessary or too expensive to be kept up, or for other reason it be deemed inexpedient to continue the same, the Council may discontinue the same and sell by public or private sale the lands, buildings, and materials for the best price that can reasonably be obtained; provided that no such sale shall be made unless the Council resolve thereon at a meeting at which two-thirds of the Councillors in office be present, held not less than a fortnight after notice shall have been given to the Council at a meeting thereof of an intention to move that such discontinuance be carried out and such sale effected.

Establishment of gardens, recreation grounds, &c.

201. The Council may from time to time make, establish, maintain, enclose and provide gardens, parks, ornamental, pleasure, recreation, athletic, and racing grounds and pavilions, refreshment rooms, lavatories and conveniences in connection therewith for the use of the inhabitants of King William's Town or any section thereof, and may from time to time level, drain, plant and otherwise lay out and improve the same for the more convenient use and enjoyment thereof, and the general management, regulation and control of the same shall be vested in the Council, which may from time to time determine the charges if any to be made for the use thereof.

Acquisition of property for municipal purposes.

202. The Council may from time to time erect and construct buildings required for the purposes of this Act and may from time to time alter, enlarge, repair and remove the same and fit up, furnish and supply the same respectively with all requisite furniture, fittings and conveniences, and may from time to time let or lease such buildings or such parts thereof as are not immediately required for the Council's purposes on such terms and conditions as to the Council may seem expedient.

Improvement of town and streets.

203. The Council may, for the purpose of town improvement, expropriate, purchase and acquire land, with or without buildings, and may remove, alter, renew, or repair such buildings and erect new buildings, upon such land and all streets which they may close to traffic, and the Council may from time to time sell, let, lease or otherwise deal with any property so acquired without obtaining the sanction of the Governor: provided that no act shall be done under the powers by this section conferred unless and until such act shall have been resolved by a majority of Councillors at the time in office at a meeting of the Council held not less than a fortnight after notice shall have been given to the Council at a meeting thereof of an intention to move for such expropriation or purchase, and that no such expropriation of land shall take place until the Council shall have prepared a plan showing the nature of the intended improvement or work, and shall one month before proceeding to expropriate have given notice in two or more newspapers published in King William's Town of the intended expropriation, and setting forth a place where the said plan shall be open for inspection at all reasonable hours, and with a copy of such notice shall have been served on

the owners or reputed owners, lessees, or reputed lessees and occupiers of the said land : provided further that if any person interested as owner, lessee, or occupier, shall within such period of one month serve written notice on the Council of any objection to such expropriation at any time within the said period of one month, then such intended work shall not be commenced without the sanction of the Governor, unless such objection be withdrawn ; and the Governor may, on application of the Council, appoint an Inspector to make enquiry on the spot into the propriety of the intended work and the objections thereto, and to report to such Minister as the Government may direct on the said matter ; and on receiving the report of such Inspector the Governor may disallow the intended work or may allow it with such modifications if any as he may deem necessary.

204. The Council may with the consent of the Governor lease any portion of the lands belonging to the Municipality for building purposes, for a period not exceeding ninety-nine years, and for any other purpose for a period not exceeding twenty-one years : provided that such leases shall be put up at auction to public competition, after having been advertised thrice in the fourteen days preceding such date of auction in a newspaper circulating in the Borough, and shall contain a power of re-entry for non-payment of rent or non-performance of covenants : provided further that any lease for any period not exceeding five years shall not require the consent of the Governor.

Lease of land
with consent
of Governor.

205. The Council shall have power on the certificate of a Medical Officer of Health, or of any two medical practitioners, that any house, or part thereof, is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing, cleansing, destruction or purifying of any house or part thereof would tend to prevent or check infectious disease, to give notice in writing to the owner or occupier of such house, or part thereof to whitewash, cleanse, destroy or purify the same as the case may require. If the person to whom notice is given fails to comply therewith within the time in such notice specified, he shall be liable to a penalty not exceeding ten shillings for every day during which he shall continue to make default and the Council may, if it think fit, cause such house or part thereof, to be whitewashed, cleansed, destroyed or purified, and may recover in a summary manner the expenses incurred by it in so doing from the person in default, and in the event of any penalty under this section being imposed by any Resident Magistrate and not being paid, the person failing to pay such penalty shall be liable to imprisonment for one month with or without hard labour.

Power to
inspect and
purify pri-
vate premises.

206. If the Council deem it necessary in the public interest to raise, sink or otherwise alter the situation of any waterpipe or gaspipe, or other waterworks or gasworks, laid in any public street or place, it may by notice in writing require the person to

Altering
position of
pipes.

whom any such pipes or works belong to cause the same forthwith to be raised, sunk, or otherwise altered in position in such manner as the Council may direct: provided that such alteration be not such as to permanently injure such works, or to prevent the water or gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking or altering, and compensation for every damage done thereby, shall be paid by the Council out of the rates or assessment as the case may be, as well to the persons to whom such pipes or works belong as to all other persons.

For purposes of this Act Council given powers it has for other matters.

207. The objects and purposes of this Act shall be deemed to be objects and purposes of a Municipal nature, and the Council shall have and be entitled, for and in respect of such objects and purposes, to exercise all such rights, powers, and privileges and to do all such things, and to execute all such works, and to acquire all such lands, waters or rights, and to frame all such bye-laws, as it is entitled to exercise, do, execute, acquire and frame, respectively, with regard to any other object or purpose, by any ordinance, act, proclamation, or any other authority whatsoever.

Council may acquire engines, &c.

208. The Council may purchase or provide such engines for extinguishing fire, and such water buckets, pipes, and other appurtenances for such engines, and such fire-escapes and other implements for safety or use in case of fire, and may purchase, keep or hire such horses, for drawing such engines as they think fit; and may purchase, build, provide or hire places for keeping such engines with their appurtenances, and for the horses, and for the accommodation of the persons charged with the management thereof, and may employ a force of firemen, to be called "The King William's Town Fire Brigade," which shall be under the command of an officer appointed by the Council, and styled the "Superintendent of the Fire Brigade," and the Council may make rules for the regulation of the said force, and may therein prescribe who shall be the officer in charge of the brigade at any fire when the superintendent is absent or incapacitated from acting, and may also give such firemen and other persons such salaries and rewards for their exertions in case of a fire as the Council think fit. In the absence or incapacity of the superintendent, unless it be otherwise prescribed in the regulations, the senior in rank in the brigade present at any fire shall assume the duties of the superintendent, and be the officer in charge for the time being.

Powers of superintendent, operations justified.

209. On the occasion of any fire within the Borough, the Superintendent of the said brigade, or the officer in charge, shall, from the time he arrives at the fire, have control over the property on fire, and over such other property as may be considered by him at risk, and shall so continue until he reports to the Council that the fire has been extinguished, which reports may be verbally made to the Mayor or Town Clerk. He may in his discretion avail himself of the assistance, and if he does

accept such assistance, shall take command, of any persons who may voluntarily place their services at his disposal, and generally he may take any measures that may appear expedient for the protection or saving of life and property, with power by himself, his men, or any person under his command to enter upon, break into, or through, or take possession of, pull down, or destroy any buildings or other property for the purpose, of protecting, saving life or property, or putting an end to, or preventing the spread of a fire, doing as little damage as possible ; and for these purposes he shall have right of access to, and liberty to draw water from all tanks, cisterns, pipes or other supplies of water, whether on Municipal or other property. The persons volunteering as aforesaid and any person whose services may be temporarily engaged, shall for the time being be deemed to be members of the said brigade, and the Superintendent or the officer in charge shall have power to dispense with the services of any of them at any time.

210. The police shall aid the brigade in the execution of their duties : they may close any street, passage or thoroughfare, in or near which a fire is burning, and may on their own authority, and shall at the request of the Superintendent or other officer of the brigade, remove any persons who may interfere, or are considered as likely to interfere by their presence or otherwise with the operations of the brigade.

Powers of
police.

211. The brigade, the police, and all persons acting under the orders of the Superintendent or the officer in charge, are hereby indemnified and exempted from all claims or demands whatever by reason of anything necessarily done in the execution of their duty, and the Mayor, Deputy Mayor, and Council are hereby indemnified and exempted from all claims or demands whatever by reason of any damage done upon sufficient necessity by them, the brigade, the police, and other persons aforesaid.

Indemnity
clause

212. The Council shall be authorised to charge on a private dwelling-house and its out-buildings and on every building (other than a private dwelling-house and its out-buildings) which shall be or shall have been on fire, a sum not exceeding five pounds sterling for the services of each member of the brigade present at the fire and the use of the fire engines and appliances, and also a sum not exceeding two pounds two shillings sterling per hour for water supplied from the Municipal waterworks for the first hour and one pound for every succeeding hour during the time that such water shall be playing upon any such building and its contents, and upon any adjoining buildings and erections, to prevent the extension of the fire, the Council undertaking no risk or obligation whatever to supply, or in supplying or failing to supply, such water.

Charges to
be made by
Council for
use of brigade
and water.

213. The amounts charged on any building in terms of the last preceding section shall be payable by the owners and occupiers of such buildings in equitable proportions, and the distribution

Who to pay
charges.

thereof shall be made by the superintendent or officer in charge, whose certificate shall be final and binding upon all parties interested, without appeal or review on any ground whatever. The amount charged on any building shall be recoverable by the Council from the owner or occupier thereof, or both, who may be sued jointly or severally each for the full amount, in any Court of competent jurisdiction, and any owner or occupier paying the full amount charged as aforesaid, shall be entitled to be reimbursed by the other owners and occupiers to the extent to which according to the said certificate they are severally liable.

Salvage expenses.

214. No expenses incurred by the Council, Superintendent or officer in charge, in causing to be pulled down or destroyed any buildings or erections, or any parts thereof, for the purpose of putting an end to or preventing the spread of a fire, or for saving life, or in attempting to save buildings adjacent to or in the vicinity of a fire, shall be chargeable against the owners or occupiers of immovable property, but the Council shall not be liable to rebuild or repair or make compensation for any damage caused to any person or any buildings or other erections so dealt with.

Powers of Council to recover charges and expenses.

215. The Council shall be entitled to sue for and recover all expenses incurred by it, the Superintendent or officer in charge, in salvaging and removing and in attempting, or with a view to save or remove movable property from any buildings or erections on fire and from any buildings or erections adjacent to or in the vicinity of any buildings or erections on fire, and all expenses in keeping safe custody thereof, from the owners of the movable property saved or removed in equitable proportions; the Council shall have an absolute lien upon the movable property so salvaged or removed until the expenses aforesaid shall have been received by the Council. The apportionment of the expenses aforesaid shall be made by the Superintendent or the officer in charge, whose certificate shall be binding on all parties without appeal or review on any ground whatever; and if the aforesaid lien be not paid and discharged within twenty-one days, the Council shall have the right to sell and dispose of the said movables, or any of them, by public auction, after three days' notice in any newspapers published in King William's Town, and after applying the net proceeds in reduction of such expenses may sue for and recover any deficiency which may be found to exist.

Superintendent to make report on fires.

216. The Superintendent or the officer in charge shall make a report in writing to the Council on every fire he attends, and shall also send a similar report to the Resident Magistrate of King William's Town forthwith after the fire.

Damage and expenses incurred to be within meaning of Policy of Insurance.

217. All expenses incurred by the Superintendent, the brigade, and the Council in the saving and removing, or attempting to save or remove movable property, and in operations to save property and extinguish fire, charged against, and recoverable by the Council from owners or occupiers of movable or immovable

property under this Act, and all damage occasioned by the brigade in the execution of its duties, and all sums chargeable upon any buildings, and payable as is hereinbefore provided, shall be deemed to be loss or damage by fire within the meaning of any policy of insurance on such property or buildings against fires: provided that nothing herein contained shall be construed so as to compel any Insurance Company to pay any sum in excess of the full amount insured in terms of such policy.

218. For the purposes of any land taken or in any case where compensation is payable or for the purposes of any arbitration under the provisions of this Act, the provisions of the Lands and Arbitration Clauses Act, 1882, are hereby incorporated. Lands and Arbitration Clauses Act, 1882 to apply.

219. All the costs, charges and expenses incurred by the Council under the provisions of this Act, and the costs and expenses of promoting and passing this Act shall be paid out of the funds of the Council. Charges incurred by Council to be paid out of Municipal Funds.

220. This Act may be cited for all purposes as "The King William's Town Borough Act, 1905." Short Title.

SCHEDULE.

Schedule.

FORM OF FRONT OF BALLOT PAPER.

Counterfoil No.	1	SMITH (Thomas Smith, merchant.)	
	2	JONES (William Jones, broker.)	
	3	BROWN (Samuel Brown, attorney.)	
	4	ROBINSON (James Robinson, brewer.)	

NOTE :

The Counterfoil is to have a number to correspond with that on the back of the ballot paper.

FORM OF BACK OF BALLOT PAPER.

No.....

Election for Borough Council of the Borough of
King William's Town.

.....19.....

NOTE—The number on the ballot paper is to correspond with that on the counterfoil.

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NOTE :
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FORM OF BACK OF BALLOT PAPER.

No.....

Election for Borough Council of the Borough of
King William's Town.

.....19.....

NOTE—The number on the ballot paper is to correspond with that on the counterfoil.

No. 28—1905.]

[June 3, 1905.

ACT

To Settle questions that have arisen with regard to Carnarvon Land Grants.

[Assented to 2nd June, 1905.]

Preamble.

WHEREAS in the year 1860 certain land grants were made to Kafirs and others of certain erven in the station of Harmsfontein, Schietfontein, now the village of Carnarvon, which conferred upon the holders certain grazing rights over what is known as the Outer Commonage; AND WHEREAS by the conditions of the titles conveying the said grants these grazing rights were attached to the said erven and inseparable from the same; AND WHEREAS under the altered condition of the community the practice has grown up—and was, until a recent date, recognised by the Registrar of Deeds—of transferring $\frac{1}{20}$ ths undivided share of the said erven, leaving the $\frac{1}{20}$ th undivided share with the grazing rights attached; and that, of recent years, to wit, since 1902, this custom has ceased to be recognised, thereby causing much confusion;

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

Practice prevailing before passing of this Act to be legal.

1. The custom or practice, that prevailed to a recent date, of transferring $\frac{1}{20}$ ths undivided share of erven in the village of Harmsfontein, now Carnarvon, without the grazing rights on the Outer Commonage, which grazing rights remained attached to the remaining $\frac{19}{20}$ th undivided share of such erf shall be, and hereby is, declared to be legal and of effect, all conditions in the title to the said erven to the contrary notwithstanding.

Whole, or part, of original erven may be transferred without grazing right.

2. From and after the taking effect of the Act it shall be lawful to transfer the whole or any defined or undefined part or share of and in the original erven in the village of Harmsfontein, now Carnarvon, to which the grazing rights on the Outer Commonage are attached without reference to the said grazing rights, anything in the original grant to the contrary notwithstanding: provided, however, that the said grazing rights shall remain undivided and indivisible.

Subject to regulations, if any, registered owner may retain grazing right.

3. In the event of the transfer of the whole of one of the erven in the village of Harmsfontein, now Carnarvon, to which grazing rights on Outer Commonage are attached, and the owner thereof desiring to retain the grazing right on the Outer Commonage, the said grazing right shall remain his property in the shape of an undivided and indivisible share in the Outer Commonage, subject to all such conditions and restrictions upon its use as may be imposed by any rules or regulations framed by the Committee of Management, or that may hereafter be imposed by such Committee, or by any other body legally authorised so to do, and the fact of such reservation shall be entered upon the deed of grant

or transfer deed by which the erf was conveyed to the seller and which such seller is hereby authorised to retain.

4. This Act may be cited for all purposes as the "Carnarvon Lands Act, 1905."

Short Title.

No. 29—1905.]

[June 3, 1905.

ACT

To Check the Dissemination of Insect Pests and Plant Diseases from Nurseries of Plants and Trees.

[Assented to 2nd June, 1905.]

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

Preamble.

1. So much of any law as may be repugnant to or inconsistent with the provisions of this Act is hereby repealed.

Repeal of repugnant laws.

2. For the purposes of this Act the following terms within inverted commas shall, if not inconsistent with the context and subject matter, have the meanings hereby assigned to them, that is to say:—

Definition of terms.

"Nursery stock" shall mean trees or plants of any kind not being vegetables grown or cultivated for purposes of trade and with the intention of their being sold, or distributed for the purpose of their being grown elsewhere than on the premises where they stand.

"Nursery" shall mean any land or premises whereon is grown or cultivated any nursery stock.

"Local nursery" shall mean any nursery, the nursery stock of which by the provisions of this Act, may not be despatched by railroad or other public carrier, or distributed by any means beyond the boundary of the fiscal division in which such nursery is situated.

"General nursery" shall mean any nursery that is not a local nursery.

"Nurseryman" shall mean the owner, occupier, or other party responsible for the management of a nursery.

"Pest" shall mean any injurious insect or plant disease which the Governor may from time to time declare to be a pest within the meaning of this Act.

3. Every Nurseryman shall, on or before the 1st of September in each year, register his nursery or nurseries at the office of the Resident Magistrate or Assistant Resident Magistrate of the District in which such nursery or nurseries are located, or at such other office as the Minister for Agriculture may direct, and shall obtain a written acknowledgement of his registration as proof that he has complied with this requirement.

Registration of nurseries.

No. 29—1905.

Division of nurseries into local and general nurseries.

4. For the purposes of this Act, nurseries are divided into two classes, viz.:—local nurseries and general nurseries; and every nurseryman is privileged to elect under which class his nursery is placed. A classified list of nurseries shall be published by the 1st of May of each year in the *Gazette*; and except as it may be amended or superseded by subsequent publications, this classification shall hold good for one year from its date. Sections 7, 8, 9, and 11 hereof do not apply to local nurseries.

Transportation of stock from local nursery.

5. It shall be unlawful for any nurseryman or other person, without special authority from the Minister for Agriculture, or some person authorised by him to act on his behalf to transport or attempt to transport, by any railroad or any other public carrier any nursery stock not grown in a general nursery.

Inspection of nursery stock.

6. The nursery stock and all other plants growing in every nursery shall be inspected at least once a year between the 1st of September and the 1st of April by an inspector appointed for the purpose by the Minister for Agriculture. On the completion of the inspection of a nursery, the inspector shall make a report to the nurseryman stating what pests and other injurious insects and plant diseases, if any, he has observed, and what measures he recommends for the suppression and eradication of such. The nurseryman thereupon shall, if he has not done so already, elect whether his nursery shall be classed as a local or as a general nursery, and shall give his decision in writing to the inspector.

Quarantine.

7. It shall be the duty of the inspector to declare under quarantine such part of any general nursery as lies within eight (8) yards of any tree, shrub or plant which he finds infested with any pest, or within twelve (12) yards if such infested tree, shrub or plant is over ten (10) feet in height; and such area shall be deemed and held in quarantine accordingly.

Duration of quarantine.

8. A quarantine declared under the preceding section shall remain in force until the inspector shall at a subsequent regular inspection, or at an authorised examination, as provided for in section 9 hereof, find the trees, shrubs or plants within such quarantined area free from pests, and shall have given his written certificate to that effect to the nurseryman. During the period of the quarantine it shall be the duty of the nurseryman to see that no plants are removed from the quarantined area except for the purpose of treating or destroying the same on some part of the nursery premises approved in writing by the inspector; and any such nurseryman contravening any of the provisions of this section shall be liable to a fine not exceeding twenty-five pounds, to be recovered at the suit of the Government in any competent Court.

Inspections of nurseries during quarantine.

9. Any nurseryman may have quarantined parts of his nurseries examined by the inspector between the regular inspections, once free of charge and once or more later at his own expense, provided he certifies that a period of six weeks has elapsed since the last application of remedial treatment. An examination under

this section shall be made as soon as it can be arranged for by the Minister for Agriculture after the receipt of the request for it, together with the required certificate.

10. It shall be lawful for the inspector to order and have carried into effect the destruction of nursery stock, or other plants in a nursery, which he finds infested by any specially dangerous pest liable to be disseminated with nursery stock, whether such pest has been proclaimed or not under this Act; and also for him to take the same steps in regard to any plant within twelve (12) yards of such infested plants: provided, however, that compensation be awarded for the condemned plants that he does not actually find to be infested, and provided that until the nurseryman concurs in the destruction and until an agreement on the amount of the award is reached, all the plants concerned be merely held under a quarantine as defined in section eight.

Powers of Inspector

11. In the event of the nurseryman not agreeing to the amount of compensation awarded under the foregoing section, the amount of such compensation shall be decided by a Board constituted by the Governor. As soon as the said Board shall have made its award, the destruction provided for in the foregoing section shall be carried into effect.

Compensation.

12. The Governor by proclamation may make such regulations as may be deemed necessary to ensure that nursery stock for this Colony from other South African Colonies is free from plant pests proclaimed or not proclaimed under section two and also for the protection of clean areas within the Colony against the introduction of infested trees, plants, or fruit from any other area within the Colony.

Regulations as regards imported stock.

13. It shall be lawful for any officer duly appointed thereto by the Minister to enter upon any land and to do thereon such acts, matters and things as are necessary and reasonably required for carrying out the provisions of this Act, and any person obstructing, resisting or interfering with any such officer in the lawful execution of his duty shall be deemed to be guilty of a contravention of this Act.

Entry upon land.

14. It shall be lawful for the Governor by proclamation to make, alter, or revoke such rules and regulations for the purpose of carrying out the provisions of this Act as may from time to time be deemed expedient, and to impose penalties for the contravention thereof not exceeding a fine of twenty-five pounds, to be recovered at the suit of the Government in any competent Court.

General regulations.

15. From and after the passing of this Act it shall be unlawful for any person to introduce into any part of this Colony any trees, plants or fruit before such trees, plants or fruit have been properly inspected by an officer appointed by the Government for this purpose and have been declared free from any pest; and the said officer is hereby empowered to have all infested trees, plants or fruit destroyed, on giving a certificate of the infection; any person contravening the provisions of this section shall be liable

Inspection of Importations.

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to a fine not exceeding twenty-five pounds to be recoverable at the suit of the Government in any competent Court.

Penalties.

16. Any person contravening any of the provisions of this Act or any rule or regulation duly made and published thereunder, for which a penalty is not prescribed, shall be liable to a fine not exceeding twenty-five pounds, to be recovered at the suit of the Government in any competent Court.

Short title.

17. This Act may be cited as the "Nurseries Inspection and Quarantine Act, 1905."

No. 30 of 1905.]

[June 3, 1905.

ACT

To Enable the Municipal Council of Queenstown to supplement and increase the supply of water for the Town and Municipality of Queenstown and the Commonage and Town Lands, and for that purpose to construct a reservoir by means of an embankment or dam across the Bongolo River in the Bongolo Poort in the Division of Queenstown; to acquire farms, lands and water rights required for the construction of the necessary reservoir and waterworks and to bring the water from such reservoir to Queenstown; to lay pipes to bring the water from the reservoir to Queenstown; to authorise the erection of telegraph and telephone lines from such works to Queenstown; and to give the Town Council of Queenstown necessary borrowing powers.

[Assented to 2nd June, 1905.]

Preamble.

WHEREAS it is desirable that the supply of water to the inhabitants of Queenstown should be supplemented and increased; and whereas the Municipal Council of Queenstown has been advised as the result of surveys and inquiries made that the said water supply can be best increased by the erection of an embankment or dam across the Bongolo River in the Bongolo Poort, in the Division of Queenstown, for the purpose of damming back and retaining the water falling in the catchment area of the Bongolo River above Bongolo Poort; and whereas it is expedient and desirable that the Council should be authorised to construct and maintain such embankment or dam and such reservoir, lines of pipes and other waterworks as may be necessary for the purpose of conveying the water so conserved to the Town of Queenstown, and elsewhere for distribution; and whereas it is

expedient and desirable that power be given to the said Council upon payment of compensation or upon such terms as may be otherwise arranged to acquire, occupy, enter upon, pass over, make use of, take and hold possession of and expropriate lands and property in connection with the construction of such reservoir and waterworks and the damming back of the Bongolo River; and whereas it is expedient that the said Council should be empowered to erect, construct, work and maintain lines of telegraph and telephone from the proposed reservoir and along the proposed route and works to Queenstown, and for such purpose to enter upon private lands and property; and whereas it is expedient that the said Council should be empowered to take and use for the purposes of the said scheme, water, stone, gravel and other material from any private or other land over or upon which such works may be constructed; and whereas it is expedient that provision should be made for the payment of compensation by the Council to the owners of land or materials expropriated, used or damaged; and whereas it is expedient that the Council should be authorised to borrow sums of money not exceeding in all ninety thousand pounds (£90,000) sterling, for the purpose of defraying the costs of the works aforesaid, payment of compensation and the like; and whereas it is expedient to empower the said Council to avail itself of the provisions of the Irrigation Acts Amendment Act, No. 24 of 1897, for the purpose of raising the said sum or any portion thereof; and whereas it is expedient that provision should be made for the deviation of the roads from Dordrecht and from Lady Frere and Cala, and other places, where such roads will be interfered with or flooded by the damming back of the water in such reservoir; and whereas it is expedient that the Council should be authorised to frame bye-laws with reasonable penalties for the control and regulation of the proposed waterworks; and whereas it is expedient that provision should be made for the assessing and fixing by arbitration, failing agreement, the amount of compensation to be paid for any lands, flood or other water, water rights, stone, gravel or other materials taken or required or any right of way taken or interfered with in connection with the said scheme and works:

Be it enacted by the Governor of the Cape of Good Hope by and with the consent of the Legislative Council and House of Assembly in manner following, to wit:—

1. The word "Council" in this Act shall mean the Municipal or Town Council of Queenstown as constituted by Law, and the Mayor, Councillors, and Townsmen of Queenstown. Interpretation.

2. The Council shall be and are hereby empowered to erect a wall, embankment or dam about eighty feet high across the Bongolo River in the Bongolo Poort, in the division of Queenstown, for the purpose of damming back and impounding the water falling in the catchment area of the Bongolo River above the Bongolo Poort, upon part of the farms Cathcart Vale and Power to impound water from the Bongolo River. 1

Cathcart Place in the division of Queenstown, so as to dam back the water over portions of the farms Cathcart Vale and Everton, as shown on the plans lodged with the Clerk of the House of Assembly, and to convey such water by a line of pipes running along the route shown on the said plans across the farms Cathcart Place and Queen's Park and the Commonage of Queenstown to the Berry Reservoir on the said Commonage and to the Municipality of Queenstown.

Power to construct works.

3. The Council is hereby empowered to construct and make or cause to be constructed and made all such works as may be necessary or expedient for the purpose of impounding, storing, diverting and conveying the said water, and for that purpose specially to dig channels, lay pipes, make tunnels, construct aqueducts, dams and all other necessary works along the route indicated on the plans, and to construct and erect such buildings and other structures as may be deemed requisite for the purposes of the proposed scheme and works, whether such works and structures be within or without the Municipality of Queenstown.

Powers of entry, etc., on lands.

4. The Council is hereby authorised upon payment of compensation to acquire, occupy, enter upon, enclose, pass over, make use of, hold, take possession of and expropriate all lands and property the private property of any person or persons whomsoever, needed for the construction and maintenance of the contemplated works, for the obtaining of the necessary catchment area, and for any of the purposes of this Act, and may agree for the purchase or hire of such private land or shall compensate the owners of such land and the owners of water rights interfered with, taken or damaged by the Council in connection with the undertaking, by payment of such amount as may, failing agreement, be fixed by arbitration as hereinafter provided; or may enter into any contract relative to obtaining such land or materials, or for the laying down any pipe or pipes or other works, upon such terms and conditions as may be expedient.

Power to lay down pipes, etc.

5. The Council are hereby empowered subject to the provisions of section fourteen of this Act to lay down pipes or construct aqueducts under or along any public road or street or under or along any ground set apart in the diagram or conditions of sale of any land as a street, square, or thoroughfare, without making or being liable to make any compensation in respect thereof.

Condition of exemption of Government land from operation of Act.

6. Nothing in this Act shall be construed as entitling the Council to exercise any of the powers conferred therein upon, over or under any land or building being vested in the Colonial Government and appropriated for railway purposes except with the written consent of the General Manager of Railways first had and obtained under such reasonable conditions and terms as may be imposed by him. All works carried on and things done in pursuance of this Act under, upon or over such Government property shall be carried on and done under the supervision of an officer to be appointed by the General Manager of Railways

therefor and at the Council's expense; and the Council shall in addition bear the cost of such supervision.

7. Subject to the terms of this Act the Council shall carry into effect and be bound by the understanding or agreement arrived at between the Council and the lower riparian owners on the Komani River set forth in the minutes of the meeting of the Bongolo Scheme Committee of the Council and certain of such lower riparian owners printed as Schedule "A" to this Act, which arrangement was confirmed by the Council on the 27th September, 1904, and by the ratepayers on the 31st January, 1905, and shall pay to Edward Robert Bradfield as owner of the farm "Peninsula" the sum of Two Thousand Pounds sterling (£2,000) as his share of the agreed upon compensation for any loss or damage suffered in respect of the building of the embankment or dam across the Bongolo Poort and the consequent diminution of the flood water in the Komani River.

Compensation to lower riparian owners.

8. Failing an agreement between the lower riparian owners and the Council as to another mode of distribution and conveyance of the water which will be allowed to flow down the river upon completion of the reservoir and referred to in Schedule "A" to this Act as the lower furrow water the Council shall construct at a convenient spot in the Komani River in the neighbourhood of Cathcart Road Drift a weir or other suitable appliance wherewith to measure the water in the river. The Council shall permit the owner of "Peninsula," subject to the legal rights of others to take his share of such water at the said weir or some other convenient point and to convey the same over the commonage by a furrow or line of pipes up to the Boundary of the Town Commonage; provided always that such furrow or line of pipes shall be laid by the owner of "Peninsula" at his own expense and shall be so constructed as not to occasion any damage to the Council and so as not to interfere with roads or other furrows or prejudicially to affect the rights of others, and provided further that the Council shall permit the other lower riparian owners the like rights to convey their respective shares on the same conditions.

Construction of a weir to measure water.

9. Nothing in this Act contained shall be taken as disturbing or altering the relative legal rights of the respective owners of lower riparian farms to the water in the Komani River, but the Council shall permit the owner of "Peninsula" to exercise whatever rights to such water he may possess or establish his title to in such manner as may be of greatest benefit to him without being in conflict with the legal rights of the owners of the other riparian farms, and, in the exercise of such rights as he may establish to make and maintain as may be necessary a furrow or line of pipes to convey water from any point he may desire over the Commonage lands in the direction of "Peninsula" to the boundary of the Town Commonage provided in like manner that he shall so construct and maintain his furrow or pipes as not to interfere

Legal rights of owners not to be affected.

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with the rights of other riparian owners or to interfere with roads or to occasion damage to the Council or to any person, and provided that nothing herein contained shall be construed as conferring on the owner of the farm "Peninsula" any right to enter upon private property.

Compensation not to be paid before rights interfered with.

10. No compensation shall be claimable nor shall the Council pay any to the lower riparian owners or others until the rights or materials for which such compensation is claimed or is to be paid shall have been actually interfered with or taken for purposes of the proposed Waterworks authorised by this Act.

Power to take gravel, stone, etc.

11. The Council is hereby empowered to take, carry away and use for the purposes of the said waterworks any stone, clay, gravel or other material requisite for carrying out the said works whenever such material shall be found on private or other land over or upon which such works may be constructed or carried and shall be liable to compensate the owners of such private land by payment of such amount as, failing agreement, may be assessed by arbitration.

Power to construct telegraph and telephone.

12. The Council is hereby empowered to construct, erect and work for the purposes of and in connection with the proposed waterworks from the proposed reservoir at Bongolo Poort to the Berry Reservoir and to Queenstown, telegraph, telephone or other electric lines of communication subject to the conditions of Section 4 of Act 36 of 1895 and to the provisions of Act 23 of 1902.

Power to enter into contracts for construction of works.

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

Power to deviate certain Roads.

14. The Council shall, before damming back the water in the proposed reservoir, call upon the Divisional Council for the Division of Queenstown or such other road authority as may be vested with the control and maintenance of such roads, to deviate the roads from Dordrecht and from Lady Frere and Cala and other places, where such roads will be interfered with or flooded by such damming back of the water, so that such roads will thereafter pass over the farms Everton, Cathcart Place and Queen's Park, along the line shown on the deposited plans or along such other line within such limits of deviation as may be agreed upon with the Divisional Council and such road authority shall thereupon so deviate such roads, and shall make all such provisions as may be deemed necessary by the Divisional Council for the due protection of public safety in the crossing of streams, sluits or water courses and for the discharge and disposal of surface drainage and the portions of such roads so replaced by the deviations shall thereupon be closed by proclamation of His Excellency the Governor or so soon as he shall be satisfied of the due advertisement and inquiry in terms of Act 40 of 1889 that all works contemplated under this section have been duly completed

and given effect to: provided always that the Council shall pay and discharge the costs and charges of the road authority in and about such deviations and the making of the new sections of such roads.

15. It shall be lawful for the said Council from time to time to borrow and take up at interest or loan by debentures or otherwise such sum or sums of money not exceeding on the whole Ninety Thousand pounds (£90,000) sterling, as may be required for the purposes of this Act and to charge the Municipal rates of the said Municipality as security for any such sum or sums borrowed by the said Council.

Borrowing powers conferred.

16. The Council is empowered to raise by way of loan from the Government under the provisions of Act 24 of 1897 the said sum of Ninety Thousand Pounds sterling (£90,000) or any portion thereof, but nothing herein contained shall interfere with the rights and power of the Council to raise the said sum or any portion thereof by way of loan in any other manner.

Council may raise loan under Act 24 of 1897.

17. In order to provide a fund for the payment of all sums borrowed under the provisions of this Act and for the gradual extinction of the debt thereby incurred there shall be set apart by the Council out of the water rates or any moneys which may be at its disposal an annual sum equal to the interest on the amount of the debt remaining unpaid and a further sum of not less than One Pound sterling per centum on the capital sum so borrowed, and such sum of not less than One Pound sterling shall be annually invested as and by way of a sinking fund and applied towards the redemption of the said debt so long as any portion thereof remains unpaid and unextinguished.

Sinking fund provided.

18. All monies borrowed and liabilities incurred lawfully by the said Council under the provisions of and for the purposes of this Act shall be subject to the "Public Bodies Debts Act, 1867."

Public Bodies Debts Act, 1867, to apply.

19. It shall be lawful for the Council from time to time, subject to the approval of the Governor and promulgation in the *Gazette*, to frame such regulations and bye-laws as may be deemed requisite or necessary to prevent the pollution of any water impounded or of any portion of the catchment area of the proposed works or of any water being conveyed in any pipes or conduits or contained in any dam or reservoir, and to prevent any person from wilfully injuring, damaging, disturbing or interfering with any building or line of telegraph or telephone, conduit, water-works, reservoir, pipe or other works authorised by this Act, provided that no regulation so framed shall authorise the imposition upon conviction of any fine exceeding one hundred pounds (£100) sterling, or imprisonment with or without hard labour for any period exceeding six months or both such fine and imprisonment; provided that nothing in this section contained shall be held or taken to exempt such person from any civil or criminal liability to which he would have been subject if this

Power to frame bye-laws and regulations.

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Act had not been passed: and provided always that the Council shall at least one month before submitting such regulations or bye-laws to the Governor for his approval cause to be published in at least one newspaper generally circulating in the division of Queenstown notice of their intention so to do together with a true copy of such regulation or bye-law.

Penalties
paid to Council.

20. The amount of all fines and penalties imposed by this Act or any bye-laws or regulations made thereunder shall, when recovered, be paid to the Council for Municipal purposes.

Compensation.

21. The Council shall be bound to make full compensation to any person or persons from whom any land, flood or other water, or water rights or use of water, or right of way, or any stone gravel or material may be required to be taken for the purposes of this Act, or who shall have suffered loss or damage by reason of any act or work done or performed in pursuance of the powers hereinbefore granted and such person or persons shall within three months from the date of such taking as aforesaid, or from the date when such damage or loss shall have accrued as the case may be, forward in writing to the Council a notice of claim setting forth the amount of compensation, loss or damage claimed by such person or persons in respect of such taking, act or work, and no amount shall be recoverable from the Council in respect of such claim unless the said notice of claim shall have been forwarded as aforesaid.

Arbitration.

22. In case the said Council shall not consent or agree to pay the amount of any claim or claims sent in as aforesaid the said Council shall cause to be served upon the person or persons whose claims they shall so reject a written notice offering as recompense or compensation whatever sum or sums of money the Council shall deem sufficient, and requiring such person or persons to state in writing to the said Council, or some person appointed by it, within a certain limited time to be specified in the said notice, not less than fourteen days after service of such notice, whether he is or they are willing to accept the sum mentioned or not, and if such person or persons shall refuse the sum offered, or neglect to reply to the said notice, the amount of compensation shall be fixed by arbitration in accordance with the arbitration laws for the time being in force in this Colony.

Power to
make bye-
laws.

23. The Council shall have full power and authority, subject to the approval of the Governor and promulgation in the *Gazette*, to frame and enforce all necessary bye-laws and regulations with regard to the supply, distribution and control of the water brought into the Municipality under the aforesaid water scheme, and the levy of rates payable by the inhabitants with regard thereto, and all existing bye-laws and regulations referring to the water at present supplied or used shall be applicable to the water supplied and used under this water scheme, save as in so far as the same may be from time to time altered and amended.

24. The powers exercisable by the Council under this Act shall be in addition to powers already exercised or exercisable under Acts 39 of 1879, 19 of 1885, and 12 of 1899, and subject to the above, this Act shall be read as one with the aforesaid Acts.

Powers given by this Act to be in addition to those already in existence.

25. This Act may be cited as "The Queenstown Additional Water Supply Act, 1905."

Short Title.

SCHEDULE

Schedule.

"A."

MEETING WITHOUT PREJUDICE.

Minutes of Bongolo Scheme Committee and the Lower Riparian Owners meeting held September 19th, 1904.

Present : The Mayor (Mr. H. Price) Messrs. J. Lamont, W. Price, W. B. Brown, C. Arnold, E. Arnold and P. Ella.

After considerable discussion of the matter under deliberation it was agreed that Nine Thousand Pounds (£9,000) be the amount to be paid the lower riparian owners in respect of building the dam wall across the Bongolo Poort. In addition to which the lower furrow water to be allowed to run down the river, and in the event of Government not agreeing to remove their Railway pump the Council to allow the water to run in the present furrow and re-divert same into the river lower down, the Council however to do their best to induce the Railway Department to discontinue pumping. The Council will also allow the lower riparian owners to widen or alter the course of furrows across the commonage to the south west of the Town should such be considered necessary.

The amount above referred to, to be paid as soon as the Council raises their loan, such time to be not more than 18 months from date hereof.

The lower riparian owners to withdraw their petition against the scheme as soon as agreement is signed.

In the event of Mr. Bradfield not agreeing to above arrangements, riparian owners present and Mr. Holliday will accept £7,000 (Seven Thousand Pounds) and will not interfere on Mr. Bradfield's position, leaving the Council to settle with him.

Should any unforeseen circumstances arise that causes the Bongolo Scheme to be abandoned, the whole of above arrangements to be null and void.

All the foregoing to be subject to the confirmation of the Council and Ratepayers.

(Signed) HERBERT PRICE.

No. 31—1905.]

[June 3, 1905.]

ACT

To Apply a Sum of Money for the Service of the
Year ending the 30th June, 1906.

[Assented to 2nd June, 1905.]

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

Public Revenue to be charged with £7,060,900. 1. The Public Revenue of the Colony is hereby charged towards the service of the year ending the 30th June, 1906, with a sum of seven million and sixty thousand nine hundred pounds sterling.

How to be applied. 2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto, and more particularly specified and set forth in the Estimates and Supplementary Estimates of the Expenditure [G. No. 6, 1905 (Second Print) and 29, 1905] for the year ending 30th June, 1906, with the notes of such Estimates, as submitted to both Houses of Parliament.

Not to be applied except as granted. 3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act, and the aforesaid Schedule, Estimates and Supplementary Estimates.

Short Title. 4. This Act may be cited for all purposes as "The Appropriation Act, 1905."

Schedule.

SCHEDULE.

Summary of Recapitulations of Estimates, Supplementary Estimates and Schedule of Amounts withdrawn.	Establishments.	Services exclusive of establishments.	Total.	Required to be provided for.
I. Ministerial Department of Prime Minister ...	£ 111,989	£ 45,564	£ 157,553	£ 152,553
II. Ministerial Department of Colonial Secretary	663,677	880,565	1,544,242	1,537,424
III. Ministerial Department of Treasurer ...	582,668	1,094,410	1,677,078	1,010,546
IV. Ministerial Department of Attorney-General	432,047	72,213	504,260	485,260
V. Ministerial Department of Commissioner of Public Works ...	63,153	233,965	297,118	295,618
VI. Ministerial Department of Secretary for Agriculture ...	158,120	120,750	278,870	277,370
Totals ...	2,011,654	2,447,467	4,459,121	3,758,771
Railways ...	391,811	3,977,073	4,368,884	3,302,129
Grand Totals...	2,403,465	6,424,540	8,828,005	7,060,900
Total required to be voted ...	...	...	...	7,060,900

No. 32—1905.]

[June 8, 1905.

ACT

To Authorise the use of certain monies provided for in Act 26 of 1904 for purposes other than specifically stated therein.

[Assented to 6th June, 1905.]

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

Preamble.

1. That notwithstanding anything to the contrary contained in Section (1) of Act No. 26 of 1904, it shall be lawful to utilise the unappropriated balances of £17,000 under the item "Additional Crossing Loops" and £30,000 under the item "Locomotive Workshops, Steamsheds, etc.," for the purposes of "Additional Water Supply," mentioned in the Schedule of the said Act.

Utilization of unappropriated balances.

2. This Act may be cited as the "New and Additional Railway Work Amendment Act, 1905."

Short Title.

No. 33—1905.]

[June 8, 1905.

ACT

To Confer and Impose upon Resident Magistrates and Assistant Resident Magistrates certain additional Powers, Functions and Duties.

[Assented to 6th June, 1905.]

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

Preamble.

1. From and after the promulgation of this Act every Assistant Resident Magistrate to whom a separate area of jurisdiction is specially assigned by the Governor shall, within the limits of his jurisdiction, have the powers and duties of a Resident Magistrate under any law relating to :

Powers conferred on certain Assistant Resident Magistrates in administration of Law relating to wills, intestacy, marriages and insolvencies.

(a) The registration of wills and the administration of the estate and property of persons dying either testate or intestate.

(b) The solemnization of marriages.

(c) The collection, administration and distribution of insolvent estates.

2. Every Resident Magistrate or Assistant Resident Magistrate having a specially assigned area of jurisdiction shall have the powers of a Civil Commissioner for the receipt of duties and interest payable under the provisions of the "Transfer Duty Consolidation and Amendment Act, 1884," or any law amending the same, and for the receipt of the Divisional Council rates

Powers conferred on R.M.'s and certain A. R.M.'s in administration of Transfer Duty Laws, &c.

No. 33—1905.

Certain documents, etc., transmissible to certain A.R.M.'s.

3. All original documents, inventories, copies, duplicates, triplicates and accounts required by any law relating to the matters referred to in paragraphs (a), (b), and (c) of Section 1 of this Act to be transmitted to the Resident Magistrate may, in the area of jurisdiction hereinbefore referred to, be transmitted to such Assistant Resident Magistrate for the purposes of this Act.

Short Title. 4. This Act may be cited as the "Magistrates' Increased Powers Act, 1905."

No. 34—1905.]

[June 8, 1905.]

ACT

To Secure a half-holiday for Shop Assistants.

[Assented to 6th June, 1905.]

Preamble.

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

Interpretation.

1. (1) "Local authority" shall mean any Municipal Board or Council, or Village Management Board: Provided that it shall be lawful for the Governor—if petitioned so to do and if satisfied that the majority of ratepayers desire it—to exempt any area, or part thereof, of any local authority from the provisions of this Act.

(2) "Shop" shall include any place within a Municipality or Village Management Board area or within a radius of three miles therefrom set apart temporarily or permanently for the sale of movables by retail, and whether by auction or not, but shall not include chemists' shops, restaurants, cafés and eating houses (but in so far only as concerns the sale of medicines, surgical appliances, meals, tobacco and refreshments respectively), or hotels and bars where intoxicating liquors are sold for consumption on the premises; provided that to each employee there shall be assigned by his employer a half-holiday on at least one week-day in each week.

(3) The expression "employee" shall not be deemed to include caretakers, domestic servants and persons employed for cleaning purposes or prevention of fire or those not employed indoors.

Assistants in exempted shops to have half-holiday.

Every shop-keeper to elect a half-holiday.

2. Within one month from and after the passing of this Act every shop-keeper residing within the limits of any Municipality or Village Management Board area or within a radius of three miles therefrom, except those residing in the City of Cape Town, the Cape Division, Kimberley, Beaconsfield, Port Elizabeth, King William's Town and East London, shall elect a day on which his shop or shops shall be closed not later than half-past one o'clock in the afternoon for the remainder of such day, and every shop-

keeper shall thereupon notify in writing to the local authority, as hereinafter defined, the week day on which he elects that his shop or his shops respectively shall be closed as aforesaid.

3. The local authority shall then at the expiration of one month after the passing of this Act notify which day of the week has been selected by the majority of shopkeepers who shall have voted and shall declare that day to be the one upon which all shops under its control shall be closed, provided that in Cape Town the shops may be closed on either of the two week-days, Thursday and Saturday, and every shop-keeper in Cape Town shall within one month from and after the passing of this Act elect one or other of those days as the day on which his shop or shops shall be closed not later than half-past one o'clock in the afternoon for the remainder of such day, and shall notify in writing to the local authority as hereinafter defined whether he will close on Thursday or on Saturday, and all shop-keepers who shall omit so to do shall have the day of Saturday assigned to them: Provided further that all the provisions of this section applicable to Cape Town shall also apply to the Cape Division, Kimberley, Beaconsfield, Port Elizabeth, King William's Town and East London, except that the days for all these places shall be Wednesday and Saturday.

Notification of selection of day.

4. From and after such notification or election the shop shall be closed not later than one-thirty p.m. on the elected day in each week, and it shall be unlawful for the shop-keeper to do or permit any act whereby any employee is or may be deprived of the weekly half-holiday intended to be conferred by this Act. The Minister may make regulations providing for the opening of bookstalls at railway stations for a period not exceeding one hour prior to the departure of any main line train on any day on which under the operation of this Act such bookstall would otherwise be closed.

Shop to be closed on elected half-holiday and employment of assistants prohibited.

5. The local authorities of the places specially named in section two may at any time on application alter the one day assigned to any shop-keeper to the other day, and the Minister may on application of any other local authority authorise an alteration of the week-day originally selected: provided the said alteration is approved of in a manner similar to that hereinbefore provided for taking an expression of opinion from the shopkeepers concerned.

Alteration of day.

6. Every local authority shall enter the day and date of the week-day declared upon its minute book and an extract from the said minutes, duly authenticated, shall be sufficient *prima facie* evidence of the fact in any Court of this Colony, provided that the local authorities of the places specially named in section two shall keep a register showing the half-holiday applicable to each shop within its area, and from time to time shall, when required, cause a true copy of any entry thereof to be furnished to the police of the district; and such authenticated copy shall be *prima facie* evidence of the half-holiday applicable to any shop in any judicial proceedings instituted against the shop-keeper.

Register to be kept by local authority.

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Holidays ex-
cepted from
closing.

7. Whenever any day in the week is a Public Holiday it shall not be incumbent on any shop-keeper to close on the half holiday in such week appointed under this Act, and the operations of this Act shall also be suspended with reference to the half holidays immediately preceding Christmas and New Year in each year.

Penalties.

8. Any shop-keeper wilfully contravening any provision of this Act shall be liable to a fine not exceeding twenty-five pounds for the first conviction, and for any second or subsequent conviction to a fine not exceeding fifty pounds, or to imprisonment in default of payment for a period not exceeding one month: Provided that it shall be a good defence, when an employee has been of necessity detained on the half holiday after closing hours inside the shop for a certain period of time, that a time equivalent has been granted and enjoyed by him on some succeeding weekday previous to the next half-holiday, or the employer undertakes to grant to such employee a time equivalent on some week day after the day on which such undertaking is given, not being a half-holiday, and not more than seven days after such undertaking, and provided that the failure to carry out such undertaking shall be deemed to be a contravention of this Act: Provided further that it shall be no contravention of the provisions of this Act to supply a customer privately in cases of urgency, such urgency to be proved to the satisfaction of the Magistrate.

Kosher meat
butchers ex-
empt.

9. Butchers who deal in Kosher meat and who satisfy the local authorities that they keep their shops *bona fide* closed from sunset on Friday to sunset on Saturday and who are duly registered by such local authorities, shall be exempt from the provisions of this Act, as long as their shops are closed as aforesaid, and their employees are not employed on that day.

Agent or
servant of
shopkeeper
liable.

10. Where an offence, for which the shop-keeper of a shop is liable under this Act to a penalty, has in fact been committed by some agent or servant of such shop-keeper, such agent or servant shall be liable to the same penalties as if he were the shop-keeper.

Jurisdiction
of R. M. Court.

11. Any contravention of this Act shall be cognisable by the Court of the Resident Magistrate of the district in which such contravention takes place: Provided, however, that no prosecution shall be commenced against any person after the lapse of a period of six weeks from the date of the alleged contravention.

Repeals.

12. The Half-Holiday Act, 1899, and the Half-Holiday Act Amendment Act, 1904, are hereby repealed, together with all Regulations, and orders made thereunder; but as regards any particular shop any order applicable thereto shall continue to be of full force and effect notwithstanding such repeal until election shall have been made under this Act or until the time limited therefor shall have expired.

Short Title.

13. This Act may be cited as the "Half-Holiday Act, 1905."

No. 35 of 1905.]

[June, 8, 1905.

ACT

To Provide for the Establishment of School Boards and for the better Management of Education throughout the Colony of the Cape of Good Hope.

[Assented to 6th June, 1905.]

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

1. So much of any Act, Statute or Ordinance, or of any Regulations lawfully framed thereunder, as shall be inconsistent or in conflict with the provisions of this Act shall be and is hereby repealed.

2. Nothing in this Act contained shall have reference to or be deemed to refer or to be applied to any institution receiving grants from the Department under the provisions of Act 24 of 1874, and of Act 15 of 1878, and of Act 9 of 1881.

PART I.

DEFINITIONS.

3. In this Act the following terms shall have the following meaning:—

Minister shall mean the Colonial Secretary or other Minister charged with the Department of Public Education in this Colony.

Department shall mean the Department of Public Education.

Municipal Area shall mean the area comprised within the limits of any duly constituted Municipality, or under the control of a Village Management Board.

Divisional Area shall mean the area comprised within the limits of any duly constituted Divisional Council.

Magisterial Area shall mean any area under the jurisdiction of a Magistrate or Assistant Magistrate and not forming by itself a Fiscal Division.

District shall mean any School District as in this Act provided for.

Board shall mean any School Board as in this Act provided for.

Superintendent shall mean the Superintendent-General of Education

Parent, for voting purposes, shall mean the person entered as "parent or guardian" of any child on the Admission Register of the school.

Municipal Ratepayer shall mean a person who pays rates either to a Municipality or Village Management Board.

Municipality shall mean also Village Management Board.

Preamble.

Repeal of Laws.

Saving clause as regards institutions receiving grants under Act 24 of 1874, Act 15 of 1878, and Act 9 of 1881.

Definitions.

PART II.

SCHOOL DISTRICTS.

Governor
may proclaim
School Dis-
tricts.

4. It shall be lawful for the Governor by Proclamation to define and constitute the whole or any portion of a Fiscal Division a school district, or to constitute any magisterial area a school district, provided that where a portion of a Fiscal Division or where a magisterial area is constituted a separate school district, no ward shall be sub-divided : provided further that a Municipal area may be constituted a separate school district if the members of the existing School Committees in such area, within nine months of the date of the passing of this Act and at a meeting specially called for the purpose, do not by a majority express a wish to the contrary, and in case such is expressed then such area excepting in the Divisions of Namaqualand, Calvinia, Kenhardt, Prieska and Fraserburg shall not be less than a Magisterial or Divisional area, but should the Minister find it necessary to cut off any portion of a Divisional area in which such Municipal area would under this Section otherwise be included, he may do so with the consent of the School Committees in the Municipal area aforesaid, and provided that the foregoing parts of this section shall not apply to Cape Town and the Cape Division, in which it shall be lawful for the Governor to form into school districts such areas as may seem necessary after consultation with the existing School Committees of these areas.

Duty of Min-
ister regard-
ing formation
of School Dis-
tricts.

5. It shall be the duty of the Minister to take the necessary steps to ensure that within twelve months after the promulgation of this Act, or as soon thereafter as possible, every portion of the Colony shall have been included in a School District.

New Fiscal
Divisions, &c.

6. If any new Fiscal Division, Magisterial Area or Municipal Area, be created after the promulgation of this Act, the provisions of Section Four shall apply to such, and for this purpose it shall be lawful for the Governor to make any necessary alterations in the boundaries of previously defined School Districts ; provided that the time limit of nine months specified in Section Four shall count from the date of the creation of the new Municipal Areas in question.

PART III.

FORMATION OF SCHOOL BOARDS.

School
Boards.

7. Every duly proclaimed School District shall for the purposes of this Act be under the jurisdiction of a Board constituted as hereinafter provided.

Number of
Members.

8. Every such Board shall consist of such a number of members, being a multiple of three, not less than six and not more than eighteen, as the Minister may determine.

9. The publication in the *Gazette* of the proclamation constituting, or defining and constituting a School District shall be accompanied by a Notice from the Department which shall specify the number of members of the School Board of such District.

Notice specifying number of Members.

10. In every School District two-thirds of the members shall be elected by the Municipal ratepayers or by the Divisional Council ratepayers of the School District according as the District is or is not a Municipal Area; and the remaining third shall be appointed by the Governor.

Composition of Board.

11. After the issue of the Proclamation in any School District, and on a date to be mentioned in such Proclamation, being not less than three weeks after the date of the said issue, there shall be a nomination in writing, signed by at least five ratepayers, for members of the School Board to the Returning Officer provided in section Seventeen, and thereafter if necessary on a date to be fixed by him there shall be an election by ballot of the requisite number of Board members, the method of polling for Divisional Council Elections being adopted, and votes being recorded in the Ward in which the voter resides. All subsequent elections shall be conducted in a similar manner.

Election of elective members.

12. No person shall be disqualified by sex, or by the fact of not being a ratepayer, from being a member of a School Board, or serving as a member of a School Committee; further, any person may be a member of a School Board and a School Committee at the same time.

Qualification of members of School Committees and School Boards.

13. No person (1) being an alien, or (2) convicted of treason, committed after 31st May, 1902, or (3) convicted of murder, rape, theft, perjury, forgery or other crime of like degree who shall not have received a free pardon; or (4) being of unsound mind; or (5) being an unrehabilitated insolvent; or (6) being a teacher in a school or institution under the management of any School Board, shall be capable of being elected, or of continuing to be a member of a School Board or of a School Committee, or (7) any member of a School Board who shall absent himself from three consecutive meetings of the Board without leave from the Board being first had and obtained, shall *ipso facto* vacate his office.

Disqualifications.

14. In order to carry out the provisions of sections ten and eleven it shall be lawful for the Governor, by proclamation in the *Gazette*, to frame and issue regulations for the elections of members of Boards: provided that the Governor may at any future time by proclamation in the *Gazette* repeal, amend or alter any of the aforesaid regulations.

Regulations for election of members.

15. The legitimate expenses of the first of such elections shall be paid by the Department out of funds provided by Parliament for the purpose, and such expenses of all subsequent elections shall be paid from the funds of the School Board concerned, one half being recoverable from the Department.

Expenses of elections.

16. If from any cause there be a failure to elect the requisite number of members of a School Board the Governor may nominate.

Failure to elect.

No. 35--1905.

inate a sufficient number of persons to complete the Board ; and the persons so nominated and appointed shall have the same duties, powers and privileges as if duly elected.

Returning officer.

17. The Civil Commissioner, or in the case of a Magisterial Area, the Magistrate, shall act as Returning Officer at an election of members of the School Board, and shall, as soon as may be after the conclusion of such election transmit to the Department a list of the names of those persons who have been duly elected. The Department shall thereupon publish such lists in the *Gazette*, together with a list of the members nominated by the Governor, fixing at the same time the date and place of the first meeting of the Board.

Date of taking office and going out of office.

18. The members of the Board shall come into office on the date of the first meeting of the Board, and shall together with any members who may have been appointed to fill casual vacancies go out of office at the end of the third year from such date.

Due constitution of Board.

19. A School Board shall be deemed to be duly constituted upon the publication in the *Gazette* of the list of its members, as provided for in section seventeen of this Act.

Failure of Board to carry out provisions of Law.

20. In the event of a School Board failing for any reason, whether by non-assembly or otherwise, to carry out all or any of the provisions of this or any other Act, or of any regulations lawfully framed and promulgated under this or any other Act, it shall be lawful for the Supreme Court, on petition of the Minister to order such Board to perform its functions ; and in the event of non-compliance to declare such Board dissolved, and thereafter to cause a new Board to be nominated and elected in the manner already provided for, and in the event of no nomination of candidates being made or if made no such new Board is constituted within three months after the date of the order it shall be lawful for the Minister to nominate all the members of such Board provided that whilst there is no Board the duties of the Board shall be discharged by the Department.

Resignation of members.

21. Any member of a Board may resign on giving to the Board one month's previous notice, in writing, of his intention to do so.

Eligibility for re-election.

22. A member of a School Board whose term of office has expired or is about to expire in terms of section eighteen of this Act, shall, unless disqualified under section thirteen of this Act, be eligible for re-election.

Vacancies on Board.

23. If any member of a Board shall, during the currency of his period of office, die, resign, or become or be found to be disqualified under section thirteen of this Act, the vacancy thus caused shall be supplied, if the member be an elected member, in the manner provided in section eleven ; and, if the member be a nominated member, by the Governor ; and every person so nominated or elected shall remain in office only so long as the person in whose room he was nominated or elected would have remained in office.

24. A fresh election and nomination shall take place in the manner provided for before the expiration of the third year referred to in section eighteen. Fresh election and nomination.

25. If at the expiration of the term of office of any Board the new Board shall not have been constituted in manner provided by this Act, the outgoing Board shall continue to have full power and authority, and the members are required to remain in office and to continue to act as members, until their successors have been duly proclaimed. Outgoing Board to hold office till constitution of new Board.

26. In any portion of the Colony where no Fiscal Divisions exist it shall be lawful for the Governor by Proclamation to frame regulations for the election, nomination and constitution of School Boards: provided that in any such case the regulations so framed shall carry out as far as possible the provisions of this Act which apply to the elections of School Boards where Fiscal Divisions do exist. Case where no Fiscal Division.

PART IV.

BUSINESS PROCEDURE OF BOARD.

27. A School Board shall, at its first meeting, or as soon thereafter as conveniently may be, elect one of its members to be Chairman and another to be Vice-Chairman. The Chairman, or in his absence the Vice-Chairman or other presiding member, shall have a casting as well as a deliberative vote. The name of the Chairman and Vice-Chairman shall in every case be transmitted to the Department. Chairman of Board.

28. Not less than three and not more than five members of a School Board shall be required to form a quorum, and each Board shall decide what number within these limits shall be the quorum. Quorum.

29. Minutes of the proceedings of the meetings of the Board shall be regularly entered in a book set apart for the purpose. Minutes.

30. The Board shall, as soon as conveniently may be, appoint one of its members, or some other fit and proper person, to be its secretary and treasurer; but if such secretary and treasurer be a member of the Board he shall receive no remuneration for his services. When necessary a treasurer separate from the secretary may be appointed by the Board. In every case where remuneration may be resolved upon, the amount of such remuneration shall be sanctioned by the Department. Secretary and Treasurer.

31. Not more than two months shall elapse between one meeting of the Board and the next meeting, the precise date and place, except for the first meeting, being such as the Board itself may from time to time determine. Meetings of Board.

PART V.

GENERAL POWERS AND DUTIES OF SCHOOL BOARDS AND SCHOOL COMMITTEES.

32. Every School Board constituted in pursuance of this Act shall be a body corporate under the name of the School Board School Board a body corporate.

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of the School District for which it is constituted, with power to sue and to be sued in its corporate capacity.

Powers of Board as to establishing schools.

33. A School Board shall have the power of founding and establishing such schools as may be approved by the Department, provided that every such school shall be strictly undenominational in character and that it may be locally cared for by a School Committee formed in the manner hereinafter set forth; provided, further, that the word "schools" in this section shall be taken to include any institution whatsoever for the purposes of imparting instruction, save and except Training Schools, Industrial Schools, District Boarding Schools, Schools for Defectives and institutions which, if established, would be eligible for grants from the Department under the provisions of Act No. 24 of 1874.

Existing Public Schools.

34. All existing Committees managing public undenominational schools within any district may, at any time, and shall on the expiry of their term of office, or within three years from the date of the passing of this Act if the term of office be not specified, hand over the control of their schools to the School Board of the district; and all movable assets, debts and liabilities of the said Committees shall become assets, debts and liabilities of the School Board; and the School Board shall have and may exercise all the powers, duties, and functions of the said Committees, save and except such as are by this Act conferred upon the new School Committees provided for in section Forty-one; and all the provisions of any Act of Parliament, or of any regulation lawfully framed and promulgated thereunder, relating to or dealing with the powers and duties of existing Public School Committees shall, in so far as is not inconsistent with the provisions of this Act, subsist and have effect in regard to the School Board.

Immovable school property.

35. All immovable school property vested at the time of the passing of this Act in a Committee of an Undenominational Public School and its successors may at any time, at the option of the said Committee or its successors, be transferred to the trustees mentioned in Proclamation No. 388 of 1893; but in the event of no such transfer being effected, the said property shall vest in the new School Committee provided for in section Forty-one of this Act: and all immovable property vested in any private person or body of persons as trustees for undenominational school purposes shall continue to be so vested; provided that whenever a School Board, with the approval of the Department, shall desire to have any such property vested in the trustees mentioned in Proclamation No. 388 of 1893, the owners or trustees of such property may agree that it shall be so transferred, at a valuation, but any sum paid out by the School Board for this purpose shall be subject to the same trust as the said property.

State-aided private Farm Schools.

36. At the expiration of three years from the date of the passing of this Act, the control of all state-aided private farm schools then existing situate within any district shall vest in the School Board, and it shall be lawful for any such School Board and the farmer

as manager of any state-aided private farm school within the said three years to agree that the control of such private farm school shall vest in the School Board, subject to the provisions of this Act, and such School Board shall have the same control over the said schools to the same extent and in the same manner as over Undenominational Public Schools; provided

- (1) That the farmer shall only be liable to provide board and lodging for the teacher, and a suitable room for the schoolroom, so long as he desires the school to continue, and shall not be responsible for the salary of the teacher; and
- (2) That the selection of the teacher shall be left to the farmer as manager, subject to the same procedure thereafter as in the case of Undenominational Public Schools; and
- (3) That the suspension and dismissal of a teacher shall rest with the manager; provided that in the case of dismissal three months' notice shall have been given to the teacher, or in lieu of such notice the consent of the School Board shall have been obtained; and provided further that in any case of dismissal the manager shall report fully to the School Board the reason for such dismissal for transmission to the Department; and
- (4) That no fees shall be payable by such farmer for his children attending such schools, and that all other children shall be charged such fees as the Board may determine; and
- (5) That all existing regulations in regard to such schools, in so far as they are not inconsistent with the provisions of this Act, shall remain of full effect.

37. All existing Committees managing Poor Schools in any district shall within three years from the date of the passing of this Act hand over the control of the Schools to the School Board of the District; and all movable assets, debts and liabilities of the said Committees shall become assets, debts and liabilities of the School Board; and the School Board shall have and may exercise all the powers, duties and functions of the said Committees, and thereafter may appoint a Committee to manage each such school. Existing poor schools.

38. The provisions of sections Thirty-five, Forty-six and Forty-seven shall apply *mutatis mutandis* to Poor Schools. Property of poor schools.

39. The School Board of any District shall have general financial control of all the Schools under it, including the power to fix the salaries of all teachers, to fix the scale of School fees in each School, to arrange for the hiring of any necessary buildings, the Board shall also frame regulations in regard to such matters as the Department may relegate to its care. Financial control by School Board,

40. Up to the time when any existing Committee hands over the control of its school or schools to the School Board as herein- Powers of old Committee

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before provided for, the said Committee shall retain all its powers, duties and responsibilities as if the School Board did not exist.

Election of
new School
Committees.

41. The School Committee which is to manage any school under the control of a School Board shall consist of not less than three members and not more than seven, as the School Board may decide, and shall be elected for a period of three years by the parents (a) resident within the school district or outside it, but not more than three miles from the boundary thereof, (b) occupying their own property within the school district or renting a property therein for occupation ; and having one or more children on the roll of the said school at the time of the election : and the voting shall be conducted by a Polling and Returning Officer appointed by the Board, who shall issue to each elector a voting paper containing the names of all the nominated candidates, and receive the paper again from the elector by post, or by hand.

Regulations
for elections
of School
Committees.

42. In order to carry out the provisions of section Forty-one, it shall be lawful for the Governor to frame and issue by Proclamation in the *Gazette* regulations for conducting the elections of members of School Committees, and in the same way at any future time to repeal, amend or alter any of the aforesaid regulations.

Failure to
elect School
Committees.

43. In all cases where the parents do not take advantage of their right to elect a School Committee as provided in section Forty-one and in all cases where, in terms of section Forty-four, no election of a School Committee shall be held, the School Board may itself appoint a Committee to act for a period not exceeding three years ; and in the case of the establishment of a new school the Board shall manage the school either directly or through a Committee appointed by itself, until such time as the parents exercise the right hereinbefore conferred on them.

Decision of
parents as to
School Com-
mittees.

44. Within a reasonable time before any School Committee goes out of office the School Board, or in case no School Board has yet been formed, the Minister may issue a circular letter to all parents and guardians who have children on the roll of the school, asking them to decide, on or before a given date, by letter, addressed to the School Board, or the Minister, as the case may be, whether the School shall be managed by the School Board directly, or indirectly through a Committee nominated by the Board, or by a School Committee to be elected under the provisions of this Act, and if the Board shall satisfy the Department, or the Minister is satisfied that replies have been received from the majority of such parents and guardians that the Board shall directly or indirectly manage the School, no election by parents and guardians for that particular school shall be held.

Duties of
new School
Committees.

45. It shall be the duty of the School Committee of any school—

- (1) to exercise a general supervision of the school, including the fabric and grounds, subject to the regulations of the Department, and provided that the programme, under its control, shall consist of

with the provisions of this Act, or any other Act, or any School Regulations framed thereunder.

- (2) To carry out such regulations as may be framed by the School Board under the provisions of this Act, and further on such matters as may have been relegated to the Board by the Department ;
- (3) To appoint and suspend teachers subject to the conditions hereinafter specified ;
- (4) To deal with the representations of parents ;
- (5) To advise the Board in all matters affecting the school's welfare ;
- (6) To take cognizance of the School Regulation under Proclamation No. 80 of 1886, relating to Religious Instruction.

46. When a teacher is to be appointed, the School Committee shall submit to the School Board their selection for transmission to the Department for approval on the prescribed form, together with a statement as to the qualifications of the various applicants, and any other relevant information ; and the Board shall transmit the selection of the Committee, adding any remarks which it may desire to make, and in case the Department shall not approve of such selection, and notwithstanding such disapproval, such teacher shall be appointed by the Board, then the Department may withhold the Government grant in aid of such teacher's salary.

Procedure
for appoint-
ment of
Teachers.

47. In the event of any School Committee considering it advisable that the services of a teacher in its employ should be dispensed with, it shall, with or without suspending the said teacher, communicate the name of the teacher to the Secretary of the School Board, along with the reasons for its desire so to remove the said teacher. On the receipt of this communication, it shall be the duty of the School Board to investigate the matter, and to confirm or otherwise deal with the action of the School Committee ; provided that in no case shall a teacher be dismissed by the School Board without the previous approval of the Department.

Procedure
for dismissal
of Teachers.

48. Should the people of other than European parentage or extraction in a school district desire to have established for their children a public undenominational school or schools, they shall first approach the School Board by Petition signed by at least 50 parents of children of other than European parentage and descent residing in the District, and thereafter the Board shall communicate such desire to the Department which, in conjunction with the Board, may proceed to establish such school or schools which may be managed subject to the control of the School Board by a School Committee elected as provided in this Act.

Schools for
children of
other than
European ex-
traction.

49. Subject in every case to the approval of the Department, a School Board shall have the power to borrow money, either from the Colonial Government or any other source, to the

Boards'
borrowing
powers.

amount sanctioned by the Department, for the following purposes, viz.: (1) the purchase of a school site or sites; (2) the building and erecting of a new school or schools; (3) the enlargement or alteration of an existing school or schools; (4) the levelling, gravelling, and fencing of schoolgrounds; provided that no loan shall be raised by a School Board unless in respect of a strictly undenominational school or schools: provided that any land purchased under this section shall be vested in the trustees as provided in the regulations regarding Building Loans published under Proclamation No. 388 of 1893.

Registers and statistics to be kept by Board.

50. It shall be the duty of a School Board to frame and keep, in the form prescribed by the Department, such registers and statistics as the Department may from time to time determine; and to prepare and transmit to the Department, in such form and at such times as the Department may prescribe, such returns and reports as the Department may from time to time require; and to prepare and to transmit to the Department, before a day to be fixed by the Superintendent an annual general report on the work of the Board during the past year.

Return by First School Board of all children in its District not attending any school.

51. It shall be the duty of the first School Board constituted in pursuance of this Act in any School District to prepare and to transmit to the Department as soon as may be, and in any case, within six months of its constitution, a return, in such form as the Department may prescribe, of all children of European extraction residing or being found within the School District, who, being between the ages of six and fourteen, are credibly reported as not attending any public, private or other school and as not receiving adequate instruction in their own homes.

Attendance Officers.

52. It shall be lawful for a School Board, in order to carry out the provisions of the preceding section, to appoint an attendance officer or attendance officers, and to pay such officer or officers such salary or salaries as may be sanctioned by the Department; provided that the offices of Attendance Officer, Secretary and Treasurer may all be held by the same person.

Examination of school registers.

53. It shall be lawful for the secretary of any Board, or any other person duly authorised in writing by such Board, to enter any school within the limits of the Board's jurisdiction for the purpose of examining the school registers and making copies or extracts therefrom; and any person who shall obstruct or interfere with any such Secretary or other duly authorised person in the performance of any duty legalised by the provision of this section, or shall knowingly produce a false register, shall be guilty of an offence against this Act.

Information by parent or guardian.

54. Any parent or guardian or other person who omits or refuses to give, when required, to a School Board or its attendance officer any information necessary to the preparation of the returns provided for in the two preceding sections of this Act, or who wilfully gives incorrect information, shall be guilty of an offence under this Act.

55. It shall be the duty of every Board to inquire into the case of every child of European parentage or extraction who resides within the District under the jurisdiction of such Board, and who being between the ages of seven and fourteen is nevertheless not attending any school or in some other manner receiving efficient instruction; or has not passed an examination equal to Standard IV., and if the non-attendance of any such child be found to be due solely to the poverty of its parent or guardian, it shall be the duty of the Board, in conjunction with the Department to do all that may be necessary to ensure that due provision is made at some school for such child's education, the cost of such education being defrayed by the Department out of funds voted by Parliament for that purpose, provided always that sufficient proof to the satisfaction of the Department has been produced of the parent's or guardian's inability to pay for such child's education, or to make any contribution thereto.

Duty of Board to inquire into cases of children not attending any school.

56. From and after the promulgation of this Act no new public or private township shall be established, and no new Municipality or Village Management Board area shall be proclaimed until land not less than two acres in extent, situate within the said proposed township or area approved of by the School Board and the Department, shall have been set aside free of payment for school purposes, and vested in the Trustees mentioned in Proclamation No. 388 of 1893, provided that no transfer duty shall be payable in reference to the transfer of such land, and provided further that if the land proposed to be set aside shall not be approved of as aforesaid it shall be lawful for the person proposing to set aside the said land to refer the question of whether the situation of such land is suitable to arbitration under the provisions of the Lands and Arbitrations Clauses Act.

Land to be set aside for school purposes in new Townships and Municipalities.

57. The books of the secretary and treasurer of every School Board shall be open at all reasonable hours to the inspection of any Deputy Inspector of Schools, or other officer of the Department duly authorized in writing thereto.

Books of Board.

58. No member of a School Board or of a School Committee shall receive any payment, direct or indirect, pecuniary or otherwise, for or in connection with his service as such member.

Members of Board or Managing Committee to receive no payment for their services.

59. No member of a School Board, or of a School Committee created under the provisions of this Act, shall be required to give or enter into any guarantee for, or to undertake to pay, the salary, in part or in whole, of any teacher in any school under the control of the Board, or any other expenses incurred or to be incurred in the management of the schools in the School District.

Guarantees.

PART VI.

POWER AND DUTIES OF BOARDS IN REGARD TO
SCHOOL ATTENDANCE.

Compulsory
school attend-
ance.

60. It shall be lawful for the first School Board or its successors at any time after the expiry of its first year in office to resolve to make school attendance compulsory for all children of European parentage or extraction within its district who have completed their seventh but not their fourteenth year, provided this is done at a meeting specially called for the purpose, and whereat not less than two-thirds of the members are present.

Resolution
for. to be noti-
fied to Super-
intendent-
General, who,
in consulta-
tion with
Board, may
frame regula-
tions.

61. When such resolution has been duly taken, the Board shall forthwith notify the fact to the Superintendent-General, supplying evidence at the same time that sufficient and suitable school accommodation has been provided; and it shall be the duty of the Superintendent-General, if satisfied on this point, to frame in consultation with such Board, draft regulations giving effect to such resolution, and specifying what shall be deemed reasonable excuses, provided that attendance at a Mission School, other than a Mission School under the Regulation 13 of Proclamation 388 of 1893, shall not be deemed to be a reasonable excuse for non-attendance on the part of a child of European parentage, at a Public Undenominational School, Private Farm School or Poor School, unless the School Board shall have obtained the consent of the Department in cases of children where special exemption appears necessary.

Certain
children not
affected by
regulations.

62. No such regulation shall require attendance at school of any child who:—

- (1) Is, in the opinion of the School Board for the District under efficient instruction in some other manner; or
- (2) Lives more than three miles by the nearest road from a school for children of European parentage or extraction; or
- (3) Is prevented by ill-health or any other unavoidable cause; or
- (4) Is engaged in a regular occupation and has already passed the fourth standard of the elementary school course.

Approval
and proclama-
tion of regu-
lations by
Governor.

63. When such draft regulations not being repugnant to the provisions of this Act have been approved by the Governor, it shall be lawful for the Governor to proclaim them in force in and for the district for which they are made; and upon the publication in the *Gazette* and in some newspaper circulating in the district of any such proclamation, the regulations thereby proclaimed shall come into force as law in and for the district in respect of which they are proclaimed; and copies of all such regulations shall be kept in a conspicuous place to be appointed by the Chairman within the said District, and to be open to the inspection of all persons resident in such District.

64. A copy of the *Gazette* containing any such regulation as aforesaid shall be evidence of the due making and provisions thereof.

Evidence of regulations.

65. In the case of neglect on the part of a parent or guardian to comply with any such regulation, it shall be the duty of the Board forthwith to warn the said parent or guardian in writing of the possible consequences of such neglect; and, should such parent or guardian fail within fourteen days after the giving of such warning to comply with such regulation, and likewise fail to satisfy the Board when summoned before it that there are lawful and sufficient grounds for non-compliance, he shall be deemed guilty of an offence against this Act.

Duty of Board in case of neglect on part of parent or guardian to comply with regulations.

66. Any person employing a child of European parentage or extraction during school hours who is under fourteen years of age and has not passed the fourth standard, and who is not otherwise exempted, shall be guilty of an offence against this Act, unless the authority of the Board exercising jurisdiction in the District within which such child is employed be first had and obtained.

Employment of children under 14.

67. Three years after the promulgation of this Act it shall be lawful for the Governor, on the recommendation of the Minister, to proclaim in any School District regulations in regard to compulsory attendance even if no application has been made by the Board for such a Proclamation, provided that the regulations have been drawn up by the Superintendent-General in accordance with sections sixty-one and sixty-two of this Act; and it shall be the duty of the School Board of the District to carry out the said regulations.

Promulgation of regulations regarding compulsory attendance even if no request therefor by Board.

68. In view of the provision of the preceding section it shall be the duty of the first School Board of the District to provide school accommodation before the expiry of its term of office for all such children in its District as may be required in accordance with this Act to be attending school: and it shall be lawful for a School Board to incur expenditure for the conveyance to school of children who reside at a greater distance than three miles from the School.

School accommodation.

69. In any School District in which exists an Undenominational School or Schools as provided for in section Forty-eight, and in which there is sufficient and suitable school accommodation for children of other than European parentage or extraction, it shall be lawful for the School Board, after obtaining the approval of the majority of the ratepayers in such School District at a poll taken for that purpose, to resolve to make school attendance compulsory for such children; and this having been done it shall be lawful to take in regard to such children all the subsequent procedure provided in this Act in reference to the compulsory attendance of children of European parentage or extraction; provided that the School Committee of the said Undenominational Public School or Schools shall also have passed a resolution in favour of such procedure.

Compulsory attendance for other than children of European extraction.

PART VII.

FINANCE.

Estimate of income and expenditure. 70. As soon as may be, and not later than two months after the first ordinary meeting of the first School Board, the Board shall make an estimate of its income and expenditure for the year, accompanied by a proposed scale of school fees, and shall immediately forward a copy of such estimate and proposed scale to the Department for approval: in succeeding years these returns shall be sent to the Department before the last day of November.

Accounts. 71. Every Board shall keep, in regard to each school separately, and also in regard to such revenue and expenditure as is not on account of any individual school, full and true accounts in which shall be entered every sum received and paid out by such Board in the order and date of such receipt and payment. Such accounts shall be made up and balanced to the 30th June and 31st December in every year, or, if so directed by regulation under this Act, annually to one of those days in every year. The accounts shall be examined by the Board and signed by the Chairman within one month after the day to which they are made up. As soon as practicable after the accounts are so signed they shall be audited by an auditor to be appointed by the Department, and copies shall then be forwarded to the Department.

Excess of expenditure over income. 72. If in the accounts as duly audited in accordance with the provisions of section seventy-one of this Act there be an excess of expenditure over income, one half of this excess shall be paid by the Department out of funds for that purpose voted by Parliament and the other half shall be met by the Divisional Council or in the case of a Municipal Area by the Municipality, from a rate to be levied for the purpose, provided that where the said excess of expenditure is not sufficient in the opinion of the Council or Municipality concerned to warrant a rate being levied, it shall be competent for such Divisional Council or Municipality to advance temporarily the amount out of the general funds against a rate to be levied at some future time when required.

School rate and exemptions. 73. The rate mentioned in the preceding section shall be either an owner's rate or an owner's and tenant's rate combined; provided that in the latter case the tenant's rate shall not be less than two pence in the pound, and provided, further, that in no case shall the owner's rate exceed three farthings in the pound, and the owner's rate and tenant's rate combined shall not exceed the equivalent of three farthings in the pound on the assessed value of the property. If this rate be insufficient to pay the full half of the deficiency the Government shall be liable for the remainder. Where a Municipal area forms a separate school district the property within such area shall be exempt from the school rate levied by the Divisional Council.

74. Where the persons of other than European extraction have not taken advantage of the provisions of Section Forty-eight, and where no Public Undenominational School for the children of such persons exists, they shall be exempted from the payment of the school rate, and where such persons are so exempt they shall not have a vote in the election of a School Board, provided that for the purposes of this section the property exempted shall mean property in the occupation of persons of other than European extraction.

Exempted persons to have no vote.

75. In any portion of the Colony where no Fiscal Divisions exist, and where School Boards have been established, it shall be lawful for the Governor by proclamation to frame regulations for providing the funds necessary for the purpose of meeting the half share of any deficiency in the annual accounts of the School Board in a manner as similar as may be to that provided for meeting a deficiency in Fiscal Divisions.

Provision for funds where no fiscal divisions exist.

76. Notwithstanding anything to the contrary in any law, it shall be lawful for any Town Council, Divisional Council, the Commissioners of any Municipality or other body empowered by law to levy rates, by means of a resolution in that behalf, passed after due notice and at any regular or special meeting of such Council, Commissioners or Public Body, and in favour of which two-thirds of the members present at such meeting shall record their votes, out of any revenues under their control, to grant such sum or sums of money as may from time to time be deemed expedient in aid of the funds of any Undenominational Public School or of any College, or institution receiving grants of public money under the Higher Education Act of 1874, and which are exempted from the operations of this Act, within the area of the jurisdiction of such Council, Commissioners or Public Body.

Grants by local authorities.

PART VIII.

PENALTIES.

77. Every prosecution for an offence against this Act shall be heard and determined by the Resident Magistrate of the Division in which such offence shall have been committed or in which the offender shall reside.

Jurisdiction of Magistrates.

78. Every prosecution for an offence under this Act shall be at the instance of a School Board, through its Secretary or other person duly appointed for the purpose: provided that no member of a School Board shall be personally liable for any costs incurred in or in connection with any such prosecution.

Prosecution

79. Any person found guilty of an offence under this Act shall be liable to a penalty not exceeding forty shillings for each offence.

Penalties.

80. All penalties recovered on prosecution of offenders under this Act shall be paid over to the treasurer of the prosecuting School Board and shall be placed by him to the general funds of such Board.

Application of penalties.

PART IX.

CONCLUDING AND GENERAL.

Religious instruction.

81. Every School Committee or, where there is no Committee the School Board shall make provision that the School under its control is opened daily with the Lord's Prayer and with the reading of a portion of the Bible, provided that no child attending such a school shall be required to be present when this is done if the parent or guardian expresses a wish to the contrary: and provided further that the procedure for the opening of schools as laid down in this section shall not be incumbent upon schools of non-Christian designation.

General regulations under Act.

82. It shall be lawful for the Governor from time to time to promulgate, by Proclamation, regulations under this Act, and such regulations shall, upon publication in the *Gazette*, have the force and effect of law until altered or cancelled by Proclamation or until Parliament shall otherwise decide: provided that no such Regulation shall be inconsistent with the provisions of this Act, or with school regulations approved of by Parliament under any other Act; and provided further that a copy of all additional or amended Regulations shall be laid by the Minister before both Houses of Parliament as soon as may be after the commencement of each Session.

Short Title.

83. This Act may be cited as "The School Board Act, 1905."

No. 36—1905.]

[June 8, 1905.]

ACT

To Apply a further Sum not exceeding Two Hundred and Thirty-one Thousand Two Hundred and Eighteen Pounds Sterling for the Service of the year ending the 30th June, 1905.

[Assented to 6th June, 1905.]

Preamble.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending the 30th June, 1905, in addition to the sum provided by Act 24 of 1904: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Public Revenue charged with £231,218.

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending on the 30th June, 1905, with a further Sum of Two Hundred and Thirty-one Thousand Two Hundred and Eighteen Pounds Sterling, in addition to the sum provided for by Act 24 of 1904.

How to be applied.

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

3. This Act may be cited for all purposes as the "Additional Appropriation 1904-1905 Act, 1905."

Short Title.

SCHEDULE.

Additional Appropriation, 1904-1905.	Estab- lish- ments.	Services exclusive of Estab- lishments.	Total.	Votes to be taken.
	£	£	£	£
I. Prime Minister ...	181	10,469	10,650	10,650
II. Colonial Secretary	342	83,079	83,421	83,421
III. Treasurer ...	2,205	87,701	89,906	89,906
IV. Attorney-General...	2	1	3	3
V. Commissioner of Public Works ...	47	38,008	38,055	38,055
VI. Secretary for Agri- culture ...	7,239	1,944	9,183	9,183
Grand Total ...	10,016	221,202	231,218	231,218

No. 37—1905.]

[June 8, 1905.]

ACT

To Apply a Sum not exceeding Forty-eight thousand and thirty-seven pounds twelve shillings and three pence sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

[Assented to 6th June, 1905.]

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

Preamble.

1. The public revenue of this Colony is hereby charged with the sum not exceeding Forty-eight thousand and thirty-seven pounds twelve shillings and three pence sterling, to meet unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended the 30th June, 1904, described on page 232 of the "Report of the Controller and Auditor-General, with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope for the financial year 1903-1904" [G. 1-'05].

Revenue charged with £48,037 12s. 3d unauthorised expenditure, year ended June, 1904.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1905."

Short Title.

No. 38—1905.]

[June 8, 1905.]

ACT

To Provide for the settlement of certain Lands and Commonages and Titles to Lands and Commonages in the Division of Stockenstrom.

[Assented to 6th June, 1905.]

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

Interpretation Clause.

1. In the interpretation of this Act the following terms shall have the following meanings respectively, namely:—

“Grantee” or “Allottee” shall mean the original grantee or allottee of land within the Division of Stockenstrom, by virtue of certain grants or allotments made during and between the years 1836 and 1865 to certain Hottentots.

“Boedel Erf” shall mean an Erf granted or allotted as aforesaid, or any portion thereof, which at the present date remains registered in the name of the grantee or his successors in title, or is vested in the allottee or his heirs or assigns; and of which the persons now claiming to be owners shall not have received transfer.

Repeal of repugnant laws.

2. So much of any law as is repugnant to or inconsistent with the provisions of this Act is hereby repealed.

Civil Commissioner of Stockenstrom *ex officio* executor in certain estates.

3. The Civil Commissioner for the time being of the Division of Stockenstrom is hereby appointed in his said capacity Executor and Administrator in the Estates of such grantees or allottees whose estates shall be certified by the Master of the Supreme Court not to be duly represented, or if represented, not to have been duly administered; and for that purpose the Civil Commissioner shall, in addition to the powers conferred upon an Executor Dative by Law, have and exercise the powers conferred and be subject to the liabilities imposed by this Act.

Title to be granted to him in his said capacity.

4. In the event of a grant not having been issued for any boedel erf, a grant shall be issued to the Civil Commissioner in his said capacity.

Conditions under which transfer of Boedel Erven may be passed.

5. The said Civil Commissioner is hereby authorised to pass transfer of any boedel erf or portion thereof to persons entitled thereto without having to pass transfer to any intermediate owner, subject however to the following conditions, that is to say:—

(a) If the erf or share of the erf be in extent 300 square roods or more, and the result of the sub-division thereof amongst the persons entitled thereto, be to give to each person an extent of 300 square roods or more, then the erf or share of the erf as the case may be shall be transferred to such person or persons, and separate transfer shall be passed to each such person.

- (b) If the erf or share of the erf be less than 300 square roods, or if the result of the sub-division of the erf or share thereof be such as would give each person an extent of less than 300 square roods, then such erf or share of the erf as the case may be shall be held in trust by the said Civil Commissioner for such person or persons, subject to the provisions of section 6.
- (c) The erf or portion thereof to be transferred shall be surveyed if necessary previous to transfer, and the cost of such survey and transfer together with transfer duty, stamp duty, succession duty, fees of office, and such fee as shall be prescribed by regulations, to be framed by the Governor, shall in the first instance be borne by the Government, and shall be repaid to the Civil Commissioner, in his capacity as Executor, by the person to whom transfer is made, in such instalments as may be provided by such regulations.
- (d) If the Civil Commissioner shall be unable to discover the legal owner of any boedel erf or sub-division thereof he shall, by notice in the *Gazette* and in a newspaper published in the district, notify that within six months from the date of first publication of such notice applications will be received from persons claiming to be owners of the said erf or sub-division and such notice shall set forth that after the termination of the said period no applications will be acknowledged. The Civil Commissioner shall then decide as to the legality of any such claim, but any claimant aggrieved by such finding shall have the right of appeal to the Supreme Court, Eastern Districts Court or any Circuit Court holden for the Division of Stockenstrom, and the decision of such Court shall be final, provided such appeal is noted and prosecuted within six months after intimation in writing of his finding by the said Commissioner to the person or persons claiming a right as aforesaid to the said erf or portion thereof, failing which appeal the decision of the Commissioner shall be final.
- (e) No transfer of any erf or portion thereof shall be effected under the provisions of this section until the Civil Commissioner shall have applied for and obtained from the Registrar of Deeds a Certificate containing the name of the last registered proprietor.
- (f) In the event of the grant, by which an erf is held, or the transfer deed by which it was last conveyed, having been lost or destroyed, the Civil Commissioner shall give thirty days' clear notice in the *Gazette* and in a newspaper circulating in the Division of his intention to apply for a certified copy of such grant or deed of

transfer, and the Surveyor-General or Registrar of Deeds, as the case may be, is hereby authorized, upon production of proof of the publication of such notice, and provided no legal objections have been lodged at or before the expiration of such period, to issue such copy for the purposes of transfer. There shall be paid for such copy the fees prescribed by law.

When transfer not to be passed.

6. No transfer shall hereafter be passed of any erf or portion thereof which shall be in extent less than 300 square roods. In case two or more persons are interested therein the Civil Commissioner shall take the necessary steps to apportion to each such person his undivided share in such manner as he may think fit, and no person holding such undivided share as aforesaid shall be entitled in any manner to dispose of the same, except to an owner of another undivided share in such erf or portion provided however that in the event of any such person acquiring any further share or interest in any such erf whereby his share shall be in extent at least 300 square roods he shall thereupon be entitled to receive transfer of such erf.

Payment of transfer duty.

7. In any transfer under the provisions of this Act the production of a receipt for the transfer duty, for which the person to whom transfer is to be effected is liable, shall be sufficient, notwithstanding the fact that duty may have become payable by some other person: Provided that the descendants of grantees or allottees shall be exempted from the payment of "additional duty" and interest.

Procedure upon failure to pay instalments.

8. If any person to whom transfer of any boedel erf or share of a boedel erf is effected under this Act shall fail to pay the instalment due under such regulations, or fails to apply in terms of section five, sub-section (d) hereof, the following procedure shall be adopted, that is to say:—

(a) If the default be made in respect of a portion of an erf in extent less than 300 square roods, it shall be dealt with in the following manner by a Committee, consisting of the Civil Commissioner, as Chairman, the Chairman of the Board of Management of the locality in which the erf or portion thereof in question is situated, and an erf-holder in the said locality to be nominated by the Minister.

(b) The said Committee, after assessing the value of the said portion shall, in writing, notify each of the owners of the remaining portion or portions of the erf of which the portion in respect of which the default is made forms part, that the owner of the said portion has made default in paying the instalments aforesaid, or that the legal owner of the portion cannot be found, as the case may be, and further that the value of such portion has been assessed by them and that applications from the said owners of the remaining portions will be received by the Committee up to a date mentioned in such notice

for the purchase of the said portion at its assessed value, plus expenses of survey (if any) and transfer as above-mentioned.

- (c) The Committee shall sell to the applicant who, in their opinion, is in the interest of the said owners of the remaining portions, the proper person to whom to sell.
- (d) If no applications for such portion be received from any of the said owners of remaining portions, the said portion shall be allotted by the Committee at its assessed value amongst all the owners of remaining portions of the erf, who shall thereupon be bound to accept the ownership of the said portion, and pay the assessed value plus expenses of survey (if any), and of transfer.
- (e) If the default be made in respect of an entire erf or of a portion of an erf 300 square roods or more in extent the Civil Commissioner shall cause the same to be dealt with in manner provided by sub-sections (a), (b), (c) of this section in respect of erven less than 300 square roods in extent, save and except that if no application is made he shall cause the same to be advertised for sale in the *Gazette* and a paper circulating in the district and sold by public auction on a day mentioned in such an advertisement, and the purchase price obtained at such sale shall be paid into the public revenue.

9. If in any location or village within the said Division, all the erven are owned by one person, or all the erven are held by more than one person jointly, and they agree to a sub-division, or if three-fourths of the erf-holders of any location agree to a sub-division, and the extent of commonage accruing to each sub-division will, in the opinion of the Minister, be of more value to the owner of the sub-division than if the whole commonage were enjoyed jointly by the joint owners of the erven, the commonage or portion thereof, in respect of the use of which the owners of the said erven are entitled, may be granted by the Governor to the said owners, and shall thereupon become and be the property of the said owners as if portion of the said erven, and they shall receive title-deed to the sub-divisions to which they are entitled upon payment of the expenses of survey and title: Provided that:

- (a) In any agreement as to sub-division, where any person is the owner of two or more erven he shall be entitled to one vote for each erf to the extent of five votes and no more; in all cases the owner alone, and not the lessee, shall have a right to vote.
- (b) The title deed of the said commonage shall provide that, in addition to the *bona fide* servants, no person to whom commonage has been conceded, shall have the right to locate on such commonage a greater number of aboriginal natives than one male and his family to every 300 morgen of such commonage.

Commonage.

No. 38—1905.

(c) The Conservator of Forests reserves the right of grazing upon such commonage so granted such cattle as may from time to time be required for the purpose of carrying out such work as may be necessary in and about the adjoining conservancies.

Board for carrying out sub-division of Commonage.

10. A Board shall be constituted consisting of three persons, the Civil Commissioner, the Surveyor-General or his nominee, and one other member elected by erf-owners, and it shall be the duty of such Board to carry out the provisions of this Act in regard to sub-division of Commonage. The said Board to have power to reserve in its discretion adequate spaces adjoining Crown Land for the purpose of making fire-belts, and also power in any sub-division to take into consideration the value as well as the extent of the land dealt with, so as to ensure the carrying out of such sub-division on a fair and equitable basis, the decision of the majority of the Board to be final.

Board to regulate supply of water.

11. The Board provided for in section ten above shall further have the power to regulate the times during which each holder of an erf or portion of an erf shall be entitled to the water running through his land, provided that no such regulation shall in any way prevent or interfere with the free flow of such water down and through such erven between the hours of 6 p.m. and 6 a.m.

Short title

12. This Act may be cited for all purposes as "The Boedel Erven Act, 1905."

No. 39—1905.]

[June 8, 1905.]

ACT

To Provide for the Issue of Certificates of Registered Title.

[Assented to 6th June, 1905.]

Preamble.

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

Short Title and repeal of inconsistent Laws.

1. This Act may be cited for all purposes as "The Deeds Registry Act, 1905," and so much of any law as may be inconsistent with its provisions is hereby repealed.

Certificates of Registered Title.

2. Any person being the registered owner of land (hereinafter styled the applicant), who shall have procured a survey to be made, and a diagram to be framed, of any portion thereof, may, after the said diagram has been duly examined, certified and deducted, apply to the Registrar of Deeds, respectively, at Cape Town, King Williamstown, Kimberley or Vryburg, as the case may be, for a Certificate of Registered Title stating that such person is the registered owner of the land represented on such diagram; and the Registrar shall upon the production of the said diagram and of the Deeds of Grant or of Transfer, as the case may be, in which the applicant holds, and provided he

is satisfied that the applicant is the owner of the land represented in such diagram, issue a Certificate of Registered Title which shall be as nearly as is material in the form contained in the Schedule.

3. When any such portion of land deducted as aforesaid is registered in the Deeds Registry in Cape Town, the diagram shall be lodged in duplicate, and when registered in any other Registry shall be lodged in triplicate.

Lodgin
Diagram.

4. The Registrar of Deeds issuing any such Certificate as aforesaid shall, before delivering the same, cause all necessary endorsements or entries to be made upon the existing Title Deeds and in the Registers in his Office, showing the issue of the certificate of registered Title and the extent of the land specified therein.

Endorse-
ment on ex-
isting Title
Deeds.

5. In case the land of the applicant shall be mortgaged, the consent in writing of the holder of the bond shall be necessary before such Certificate as aforesaid shall be granted. The Registrar of Deeds, upon production of such consent, and the Bond or Deed hypothecating the land, shall endorse upon such Bond or Deed the fact of the issue of the Certificate aforesaid, and shall cause all usual and proper entries necessary to record the hypothecation of the land mentioned in such Certificate to be made in the Deeds Registry before the delivery thereof.

Consent of
holder of
mortgage
bond neces-
sary.

6. No person being the registered proprietor of any land shall be entitled, after the taking effect of this Act, anything in the practice of the Deeds Registry to the contrary notwithstanding, to mortgage any defined portion of such land until he shall have procured a Certificate of Registered Title of such portion in the manner provided by this Act.

Portion of
land not to
be mortgaged
until Certifi-
cate obtained.

7. The Certificate of Registered Title shall be prepared in duplicate by the applicant or his attorney, subject to the Regulations of the Deeds Registry, and there shall be paid by the applicant, in respect of the registration thereof, a fee of One Pound Sterling.

Certificate
subject to
regulations
and payment
of a fee.

8. The provisions of Sections 3 and 7 hereof shall also be applicable to "Certificates of Registered Title" issued under the provisions of the Deeds Registry Act, 1891; and Section 21 of the said Act, so far as it provides for the retention of Deeds and diagrams previously in the possession of the person to whom the Certificate therein referred to is to be issued, is hereby repealed.

Application
of Sections 3
and 7 to Deeds
Registry Act,
1891.

9. The provisions of the nineteenth, twentieth and twenty-third Sections of "The Deeds Registry Act, 1891," shall *mutatis mutandis* apply to applications made and Certificates issued in pursuance of the provisions of this Act.

Application
of Sections 19,
20 and 23 of
Deeds Regis-
try Act, 1891.

10. It shall not be lawful, after the passing of this Act, for any Municipality, Harbour Board, Hospital Board or any other Body whatsoever, in which land shall have been vested by Parliament, or shall hereafter be so vested, to sell, transfer or otherwise

Transfer,
sale, etc., of
land vested
in a Corpora-
tion.

alienate such land, or to mortgage or lease the same, until, if such land shall have been vacant Crown land, a Grant therefor shall have been obtained from His Excellency the Governor, or, if such land comprises land which has already formed the subject of a Grant, until a Conveyancer shall have searched the transfer Registers and have given a Certificate disclosing the name of the last registered proprietor, and the date of the Deed by which it was granted or transferred, as the case may be, to him. Nothing, however, in this section contained shall be deemed, taken or construed as relieving any Municipality, Harbour Board, Hospital Board or other Body from the obligation of complying, in respect of any sale, transfer, alienation, mortgage or lease, as the case may be, with the provisions of any existing law.

Schedule.

SCHEDULE.

CERTIFICATE OF REGISTERED TITLE.

Granted Pursuant to the Provisions of "The Deeds Registry Act, 1905."

KNOW ALL MEN WHOM IT MAY CONCERN;

That..... having applied for the issue to him of a Certificate of Registered Title under the provisions of the "Deeds Registry Act, 1905," and it appearing that he is the registered owner of the land hereinafter described being portion of land held under certain (here describe the grants, deeds of transfer under which the applicant holds the land).

Now, therefore, in pursuance of the provisions of the said recited Act, I, the Registrar of Deeds, do hereby certify that the said..... is registered as the owner of (describe the property) extending (describe the boundaries indicated by the diagram) as will more fully appear from the annexed diagram framed by the Surveyor Mr....., subject to such conditions as are mentioned or referred to in the said (describe the grants or deeds of transfer).

And that by virtue of these presents the said....., his heirs, executors, administrators, and assigns, now is, and henceforth shall be, entitled thereto, conformably to local custom, Government however reserving its right.

In witness whereof, I, the said Registrar, have subscribed to these presents, and have caused the seal of the office to be affixed hereto.

Thus done and executed at the Office of the Registrar of Deeds in....., Cape of Good Hope, on the..... day of the..... month of..... in the Year of Our Lord One Thousand Nine Hundred and.....

Registrar of Deeds.

NOTE.—When the Certificate is issued under an Order of Court, the necessary recital of the Order is to be made.

No. 40—1905.]

[June 8, 1905.]

ACT

To Extend and regulate the liability of Employers to make Compensation for Personal Injuries to Workmen and to punish certain Offences in connection with such Injuries.

[Assented to 6th June, 1905.]

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

Preamble.

1. Act 35 of 1886 entitled the "Employers' Liability Act, 1886" is from the date of taking effect of this Act repealed, but such repeal shall not affect any right acquired or liability incurred prior to the taking effect of this Act.

Repeal of Act 35 of 1886.

2. Save in respect of any personal injury caused prior to the taking effect of this Act, a workman in any employment to which this Act applies shall not be entitled to claim damages or compensation against an employer or principal for any personal accidental injury to which this Act applies under any other existing law, but shall be restricted in respect of such injury to such rights as he may have under this Act and the employer or principal shall not be liable in respect of such injury to pay any damages or compensation other than as provided by this Act; provided that nothing in this Section contained shall apply to any rights which any such workman may have against an employer or principal under the rules of any Fund, Benefit Society or Government regulation.

Workman's rights to compensation to be governed by this Act.

3. Notwithstanding any law to the contrary the Magistrate of any district or Assistant Magistrate of any detached District in which an injury to a workman occurs shall have the jurisdiction necessary for the purposes of this Act.

Jurisdiction of Magistrates.

4. In this Act the following definitions and provisions shall apply :—

Definitions.

"Employer" means any person who hires or contracts with any workman in the Colony or the territorial waters thereof or between whom and any such workman there is an existing contract for the performance of any work to which the provisions of this Act apply, and shall include the legal personal representative of a deceased employer and the trustee of the estate of an employer when such estate has been sequestrated.

"Principal" means any person whose trade, business, contract, or public function it being wholly or in part to do, perform or undertake a work to which this Act applies, employs a contractor to do it for him wholly or in part, and whether such contractor employs a sub-contractor or not, and shall include the legal personal representative

of a deceased principal, and the trustee of the estate of a principal when such estate has been sequestrated.

“Person” means any person, partnership, Company, Association, Corporation or public Board, and includes the agent in the Colony of any such person, persons, partnership, Company, Association or Corporation.

“Workman” means anyone employed in the Colony or the territorial waters thereof by any person on, in or about a work to which this Act applies, whether in manual labour or otherwise, and whether the agreement is one of service or apprenticeship or otherwise and is expressed or implied, is oral or in writing but shall not include a contractor or sub-contractor. Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependents or other person to whom compensation is payable under this Act.

“Wages” means the average weekly earnings of the workman at the time of injury. If the wages are paid at the time of the injury at a rate per hour the average weekly wages are to be taken as forty-eight times the rate per hour.

If the wages are so paid at a rate per day, the average weekly wages are to be taken as six times the rate per day.

If the wages are so paid at a rate per week, the average weekly wages are to be taken as that rate.

If the wages are so paid at a rate per month the average weekly wages are to be taken as one-fifty-second of twelve times the rate per month.

No overtime payments are to be taken into account.

“Dependents” means such members of the workman's family specified in the First Schedule to this Act, as were wholly or in part dependent upon the workman at the time of the injury which caused his death.

“Work” means any employment in any trade, business, or public undertaking in the Colony, on land or upon or within the territorial waters of the Colony, but shall not mean or include domestic, messenger, or errand service or employment in Agriculture.

“Agriculture” means horticulture, forestry, and any work upon a farm or connected with farming.

“Gross carelessness” means any act done or duty omitted without safe-guarding against the probable consequences, when such consequences are dangerous to human life or limb.

Application
of Act.

5. This Act shall not apply to persons in the Naval or Military service of the Crown, but otherwise shall apply to any employment by or under the Crown to which this Act would apply if the employer were a private person.

6. If in any work to which this Act applies personal accidental injury arising out of and in the course of the employment is caused to a workman necessitating his absence from work, and not being an injury caused by or through his own gross carelessness, the employer, and every principal, shall be jointly and severally liable to pay to the workman or his dependents any compensation awarded under the provisions of this Act, provided that in all cases where a principal, who has not himself hired or employed the workman, pays compensation under this Act, he shall be entitled to be indemnified by any other principal or employer standing between him and the workman by action in the court of the Resident Magistrate of the district where such other principal or employer resides.

Compensation for injury.

7. Any workman personally injured as aforesaid, and desirous of obtaining compensation therefor, under the provisions of this Act, shall forthwith or as soon as he is able to do so, give or cause to be given information to any police constable or officer, or to the clerk of the Resident or Assistant Resident Magistrate of the District in which such injury was received, of such injury, and such constable, officer or clerk shall forthwith report the same to the Magistrate or Assistant Magistrate of the said District.

Workman to give information of injury received.

8. The Resident or Assistant Resident Magistrate aforesaid, upon receiving information of a personal injury to a workman necessitating his absence from work, and as soon as he shall have received the certificate of the District Surgeon or medical man hereinafter provided for, shall hold an inquiry into the circumstances of the case, under oath, and shall record the evidence taken by him. Notice of the date and place at which the inquiry will be held shall be given by the Magistrate to the employer or any principal, but the inquiry shall not be invalidated or postponed by reason of such notice not reaching the employer or principal in time.

Magistrate to hold inquiry.

9. For the purposes of the aforesaid inquiry the Magistrate holding the same shall have all and singular the powers vested by law in a Resident Magistrate for the holding of an inquest upon a deceased person, and the law appertaining to witnesses and their evidence in cases of inquests shall *mutatis mutandis* apply to witnesses and their evidence in any inquiry under this Act: Provided that, if the injured workman is at the time of the inquiry in some District other than that of the Magistrate aforesaid and is unable to attend such inquiry, the said Magistrate may appoint the Assistant Resident Magistrate or Magistrate's Clerk in his office to take the evidence under oath of such injured workman if necessary, and shall give the employer or any principal, if he shall have appeared at the inquiry, notice thereof; Provided further that the workman shall be liable to pay to the said Magistrate the costs of obtaining the aforesaid medical certificate, in case the Magistrate finds that the workman has suffered no grievous bodily harm by the injury complained of.

Law relating to inquests applied.

No. 40--1905.

District Surgeon's certificate.

10. The District Surgeon or medical man shall, as soon as possible after being instructed thereto by the Magistrate, visit and examine the injured workman, and shall certify to the Magistrate whether in his opinion the injury necessitates the workman's absence from work for longer than three days.

Provisional order by Magistrate.

11. In every case as aforesaid in which the District Surgeon or medical man shall certify that in his opinion the personal injury received necessitates the workman's absence from work for longer than three days, and as soon as the Magistrate shall satisfy himself from the evidence taken in the said inquiry, that the injury was one in respect of which compensation is payable in terms of this Act, such Magistrate shall make a provisional order for the payment to the workman by the employer and the several principals (if any), the one paying the others to be discharged, from the date of the injury and until the workman is sufficiently recovered to resume work, of not exceeding fifty per centum of the wages which he was receiving at the time of the injury. Payment to be made at such times or at such intervals as may have been the course of payment to the workman at the time of the injury, provided that in no case shall the amount of such payment exceed two pounds per week. Regard shall be had, in fixing such amount, to the workman's necessities

Effect of provisional order.

12. Any provisional order as aforesaid shall, unless and until it is set aside or varied in the manner hereinafter provided, and if varied then to the extent of the order made, have for a period of six months the full force and effect of a civil judgment of the Court of Resident Magistrate from the date of the injury, unless such workman shall sooner resume work, die, or obtain judgment in his favour in any action hereinafter provided, but no such order shall be suspended by the commencing of such action by the workman or the hearing thereof by the Court, and no such order shall be subject to appeal to any Superior Court having jurisdiction, unless a Magistrate shall have given a finding upon the question of gross carelessness, in which case an appeal to the Superior Court shall only lie upon leave granted by such Superior Court.

Application to set aside Provisional Order.

13. Should the employer or any principal not have received the notice mentioned in Clause 8 in time to be present or to be represented at the said inquiry he may upon giving the workman forty-eight hours' notice of his intention so to do and stating the day of hearing and the ground or grounds upon which he is proceeding, set down with the Clerk of the Court of the Resident or Assistant Resident Magistrate who granted the provisional order, for the next Court day thereafter, an application to set aside or vary the said provisional order.

Grounds on which Order may be set aside.

14. The grounds upon which a provisional order may be set aside or varied shall be one or more of the following:—

- (1) That the injury sustained by the workman did not arise out of and in the course of the employment.

- (2) That the injury was caused by the workman's own gross carelessness.
- (3) That the workman has sufficiently recovered to resume work.
- (4) That the workman has refused to allow himself to be examined by a medical man appointed by the employer.
- (5) That the workman is entitled wholly or in part to a similar allowance to that granted under the provisional order from a Benefit or other Society as mentioned in sections 29 and 30 of this Act; or that he would have been entitled to such allowance in whole or part had he joined the said Benefit or other Society as mentioned in section 31 of this Act.

15. At and upon the hearing of the application aforesaid it shall be lawful for the applicant, or for the workman or for the Court to produce or call such further evidence, or to recall such witnesses in the original inquiry as may be deemed necessary, and such evidence shall be recorded by the Magistrate with and in addition to the evidence of the original inquiry.

Evidence

16. In case in any such application as aforesaid the applicant shall rely upon the ground that the workman is sufficiently recovered to resume work the Magistrate may require the District Surgeon or medical man to visit and examine the workman and to give evidence thereon, the cost of such examination and witness to be borne by the unsuccessful party to the proceeding.

Examination by and evidence of District Surgeon.

17. Upon hearing the parties aforesaid the Magistrate may confirm or set aside the provisional order wholly or in part and for such period or from such date and upon such terms as to costs as to him may seem meet, and such judgment shall thereupon be deemed to be a final civil judgment of the Magistrate's Court, provided that no appeal shall lie therefrom to any Superior Court having jurisdiction except where gross carelessness has been alleged and the Magistrate's Court has given a finding thereon, in which case an appeal to the Superior Court shall only lie upon leave granted by such Superior Court.

Final ment.

18. No such judgment or provisional order as in the preceding sections mentioned shall be taken to extend beyond the period of the workman's actual incapacity for work, and any person adjudged to pay wages to an injured workman under any such judgment or order may at any time upon obtaining fresh evidence take further proceedings to terminate the operation of the said judgment or order, and the provisions of Sections 13, 14, 15, 16, and 17 of this Act shall apply *mutatis mutandis*, to such proceedings, provided that the Magistrate shall impose double costs in any case in which such Court is of opinion that the proceeding is frivolous and vexatious.

Limit of Order.

19. If in any case the Magistrate shall, upon grounds appearing upon the record of the evidence, refuse to make any provisional order for payment to an injured workman on the ground that the

Appeal to Superior Court.

No. 40—1905.

injury was due to his own gross carelessness, the workman may apply to a Superior Court having jurisdiction for leave to appeal from any such decision as if such decision were a final civil judgment of the Magistrate's Court.

Order by Superior Court.

20. In case the Superior Court hearing the appeal aforesaid shall be of opinion that the workman is entitled to a provisional order in terms of Section 11 of this Act the Court shall make such order, and the provisional order so made shall be deemed and taken to be the provisional order in Section 11 prescribed.

Procedure if injury prove more serious than supposed.

21. If the Magistrate shall have refused to make a provisional order on the ground that the medical man aforesaid was of opinion that the injury would not necessitate the workman's absence from work for longer than three days, and it shall happen thereafter that the injury was more serious than supposed, and has prevented the workman from resuming work for a period longer than three days, he may notify the Magistrate as in Clause 7, and the same proceedings shall be had thereon as if the workman had given notice of the injury for the first time, provided that, if the Magistrate shall find that the workman is not entitled to compensation under the provisions of this Act, the workman shall be liable to pay the whole cost of such second inquiry.

Permanent injury.

22. If any workman become permanently totally incapacitated for work by reason of a personal injury, for which an employer or principal is liable to pay compensation under the provisions of this Act, such workman shall, subject to the provisions of Sections 29, 30 and 31 of this Act, and in addition to the provisional order, have a right of action in the Magistrate's Court of the District in which he received such injury, against the employer or principal for the recovery of a sum not exceeding three years' wages at the rate of wages drawn by such workman at the time of the injury, less any wages received under any provisional order as hereinbefore mentioned, provided such sum shall not exceed Six Hundred Pounds in all. Regard shall be had in fixing such amount to the workman's necessities.

Postponement of case for purpose of obtaining further evidence as to permanency of injury.

23. The Court hearing the action may, if the employer's liability for compensation be proved, postpone giving judgment in such action for a definite period in order to obtain more certain evidence of the workman's permanent total incapacity for work, the costs of such postponement to be borne by the party requesting it, and may from time to time further postpone such final judgment for such evidence on the aforesaid terms for a period or periods in all not exceeding six months from the date of summons.

Partial unfitness for work.

24. If any workman, injured as in this Act mentioned, shall at any time be sufficiently recovered to undertake any employment but owing to any permanent injury so received by him shall be unable to resume work of the character upon which he was employed at the time of the injury or for which he was, previous to the injury, fitted by trade or apprenticeship, or in case, although not wholly unfitted for such work, he shall be partially unfitted therefor,

he shall, subject to the provisions of Sections 29, 30 and 31 of this Act, and in addition to the provisional order, have a right of action against the employer in the Magistrate's Court aforesaid for the recovery of a sum not exceeding the probable deficiency in his income owing to his diminished capacity for any employment at the rate of wages received by him at the time of the injury, for three years, such sum not to exceed Three Hundred Pounds, less any wages received under any provisional order as hereinbefore mentioned.

25. If any workman who has not received compensation under the next preceding Sections shall die as the result of personal injury received, for which an employer is liable under the provisions of this Act, the dependents who were at the time of the injury wholly dependent upon him, shall, subject to the provisions of Sections 29 and 30 of this Act, be entitled in all to a sum not exceeding three years' wages of the deceased and not exceeding Four Hundred Pounds, from the employer, which sum shall not be subject to deduction of any payments made to the deceased under a provisional order as hereinbefore mentioned, if such payments did not continue for a longer period than three months. Regard shall be had in fixing such amount to the dependent's necessities.

Death from injury Rights of dependents wholly dependent on deceased.

26. If the said workman die as in the next preceding Section mentioned and leave no dependents wholly dependent upon him, any dependents who were partially dependent upon the deceased at the time of the injury shall, subject to the provisions of Sections 29 and 30 of this Act, be entitled in all to a sum not exceeding Two Hundred Pounds from the employer, which sum shall not be subject to deduction of any payments made to the deceased under a provisional order as hereinbefore mentioned if such payments did not continue longer than three months, provided that in no case shall judgment be given for a larger sum than in the opinion of the Court represents the value of the support which they were receiving, calculated for two years. Regard shall also be had in fixing the amount to the dependent's necessities. (2)

Rights of persons partially dependent on deceased.

27. The legal representative of the deceased shall be entitled to sue for the sums mentioned in the next two preceding Sections in the Magistrate's Court of the District aforesaid, and shall pay over such sums if recovered to the dependents proved to be entitled thereto, or may pay the said sum or sums into Court. Any question as to who is a dependent and as to the amount payable to each dependent shall in default of agreement be settled by the Court in which the action is brought.

Deceased's legal representative to sue.

28. No sum payable to any dependent as in this Act provided shall be liable to attachment for any debts due by the deceased workman.

Sum payable free from attachment for debt.

29. If in any inquiry or action as hereinbefore provided it shall appear that the injured or deceased workman is or was a member of any Benefit Society, Sick Fund Organisation or Club to which the employer or principal is contributing on a ratio of not

Case of members of Benefit Societies, etc.

No. 40—1905.

less than one-third to the workmen's contribution for the benefit of his workmen, not being an insurance fund against employer's liability under this Act, and that such workman or his dependents is or are entitled from such Fund to any allowance or gratuity in respect of his illness, absence from work, permanent or partial disablement or death, the Court making an order or giving judgment as aforesaid against the employer or principal shall deduct from the amount of the allowance or sum, capitalized if need be, which under the provisions of this Act would otherwise have been adjudged against the employer or principal a sum which bears the same proportion to the amount, capitalized if need be, he or his dependents is or are entitled to from such Fund as the employer or principal's annual contribution bears to the total annual income of such Fund excluding interest, the said income to be taken as that shown in the balance sheet for the last financial year of the Fund prior to the injury.

If employ-
er's contribu-
tion to Society
is in excess of
sum payable
as compensa-
tion, proceed-
ings lapse.

30. If in any case as in the next preceding Section mentioned it shall appear that the proportionate amount subscribed by the employer or principal in any allowance or gratuity made or to be made by any Benefit or any other such Society or Club to or in respect of any injured workman, or in the case of his death to his dependents, is in excess of the amount which, under the provisions of this Act, the employer or principal might be adjudged to pay to such workman or his dependents, no order or judgment shall be made by the Court and any proceedings taken for recovery of any such allowance or amount shall forthwith lapse and determine.

Applicati n
of Sections 29
and 30.

31. The provisions of the next two preceding Sections shall apply if it shall appear in any proceeding under this Act that the employer or principal has provided or is contributing in the aforesaid ratio towards such a Fund for the payment of allowances, sick-pay or gratuities to any of such employer or principal's workmen when injured or disabled from work, and that the injured men in respect of whom the proceeding is instituted might, under the rules and regulations of such Fund or Society have joined such organization, but failed to do so.

Medical and
burial ex-
penses.

32. If the injured workman shall die and leave no dependents the employer or principal shall be liable under the provisions of this Act for the reasonable expenses of the workman's medical attendants and burial, not exceeding Forty Pounds sterling.

Limitation
of action.

33. No action for compensation under the provisions of Section 22 and succeeding Sections of this Act shall be maintained unless such action shall have been commenced within four months from the date of the injury or, in case of death caused thereby, within four months from the date of death, or if the employer or principal shall within either such period have admitted his liability to pay compensation, within four months from the date of such admission, and no appeal shall lie from any decision of the Magistrate's Court thereon except in the case of an appeal in

which gross carelessness has been alleged and the Magistrate's Court has given a finding thereon, in which case an appeal to the Superior Court shall only lie upon leave granted by such Superior Court.

34. When an employer or principal is adjudged or admits liability under this Act to pay compensation, and is entitled to any sum from any insurers in respect of such liability, then in the event of the estate of the employer or principal being sequestrated or of such employer or principal making a composition or arrangement with his creditors or, if the employer or principal be a Company having commenced to be wound up, the workman or his dependents entitled to compensation shall have a first charge upon the sum aforesaid for the amount due, and if any of the events above-mentioned happen while an inquiry or action is being instituted for or with a view to compensation the Court having jurisdiction shall interdict the parting with any such sum by any insurer pending the result of such inquiry or action.

Insolvency of employer.

35. Every employer or principal shall be bound in any inquiry or action under the provisions of this Act to disclose whether he has insured against personal injury to the workmen employed by him or on his behalf, and if so, the name and address of the Company or Association with whom the insurance has been effected.

Employer to declare whether he is insured against injury to workmen.

36. Where the injury for which compensation is payable under the provisions of this Act was caused under circumstances creating a legal liability in some person other than the employer or principal to pay damages in respect thereof, the workman may at his option proceed either at Law against such person to recover damages or against the employer or principal for compensation under the provisions of this Act, but not against both, and if compensation be paid under this Act the employer shall be entitled to be indemnified by the said other person.

Liability of persons other than employers.

37. Any contract existing at the date of the taking effect of this Act, or hereafter entered into, whereby a workman relinquishes any right to compensation from an employer or principal for personal injury arising out of and in the course of his employment, shall be null and void.

Contracting to relinquish right to compensation.

38. If anyone threatens and compels any workman to do any act the doing of which shall deprive or be likely or calculated to deprive such workman of any claim to compensation which he would have under the provisions of this Act, such person shall be liable to a penalty not exceeding One Hundred Pounds.

Threats and compulsion.

39. If any employer or fellow-workman through gross carelessness causes grievous bodily harm to a workman in the course of his employment, such person shall be deemed to be guilty of an offence and shall be liable upon conviction to a penalty not exceeding Five Hundred Pounds or in default of payment to imprisonment for a period not exceeding one year, provided that the

Penalty for gross carelessness causing injury.

No. 40—1905.

provisions of this Section shall not apply to any case of death caused by such carelessness.

Returns by
Insurance
Companies.

40. Every Insurance Company, carrying on business in the Cape Colony, shall make and furnish a return annually to 31st December in the form provided in the Second Schedule to this Act to the Attorney-General: provided that such return shall be considered confidential, and shall not be published except upon a resolution of the Legislative Council and House of Assembly.

Stamps on
Insurance
Policies.

41. Notwithstanding any law to the contrary every policy of insurance of workmen entered into after the promulgation of this Act shall bear a stamp of threepence when the annual premium does not exceed one pound (£1), and of one shilling when the annual premium exceeds one pound (£1), and shall be subject to the Stamp Laws of the Cape Colony if not so stamped when entered into.

Regulations.

42. It shall be lawful for the Governor from time to time to make or amend regulations for the carrying out of the provisions of this Act.

Taking
effect of Act.

43. This Act shall take effect from and after the First of September, 1905.

Short Title.

44. This Act may be cited as the "Workman's Compensation Act, 1905."

First Schedule.

FIRST SCHEDULE.

Husband.
Wife.
Father.
Mother.
Grandfather.
Grandmother.
Step-father.
Step-mother.
Son.
Daughter.
Grand-son.
Grand-daughter.
Step-son.
Step-daughter.
Brother.
Sister.

SECOND SCHEDULE.

Name of Insurance Co..... Head Office,.....
 Head Office for Cape Colony,.....

TRADES.	No. of policies issued in the Colony.	Gross Wages	No. of Employees.	Average rate per cent. of wages or per employee.	No. of Claims	Compensation paid and allowance for outstanding claims, including Legal and Medical charges.	Claim ratio per cent. of wages or per employee.	Expense ratio on gross business in Colony.*
Builders ...								
Brickmakers								
Brewers ...								
Contractors								
Engineers ...								
Mines ...								
Quarries ...								
Shipping Risks								
Stevedores...								
Trades other than those mentioned above								

* Gross business embraces all classes of business transacted, not only Employers' Insurance.

No. 41—1905.]

[June 8, 1905.

ACT

To Constitute Additional Fiscal Divisions.

[Assented to 6th June, 1905.]

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

1. So much of the "Constitution Ordinance" and so much of Repeals.
 any other law as may be repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

No. 41—1905.

Fiscal Divisions of Laingsburg and Steytlerville constituted.

2. It shall be lawful for the Governor, by Proclamation to be issued for that purpose, to form certain portions of the existing Fiscal Divisions of (1) Prince Albert, Sutherland and Worcester, and of (2) Willowmore, Jansenville, Uitenhage and Humansdorp, into new divisions for fiscal purposes, to be known respectively as (1) the Fiscal Division of Laingsburg and (2) the Fiscal Division of Steytlerville; and such Proclamation shall define the several boundaries of the new Divisions, and of the old Divisions as altered by such Proclamation.

Elections of Divisional Councils for old and new Districts.

3. On a date to be fixed by the Governor in such Proclamation or subsequent Proclamation, there shall be fresh elections of members of the Divisional Councils of the respective Divisions of Prince Albert, Sutherland and Worcester, and Willowmore, Jansenville, Uitenhage and Humansdorp, as altered, and an election of members of the Divisional Councils of the new Divisions of Laingsburg and Steytlerville as constituted under this Act; and on publication in the *Gazette* of the names of the persons so elected in manner provided by the Divisional Councils Act, 1889, the seats of the existing Councillors for the respective Divisions of Prince Albert, Sutherland and Worcester, and Willowmore, Jansenville, Uitenhage and Humansdorp, shall become vacant.

Application of Laws.

4. The provisions of the said Act, and of every other law relating to Divisional Councils, shall apply to the Divisions constituted under this Act, and to the Divisions to which any part of the said Division belonged, and such former Divisions shall then be so limited and bounded precisely as if no Divisional Council in or for such Division had ever been elected; Provided that the persons who shall be registered as voters for the Divisional Council of any such former Division which, down to the date fixed by Proclamation issued under the provisions of section two of this Act, comprised the whole or any part of the new Divisions of Laingsburg or Steytlerville, as the case may be, and who, in accordance with the said Act, are duly qualified to be registered as voters and to vote, and are not disqualified by reason of any sentence of any competent Court or any sentence legalised by Act of Parliament, as voters for the Divisional Council of the new Divisions aforesaid, shall respectively be entitled to vote at the elections of Councillors for the Divisional Councils of such new Divisions.

Application of Act No. 24 of 1858.

5. The provisions of Act No. 24 of 1858 entitled "An Act to regulate the respective rights of certain divisions in regard to certain road rates" shall, so far as applicable, *mutatis mutandis*, apply to the new divisions of Laingsburg and Steytlerville respectively, and to the divisions to which the said new divisions in whole or in part respectively belonged before the issue of such Proclamation, just as though such new divisions were named in the Schedule to Act No. 12 of 1857.

6. Notwithstanding the creation of the new divisions of Laingsburg and Steytlerville under this Act, such new divisions and every part thereof shall, for the purposes of Parliamentary elections, continue to form part of whatever electoral divisions such new divisions or part thereof respectively belonged to, before the date of such Proclamation.

Electoral Divisions unaffected.

7. This Act may be cited as the "Laingsburg and Steytlerville Fiscal Divisions Act, 1905."

Short Title.

No. 42—1905.]

[June 8, 1905.]

ACT

To Amend the Law relating to Dividing Fences.

[Assented to 6th June, 1905.]

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

Preamble.

1. The second section of "The Fencing Act, 1883" is hereby repealed and notwithstanding anything to the contrary contained in sub-section (b) of the second section of the "Fencing Law Amendment Act, 1891," the term, "Occupier" shall, for the purposes of the said Act and this Act, include the Colonial Government in respect of all Crown Lands.

Term "Occupier" to include Government in respect of Crown Lands.

2. Notwithstanding anything to the contrary contained in any law, if any occupier of land in any Division or Field Cornetcy in which the provisions of Part I of "The Fencing Act, 1883," as amended by "The Fencing Law Amendment Act No. 15 of 1891" shall be in force, shall erect a fence under the provisions of the said part of the said "Fencing Act, 1883," amended as aforesaid, and shall then or at any time thereafter take steps to render such fence vermin proof, or shall at any time convert an existing fence constructed as aforesaid into a vermin proof fence, the adjoining occupier from whose land such fence separates the land of the first named occupier shall, whenever he adopts any means whereby such vermin proof fence or any portion thereof shall be rendered of beneficial use to him as a vermin proof fence, contribute towards the original cost of rendering such fence or portion thereof vermin proof, or of converting such existing fence or portion thereof into a vermin proof fence, such an amount as may be mutually agreed upon, or, failing such agreement, as may be settled by arbitration, such amount to be payable in addition to any amount which such adjoining occupier may already have contributed or be liable for in respect of such fence or portion under the provisions of the said part of the said Act, amended as aforesaid: provided, however, that in no case where the parties do not mutually agree shall the amount of such contribution exceed one half of the cost of the construction or conversion of

Contribution by adjoining occupier towards cost of erection of vermin proof fence.

No. 42—1905.

such fence or portion as, or into, a vermin proof fence: Provided that if any such adjoining occupier shall serve a written notice on the occupier in the first line hereof mentioned that he disputes the efficiency of such fence as a proper vermin-proof fence, the dispute so raised shall be settled by arbitration, and in case only of the said arbitrator or arbitrators deciding that fence is not an efficient and proper vermin-proof fence, this section shall not apply; and, provided further, that such arbitrator or arbitrators may, in deciding as aforesaid, further decide, in writing, what further work is necessary to be done by the occupier in the first line of this section mentioned to render such fence an efficient and proper vermin-proof fence, and upon such further work being executed in terms of such written decision, a copy whereof is to be given to each party, this section shall apply; and provided also that no owner or lessee under him upon whose land a vermin-proof fence shall be erected under the provisions of this Act shall be liable for any damage occasioned to any person or to the property of any person by coming in contact with such fence.

Recovery of contribution.

3. For the purpose of fixing, securing and recovering the amount of any contribution payable under this Act, the provisions of sections six, seven, eight and nine of "The Fencing Law Amendment Act, 1891," shall *mutatis mutandis* apply.

Short Title and effect.

4. This Act may be cited as "The Fencing Law Amendment Act, 1905," shall be read as one with the "Fencing Act, 1883," and the "Fencing Law Amendment Act, 1891," and together with the said Acts may be cited collectively as "The Fencing Laws, 1883—1905."

No. 43—1905.]

[June 8, 1905.]

ACT

To Authorise the Raising of a Loan of Six Hundred and Fifty-eight Thousand Eight Hundred and Twenty-two Pounds Sterling, for the purpose of carrying out certain Works and Services, and to make provision for the deficiency for the year 1904-5, and in regard to certain other Public Moneys.

[Assented to 6th June, 1905.]

Preamble.

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

Establishment of a Store Suspense Account for certain Works.

1. It shall be lawful to establish a Store Suspense Account in connection with Telegraph Works, Telephone Exchanges and Private Wires, by the application thereto of the amounts detailed in Schedule "A" hereunto annexed.

2. For the purpose of constructing the Works detailed in Schedule "B" hereunto annexed, it shall be lawful to apply certain surplus balances, as well as the amounts authorized for the construction of certain other works as detailed in the said Schedule.

Surpluses on certain Works and other authorized amounts to be applied to other Works.

3. For the purpose of carrying out the Works and Services detailed in Schedule "C" hereunto annexed, it shall be lawful for the Governor to raise by Public Loan either temporarily or by means of Consolidated or Colonial Stock in London or in the Colony the sum of £658,822; and the Governor may, and is hereby authorised to make such Regulations as may be necessary for dealing with the Advance, Security, Interest, and repayment of the Loans issued for any of the Services provided for in the said Schedule: provided the said regulations be published in the *Gazette* and laid on the Table of this House, and if issued during the recess they be so laid within fourteen days from the meeting of Parliament.

Loan to be raised.

4. For the purpose of providing further Capital for the Stores Suspense Account of the Public Works Department, it shall be lawful for the Governor to apply the sums of £746 19s. 5d., and £577 2s. 0d. being the unappropriated balance of the purchase price of the Orange River Colony Railway Lines and an amount surrendered on account of the Immigration Act No. 35 of 1879, respectively.

Application of certain unappropriated balances to Public Works Department Stores.

5. It shall be lawful, and the Governor is hereby empowered to raise by Temporary Loan in such manner as may to him seem most expedient, such sum as may be sufficient to meet the deficiency of the Financial Year 1904—'05.

Loan to be raised to meet deficiency, 1904-'05.

6. The provisions of Section One of the "Finance Act," No. 37 of 1899, shall *mutatis mutandis* apply in respect of the amount raised under the preceding section hereof.

Act 37 of 1899, Sec. 1 to apply.

7. From and after the 1st day of July, 1905, there shall be paid out of the Public Revenues of the Colony to the Sinking Fund Commissioners appointed under the provisions of Act No. 11 of 1897, an annual sum of £10,000, which sum, together with any sums accruing from void money orders and unclaimed postal notes, shall be applied towards the reduction of any portion of the existing Public Debt of the Colony or in respect of any debt now or hereafter created, either permanently or temporarily.

Payment of £10,000 annually towards Sinking Fund

8. The redemption instalment for the financial year 1904-1905 in respect of the sums of £885,000 and £125,000 authorized by Section Two of Act No. 42 of 1902 to be provided for as a Temporary Loan shall, instead of being charged to Railway Earnings, be a first charge against any surplus of Railway Revenue received over the expenditure charged to the Railway Vote, until the whole amount is discharged, provided that the amount so charged shall not exceed in any one year the sum of £252,500. Any amounts already charged to Railway Earnings in respect of the year 1904-1905, shall be refunded out of the

Certain redemption instalment to be a first charge against any surplus of Railway revenue and instalments charged to Railway earnings for 1904-1905 to be refunded from Exchequer.

No. 43—1905.

Exchequer and be credited to Vote No. 70 of 1904-1905 for Railways Working and Maintenance.

No work until funds available. 9. No expenditure under this Act shall be incurred for any service provided for in this Act until the Treasurer shall have notified under his hand that the funds for such service are available.

Short Title. 10. This Act may be cited for all purposes as the "Loans Act, 1905."

Schedule "A."

SCHEDULE "A."

<i>Particulars of Material.</i>				<i>Value.</i>		
Surplus Material after completion of Works authorised by:—				£	s.	d.
Act 5 of 1882 ... ..	...	...	...	1,430	11	6
„ 22 „ 1888 ... ..	...	...	...	45	10	0
„ 17 „ 1890 ... ..	...	...	...	419	0	0
„ 21 „ 1892 ... ..	...	...	...	1,163	10	0
				3,058 11 6		
Stock of material in connection with Maintenance operations to 30th June, 1904 ... ..	...	...	...	...	...	49,042 17 2
Reserve of material authorised in Estimates of Expenditure for Financial Years:—						
1889-1890, Vote 30 L. ...	...	...	...	4,113	11	6
1897-1898, „ 48 M. ...	...	...	...	2,181	14	4
1898-1899, „ 46 M. ...	...	...	...	61	5	6
				6,356 11 4		
				Total	...	£58,458 0 0

Schedule "B."

SCHEDULE "B."

<i>Telegraph Works.</i>				£	£	s.	d.
1. Alicedale to Cradock, re-building line ...	15,637						
2. Port Elizabeth to Rosmead, additional Wire	3,900						
3. Pneumatic Tube Service, Central Telegraph Office	500						
4. Telegraph Construction, adjustments on works carried out under Act 31 of 1902	200						

SCHEDULE "B"—(continued).

		£	s.	d.
5.	<i>Deficit on Sub-Section "Erection and Equipment of Private Wires," Schedule C., Act 36, 1899 ...</i>		7	0 0
<i>Telephone and Private Wire Construction.</i>				
6.	Exchange Area, Cape Town & Suburbs	28,241		
7.	" " Port Elizabeth ...	13,934		
8.	" " Kimberley ...	8,626		
9.	" " East London ...	2,580		
10.	" " Queenstown ...	410		
11.	" " Grahamstown ...	1,410		
12.	" " Kingwilliamstown ...	410		
13.	" " Cradock ...	291		
14.	" " Mossel Bay ...	244		
15.	" " Mafeking ...	748		
16.	" " Vryburg ...	748		
17.	" " Graaff Reinet ...	1,533		
18.	" " Paarl ...	2,900		
19.	" " Worcester ...	1,266		
20.	" " Bellville ...	680		
21.	" " Kalk Bay and Muizenberg ...	1,020		
22.	" " Simonstown ...	200		
		65,241	0	0
23.	<i>New Exchanges ...</i>	500	0	0
24.	<i>Private Wires ...</i>	1,660	0	0
25.	<i>Crane for lifting Cable Drums ...</i>	366	0	0
26.	<i>Reserve of Material ...</i>	2,000	0	0
Total ...		£90,011	0	0

To be provided for as follows :—

Surplus Balances.

Act No. 36 of 1899, Schedule "C." ...	£1,043	4	9
Act No. 9 of 1900, Schedules "C" and "D" ...	5,372	15	7

Works authorised but proposed to be postponed, Act 31 of 1902, Schedule "B."

Kimberley—Fourteen Streams, &c. ...	£4,460	0	0
Cookhouse—Port Elizabeth ...	2,417	0	0
Substituting Cables, etc. ...	1,539	0	0
Re-building Main Lines, &c. ...	3,280	0	0
Mount Frere to Mount Ayliff ...	4,250	0	0
Pneumatic Tube Service ...	5,000	0	0
Port Elizabeth to Cradock ...	2,950	0	0
Sundry Balances under Act 31 of 1902, Schedule "B" ...	59,698	19	8

£90,011 0 0

SCHEDULE "C."

I. *General Post Office.*

	<i>Amount.</i>	<i>Estimated requirements, 1905-06.</i>
New Telegraph and Telephone Works, according to Schedule "D"	£100,000	£100,000

II. *Secretary for Public Works.*

1. Asylum Buildings: General	18,900	18,900
2. Alexandra Hospital: New Buildings at Oude Molen	21,000	5,250
3. Robben Island: Additional Works	21,000	9,450
4. Cape Town Gaol: New Isolation Wards	2,142	2,142
5. Cala: Completion of Offices in hand ...	4,095	4,095
6. Gaols and Convict Stations:		
General	£26,250	
De Aar	6,300	
Wynberg	18,184	
Naaupoort	1,591	
Kenhardt	4,725	
Mossel Bay	5,755	
	62,825	26,250
7. Woodstock Police Station	12,600	5,250
8. East London Police Barracks	1,680	1,680
9. Cape Montagu Bridge	2,100	2,100
10. Uppington Bridge, Caledon, and Approaches	1,575	1,050
11. Jansenville Bridge	2,940	2,940
12. Klaas Smits Bridge, Queenstown (Divisional Council contributes £2,000)	6,720	4,620
13. Oude Drift Bridge, Robertson (Divisional Council contributes £ for £)...	10,500	5,250
14. Umzimvubu Bridge	8,085	8,085
15. Louw Bridge, Malmesbury	1,260	1,260
16. New Law Courts	175,000	5,000
17. Kowie Bridge, on the £ for £ principle	7,500	2,000
18. Road from Hondeklip Bay to Wallekraal, Namaqualand	6,000	1,500
19. Bechuanaland, General Road, Grant in aid	1,000	1,000
20. Barkly West	1,000	1,000
	£367,922	£108,822

SCHEDULE "C"—(continued).

III. *Colonial Secretary.*

Issue of Loans under Act 11 of 1882, and in terms of Act No. 25 of 1904 :—

School Authorities	... ..	150,000	
Local	„	100,000	
			250,000

IV. *Treasury.*

Advances to Agricultural Distillers under Section 40 of Act No. 36 of 1904	... ..	50,000	
			50,000

V. *Agricultural Department.*

Loans to Co-operative Associations of Wine and Agricultural Farmers for General Agricultural purposes	150,000	150,000
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SCHEDULE "D."

Schedule "D."

GENERAL POST OFFICE.

Telegraphs.

	<i>Amount.</i>
1. Pieter Meintje's Bank to Nelspoort, rebuilding	£14,000
2. King William's Town to Queenstown, additional wire	1,600
3. Kokstad to Harding, additional wire	550
4. Kimberley to Fourteen Streams, additional wires	850
5. Queenstown Station to Post Office, underground Telegraph Cable	350
6. Port Elizabeth to 2 $\frac{3}{4}$ miles underground Telegraph Cable	2,000
7. Napier to Elim, new line	710
8. Deviation to Stanford	800
9. Ceres to Prince Alfred's Hamlet, new line	390
10. Mossel Bay to Brandwacht, new line	440
11. Port Alfred to West Bank, new line	125
12. Robertson to Lady Grey, new line	730
13. Loop line to either Dwingfontein, Klipkraal, or Fairview, on the Cradock-Tarkastad section	50
14. Whittlesea to Poplar Grove, new line	300
15. Loop line to Longlands	200

SCHEDULE "D"—(continued).

GENERAL POST OFFICE—(continued).

Telephone Exchange and Private Wire Construction.

16.	Exchange Area, Cape Town and Suburbs	...	...	£17,312
17.	" " Port Elizabeth	...	...	11,887
18.	" " Kimberley	...	...	7,866
19.	" " East London	...	...	2,530
20.	" " Queenstown	...	...	3,358
21.	" " Grahamstown	...	...	3,913
22.	" " King William's Town	...	...	4,380
23.	" " Cradock	...	...	1,127
24.	" " Mossel Bay	...	...	244
25.	Cost of raising Funds authorized to be expended under Act No. 31 of 1902, Schedule "B"	...	...	12,288
26.	Cost of raising Loan	...	...	7,000
27.	For General Purposes	...	...	5,000
				£100,000

Recapitulation.

				<i>Estimated Amount. requirements, 1905-06.</i>
I.	General Post Office	...	£100,000	£100,000
II.	Secretary for Public Works	...	367,922	108,822
III.	Colonial Secretary	...	250,000	250,000
IV.	Treasury	...	50,000	50,000
V.	Agricultural Department	...	150,000	150,000
				£917,922
				£658,822

No. 44—1905.]

[June 8, 1905.

ACT

To Provide for the Acquiring, Constructing, Equipping, Working and Maintaining Certain Lines of Railway.

[Assented to 6th June, 1905.]

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

Further expenditure on Hutchinson-Carnarvon Line authorised. * 1. For the purpose of the completion of the line of Railway from Victoria West Road (now known as Hutchinson), to Carnarvon authorised to be constructed on a gauge of two feet by "The Railways Extension Act, No: 38 of 1902" and on the

standard Colonial gauge of three feet six inches by "~~The Railways Completion and Other Purposes Act, No. 29 of 1904,~~" it shall be lawful for the Governor to expend ~~an additional amount over and above the amount already sanctioned by Parliament but not exceeding the sum of £82,000.~~

2. No passenger shall be carried on the portion of the said line lying between Pampoeno Poort and Carnarvon except at his own risk, and no liability shall attach to the Railway Department in respect of any accident to any passenger attributable to insufficiency of ballast, the material or mode of construction or the maintenance of the line, bridges or plant, the portion aforesaid being intended to be constructed and maintained for the purposes of agricultural development as a light agricultural railway for the conveyance of produce and goods and not for the ordinary purposes of a railway; nor shall any passenger be entitled to damages in respect of any delays to which he may be subjected.

Railway from Pampoenoport to Carnarvon to be a developing Railway.

3. It shall furthermore be lawful for the Governor so soon after the taking effect of this Act as to him may seem expedient, but not before an agreement has been entered into between the Government of this Colony and the High Commissioner, protecting for a period of not less than ten years, this Colony against the introduction of lower railway rates over any line or lines which may be built by any Administration other than that of this Colony hereafter to Ottoshoop, to cause to be constructed, equipped, maintained and worked the line of railway set forth in Schedule A. to this Act, and for that purpose to enter into and to ratify a Convention with the High Commissioner of South Africa providing for the construction, equipment, working and maintenance of so much of the said line as shall lie in the Transvaal Colony. The cost of constructing and equipping (exclusive of rolling stock) the said line shall not exceed the amount set opposite it in the said Schedule.

Line from Mafeking to Ottoshoop in Transvaal.

4. Subject to the provisions of the next succeeding Section of this Act it shall be lawful for the Governor so soon after the taking effect of this Act as to him may seem expedient:—

Sea Point Railway.

- (a) To take over at a cost to be settled, failing agreement, by arbitration under the Lands and Arbitration Clauses Act, 1882, the line of Railway known as "The Metropolitan and Suburban Railway" authorised by Act 23 of 1889, to be constructed by the Metropolitan and Suburban Railway Company, Limited, together with all buildings and plots of land acquired by the said Company and used in connection with the working of the said railway, as also all rolling stock, engines, carriages, plant, machinery, telegraph or telephone apparatus, wire, instruments, and every matter or thing connected with the said railway or the working thereof.
- (b) To reconstruct, equip, maintain and work the line of railway when so taken over, provided that the cost of

reconstructing and equipping (exclusive of rolling stock) the said line of railway shall not exceed the amount set forth in Schedule B of this Act.

Subject to
Municipal
Guarantee.

5. The provisions of the preceding Section of this Act shall not be acted upon unless and until the Governor shall be satisfied that the Municipal Council of Sea Point and Green Point have entered into a contract with the Government guaranteeing and securing the payment to the Government for a period of ten years from the date on which the said railway is open for traffic of:—

- (a) Interest charges at four per cent. per annum on the cost price of taking over the said Railway and appurtenances.
- (b) Interest charges at four per cent. per annum on the cost of equipping and properly repairing the said Railway, including the provision of such sub-ways or overhead bridges for foot passengers as may be deemed necessary by the Railway Department of the said Government.
- (c) Interest at 4 per cent. per annum on expenditure from time to time incurred on overhead bridges, additional buildings or other works to meet the reasonable requirements of the public.

Provided that to the capital cost of the line arrived at in terms of (a), (b) and (c) shall be added an amount of two-and-a-half per cent. to represent the cost of raising the loan required by Government for the purpose of taking over, equipping and repairing the said Railway as aforesaid.

- (d) The actual loss in working the said Railway during such period, it being understood that any profit in working the said Railway which may be made in any one year ending on the thirtieth day of June, shall be applied to the reduction of the liability in respect of interest charges as aforesaid; and that the net shortfall only shall be the extent of the liability of the Municipality and ratepayers in any one year; provided however, that adjustment in full be made from time to time, taking into consideration any past surpluses of which the said Council shall not at such date have had the full benefit; and provided also that a final adjustment shall take place, after the expiration of the said period of ten years.

Somerset
West Strand
Railway.

6. ~~Subject to the provisions of the next succeeding section of this Act~~ it shall be lawful for the Governor so soon after the taking effect of this Act as to him may seem expedient to construct, equip, work and maintain the line of Railway set forth in Schedule C to this Act provided that the cost of constructing and equipping (exclusive of rolling stock) the said line shall not exceed the amount set opposite to it in the said Schedule.

Subject to
Municipal
Guarantee.

7. The provisions of the preceding Section of this Act shall not be acted upon unless and until the Governor shall be satisfied that

the Municipal Council of Somerset West Strand have entered into a contract with the Government guaranteeing and securing the payment to the Government of:—

(a) Interest at the rate of four per centum per annum on the capital cost of the construction and equipment by the Government of a line of Railway from a point at or near Somerset West Station or Strand Halt Siding on the existing Government Railways to a point at or near the Main Road in the Municipality of Somerset West Strand to Mostert Bay for a period of ten years from the date of the opening for traffic of the said line, such capital cost to include:—

- (1) The acquisition of land, the erection of station buildings, and all other appurtenances and appliances as are usual on similar lines on the Cape Government Railways;
- (2) The actual cost of all betterments or new works which it may be necessary to provide after the opening of the line, for safe and proper working; and
- (3) An additional sum not exceeding five per cent. of the expenditure to cover the cost of raising loans and interest during construction.

(b) The actual loss incurred by Government in the working of the said line during the said period of ten years. Provided that any profit in working the said railway which may be made in any one year ending on the 30th day of June shall be applied to the reduction of the liability in respect of interest charges as aforesaid; and that the net shortfall only shall be the extent of the liability of the Municipality and ratepayers in any one year. Provided however that adjustment be made from time to time, the period of the first adjustment to be within three years from the date of the opening of the said railway and thereafter annually, taking into consideration any past surplus of which the said Council shall not at such date have had the full benefit; and provided also that a final adjustment shall take place after the expiration of the said period of ten years.

And loss of Working Line for 10 years.

8. It shall be lawful for the Governor as soon after the taking effect of this Act as to him may seem expedient to construct, equip, maintain, and work the line of Railway set forth in Schedule D to this Act, provided that until it may seem expedient to him such line shall not be worked other than as a siding for the Department of Agriculture: ~~provided also that the cost of constructing and equipping the said line which shall be defrayed by the said Department shall not exceed the amount set opposite to it in the said Schedule.~~

Ceres Road to Kluitjes Kraal Plantation. Schedule D.

4974 THE RAILWAYS ACQUISITION AND CONSTRUCTION ACT, 1905.

No. 44-1905.

Three feet
six Gauge.

9. The several lines of railway authorised to be constructed by this Act shall be constructed on the standard Colonial gauge of three feet six inches.

Power of
entry on
Land.

10. For the purpose of setting out the lines of railway referred to in Schedules C and D and so much of the line referred to in Schedule A as lie in the Cape Colony, the Governor may by persons thereto duly authorised enter upon any land for the purpose of surveying the same and of probing and boring for the purpose of ascertaining the nature and formation of the soil, making full compensation to the occupier of any such land for the damage if any thereby occasioned.

Application
of Provisions
of Act 19 of
1861.

11. The several provisions of Act No. 19 of 1861, intituled "An Act for the Regulation of Railways in this Colony," save and except the twenty-ninth and thirtieth sections thereof, and the provisions of any Law amending the said Act shall *mutatis mutandis* apply to so much of the land and railways referred to in the preceding sections of this Act as shall lie within the Cape Colony precisely as if the said railway belonged to a Company and there were a Board of Directors, the functions of the said Board being performed by the Governor, with the advice of the Executive Council.

Governor to
have powers
of Divisional
Council under
Sections 146
and 147 of Act
40 of 1889.

12. The Governor shall for the purpose of the construction and maintenance of so much of the lines of railway referred to in this Act as shall lie within this Colony have and exercise all the rights and powers, subject to all the duties and obligations which a Divisional Council by law has and exercises, or is subject to under sections one hundred and forty-six and one hundred and forty-seven of the Act No. 40 of 1889, provided that :—

- (a) The extent of the land taken for the said lines of railway shall not exceed fifty feet for the formation line, together with such additional land as may be required for the slopes, drainage, stations, approach roads and all other works, matters and things which may be requisite or necessary for the efficient construction and maintenance and working of the said railways.
- (b) That publication of notice in the *Gazette* shall be deemed to be sufficient notice to any proprietor who shall be absent from the Colony, or whose place of residence shall not be known.
- (c) That the settlement of questions as to recompense in consequence of any exercise of the rights and powers aforesaid shall not delay such exercise and such questions shall as soon as may be be determined under the "Lands and Arbitration Clauses Act, 1882."

Method to
be adopted in
crossing road
or street.

13. At all places where the line of the said Railway shall intersect or cross the line of any street or road in this Colony, it shall be lawful for the Governor to cause the said line of Railway to be made and carried across, such street or road, either by a level crossing or by means of a sufficient and convenient bridge,

THE RAILWAYS ACQUISITION AND CONSTRUCTION ACT, 1905. 4975

No. 4—1905.

and at all places where the line of the said Railway shall run in the same direction as the line of any street or road in this Colony it shall be lawful for the Governor, with the consent of the Municipal Council or Divisional Council in which any such street or road may be vested, to cause the said line of Railway to be made and carried along such street or road for such distance, subject to such conditions and with such safeguards as may be agreed upon between the Governor and such Municipal or Divisional Council.

14. It shall and may be lawful for the Governor for the purpose of carrying out the provisions of this Act to raise by way of loan either temporarily or by means of Colonial or Consolidated Stock to be issued in this Colony or in England under the provisions of "The Cape of Good Hope General Loans Act, 1881," as amended by the "Cape of Good Hope General Loans Acts, 1883, 1888 and 1892," a sum not exceeding £191,228, and it shall further be lawful for the Governor to raise by loan in like manner an amount to cover the cost, to be settled by agreement or by arbitration, of the taking over of the Sea Point Railway; pending the raising of the loan for this latter purpose any available balances on loans authorized for other ~~purposes~~ may temporarily be applied to meet such cost. Loan to be raised.

15. No expenditure under this Act shall be incurred for any new work until the Treasurer shall have notified under his hand to the Commissioner of Public Works that the funds for such work are available. Work not to be commenced until funds available.

16. This Act may be cited for all purposes as "The Railways Acquisition and Construction Act, 1905." Short Title.

SCHEDULE A.

Line.	Mileage.	Cost.
Mafeking to Ottoshoop in the Transvaal .	22	£84,150

SCHEDULE B.

Line.	Mileage.	Cost.
Sea Point Railway (Reconstructing and equipping)	3½	£10,800

SCHEDULE C.

Line.	Mileage.	Cost.
From a point at or near Somerset West or Strand Halt to Somerset West Strand	2·53	£14,278

SCHEDULE D.

Line.	Mileage.	Cost.
Ceres Road to Kluitjes Kraal Plantation	1½	£1,878

No. 45—1905.]

[June 8, 1905.

ACT

To Amend the Act No. 31 of 1898, commonly called "The Precious Minerals Act, 1898."

[Assented to 6th June, 1905.]

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

Amendment of Sec. 14 of Act 31 of 1898.

1. From and after the taking effect of this Act the Act No. 31 of 1898 commonly called the "Precious Minerals Act, 1898" shall be read and construed as if the words "if on private property and fifty claims in block if on Crown Lands" were inserted after the words "twenty five claims in block" in the fourteenth Section of the said Act.

Short title.

2. This Act shall be read as one with the said Act and may be cited for all purposes as "The Precious Minerals Amendment Act, 1905."

No. 46—1905.]

[~~Not~~ Promulgated

ACT

To Provide for Copyright in Certain Works of Art.

[Assented to 6th June, 1905.]

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

Definitions.

1. In this Act, unless the context shall otherwise indicate or require, the following terms shall have the meanings hereby attached to them :—

"Work of Art" and "Work" shall mean a painting or drawing and the design thereof, a photograph and the negative thereof, and any positives or copies made therefrom, an engraving or a piece of sculpture.

"Copyright" shall mean the sole and exclusive right of copying, reproducing, repeating, or otherwise multiplying copies of any work of art and of the design thereof, of any size, in the same or any other material, or by the same or any other kind of art.

"Author" shall mean the inventor, designer, engraver, sculptor or maker of any work of art : provided that the author of a work of art made by the employé of any person or firm in virtue of his employment shall mean the person or firm under whose orders, or in the course of whose business, the work of art was made by such employé.

"Assigns" shall include every person in whom the interest of an author is vested, whether derived from such author

before or after publication or registration, and whether acquired by sale, donation, legacy or by operation of law, or otherwise.

“Court” shall mean the Supreme Court, the Eastern Districts Court, the High Court of Griqualand West, and any Circuit Court.

“Registrar” shall mean such official, in the Civil Service, as the Governor may appoint to discharge the duties of Registrar under this Act.

2. The author of every original work of art produced in the Colony shall have the copyright therein, provided that when any work of art shall, for the first time after the passing of this Act, be sold or disposed of, or shall be made or executed for or on behalf of any other person, for a good or valuable consideration, the person so selling or disposing of or making or executing the same shall not retain the copyright thereof, unless it be expressly reserved to him by an Agreement in writing, signed, at or before the time of such sale or disposition, by the purchaser or assignee, or by the person for, or on whose behalf, the same shall have been so made or executed, but the copyright shall belong to the vendee or assignee, or to the person for or on whose behalf the work of art shall have been made or executed.

Copyright in works of art and its duration.

(1) The copyright hereinbefore given shall, in the case of paintings and sculpture endure for the life of the person to whom the same is given, and thirty years next after his death; and in the case of engravings not published in, or forming part of, a book, and photographs, for the term of thirty years next after the end of the year in which they or any copies may have been first offered for sale, delivered to a purchaser or advertised or exposed as ready for sale to the public or for delivery to a purchaser, or delivered for registration.

3. Nothing in this Act contained shall prejudice the right of any person to copy or represent any work in which there shall be no copyright, or to represent any scene or object, notwithstanding that there may be copyright in some representation of such scene or object.

Right to represent scene or object not prejudiced.

4. A Registry Book entitled “The Register of Proprietors of Copyright in Works of Art” shall be kept at the office of the Registrar, wherein shall be registered the proprietorship of every copyright in works of art, and assignments thereof; and there shall be entered in such Register the following particulars in reference to every copyright entered therein:—the name and abode of the proprietor of the copyright, the title, if any, of the work, a short description of the nature and subject thereof, and, if the person registering so desire, a sketch or outline or photograph of such work, and all such further particulars as may be prescribed by the Registrar in that behalf; and for every entry of proprietorship or assignment of copyright in the Register,

Registration of proprietors of copyright.

there shall be paid to the Registrar such sum as the Governor may prescribe: provided that in the case of a photograph the fee shall not exceed one shilling, and in the case of a series of photographs commonly known as living pictures, cinematographs, or bioscopes, the said fee shall only be payable on the first and every succeeding hundredth negative or photograph constituting any one continuous film or series of photographs.

- (1) The Register shall at all convenient times be open to the inspection of any person on payment of one shilling sterling for every entry which shall be searched for or inspected in the said Register; and the Registrar shall, whenever thereunto reasonably required, give a copy of any entry in such Register, certified under his hand, to any person requiring the same, upon payment to him of the sum of five shillings sterling; and such copy so certified shall be received in evidence in all Courts, and shall be *prima facie* proof of the proprietorship or assignment of the copyright as therein stated, but subject to be rebutted by other evidence.
- (2) If any person shall deem himself aggrieved by any entry made in the Register under cover of this Act, it shall be lawful for such person to apply by motion to the Court, or in vacation to a Judge thereof in chambers, for an Order that such entry may be expunged or varied; and thereupon such Court or Judge shall make such Order for expunging, varying or confirming such entry, either with or without costs, as to such Court or Judge shall seem just; and the Registrar shall, on the production to him of any such Order for expunging or varying any such entry, expunge or vary the same accordingly.

Assignment. 5. It shall be lawful for the registered proprietor of copyright to assign his interest or any part thereof in writing, under his hand, duly witnessed by two witnesses; and on production of such assignment by or on behalf of the assignee, the Registrar shall make an entry in the Register of such assignment, and of the name and place of abode of the assignee thereof; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty.

Penalties
for infringe-
ment.

6. If any person, not being the proprietor for the time being of the copyright in any work of art, shall without the consent of such proprietor make or cause to be made any copy, reproduction, repetition or colourable imitation of the work in which such copyright exists, for sale, hire, exhibition or distribution, or shall knowingly sell, let to hire, exhibit or distribute or cause to be sold, let to hire, exhibited or distributed any copy, reproduction, repetition or colourable imitation, made without such consent, or if made abroad, imported without such consent, or shall import, or cause to be imported, any copy, reproduction, repetition or colour-

able imitation, such person shall be liable to an action for damages for infringement of the copyright, and all such copies shall be forfeited to such proprietor.

7. No person shall do or cause to be done any of the following acts, that is to say :—

Other offences and penalties.

- (1) No person shall fraudulently sign or affix, or fraudulently cause to be signed or affixed to or upon any work of art any name, initial or monogram.
- (2) No person shall fraudulently sell, publish, exhibit or dispose of, or offer for sale, exhibition or distribution any work of art having thereon the name, initials or monogram of a person who did not execute or make such work.
- (3) No person shall fraudulently utter, dispose or put off, or cause to be uttered, or disposed of, any copy, colourable imitation, engraving or print of any work of art, whether there shall be subsisting copyright therein or not, as having been made or executed by the author or maker of the original work from which such copy or imitation shall have been taken.
- (4) Where the author or maker of any work of art, whether made before or after the passing of this Act, shall have sold or otherwise parted with the possession of such work, if any alteration be afterwards made therein by any other person, by addition or otherwise, no person shall be at liberty during the life of the author or maker of such work, without his consent, to make or knowingly to sell or publish or offer for sale such work, or any copies of such work so altered as aforesaid, as or for the unaltered work of such author or maker.

Every offender under this section shall on conviction be liable to a fine not exceeding ten pounds, or in default of payment to imprisonment for a period not exceeding one month; and all such copies, engravings, imitations or altered works shall be forfeited to the person aggrieved, or his assigns: Provided always that the provision of this section shall not apply unless the person whose name, initials or monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at, or within seven years next before, the time when the act complained of may have been committed.

8. Whenever after the commencement of this Act any portrait or photographic likeness of any person is painted or taken on commission, neither the photographer, nor any other person, whether he owns the copyright therein or not, shall sell, or give, or exhibit in public in any shop-window or otherwise, any copy of such likeness, if the person whose portrait or likeness was painted or taken, or for whom such was painted or taken, shall object to such sale, gift, or exhibition; and any photographer or

Public exhibition of painting, etc., painted on commission against wishes of subject prohibited.

No. 46—1905.

other person selling, giving, or exhibiting any likeness or portrait after being called upon to desist from so doing shall be liable to a penalty not exceeding ten pounds, and every copy of such portrait or likeness in his possession shall be forfeited and delivered up to the person for whom the work was executed.

Penalties and forfeitures summarily imposed.

9. All penalties and forfeitures under this Act may be summarily imposed and awarded by the Resident Magistrate provided that any person summarily proceeded against shall be entitled, on lodging security to the satisfaction of the Magistrate, to stay of execution pending Appeal to the Court, and all the provisions of the Resident Magistrates Court Act No. 20 of 1856 in regard to appeals in criminal cases shall apply.

Action for infringement: interdict, inspection, etc.

10. In an action for the infringement of any copyright vested under this Act it shall be lawful for the Court in which such action is pending, or if the Court be not sitting, then for a Judge, on the application of the Plaintiff or Defendant respectively, to make such Order for an interdict, inspection or account and to give such directions respecting such interdict, inspection or account and the proceedings therein, respectively, as to such Court or Judge may seem fit: Provided that the work of art or work shall bear on it a mark or notification showing that it has been copyrighted.

Registration a condition precedent to benefits of this Act.

11. No proprietor of copyright in a work of art, first produced in the Colony, shall be entitled to the benefit of this Act until he shall have registered his copyright, nor shall any prosecution or action be competent for anything done before registration.

Governor may make rules.

12. The Governor may make such rules and regulations as may be necessary or expedient in order to detect and prevent infringements of proprietors' rights under this Act, and impose reasonable penalties for the breach thereof.

Short title.

13. This Act may be cited for all purposes as the "Copyright in Works of Art Act, 1905."

No. 47—1905.]

[June 8, 1905.]

ACT

To Provide for the Registration of certain Persons as Parliamentary Voters.

[Assented to 6th June, 1905.]

Preamble.

WHEREAS by Section Ten of the Constitution Ordinance it is enacted as follows:—

“ . . . no person shall be entitled to be registered as a voter . . . unless “if of alien birth—he shall have been “naturalized by some Act of Parliament of Great Britain and “Ireland or of the Legislature of the Cape of Good “Hope . . .;” and whereas within the Colony there are subjects of the late South African Republic and of the late Orange Free State respectively who have not been so naturalized and

who are desirous of being registered as Parliamentary Voters, and whereas it is expedient and just that such persons should not be deemed to be under any disability by reason of the provisions aforesaid: Be it therefore enacted by the Governor of the Cape of Good Hope with the advice and consent of the Legislative Council and House of Assembly thereof as follows:—

1. All persons who were subjects of the late South African Republic or of the late Orange Free State immediately preceding the dates of the proclaimed annexations thereof respectively shall be entitled and qualified to be registered as Parliamentary voters in this Colony as if they were natural-born subjects of His Majesty the King; and all such persons whose claims to registration as Parliamentary voters have been rejected, or whose names have been struck off any list of Parliamentary voters or who have not claimed to be registered by reason of the interpretation of the provisions of Section 10 of the Constitution Ordinance shall be entitled to be registered as soon as may be after the date of this Act, notwithstanding anything to the contrary contained in any other Act: Provided always that they possess all and several the qualifications and are free from all and several the disqualifications required and prescribed by law in the case of natural-born British subjects; and in order to effect the registration of such persons as soon as may be and after full inquiry into the qualifications aforesaid where disputed, it shall be lawful for the Governor to make such regulations as may be deemed to be most effectual, and to confer such special authorities as may be necessary: provided that all and several the provisions of the law relating to the making and hearing of objections before the Resident Magistrate to the claims of persons desiring to be registered as Parliamentary voters shall, *mutatis mutandis*, apply.

Ex-Burghers of the South African Republic and Orange Free State to be deemed to be natural born British subjects for the purposes of Parliamentary Registration.

2. This Act may be cited as the "Ex-Burghers Registration Act, 1905."

Short Title.

No. 48—1905.]

[June 8, 1905.]

ACT

To Authorise a Company styled "The St. Johns-Kokstad Railway Company, Limited," to construct and work a line of Railway from Port St. Johns to Kokstad.

[Assented to 6th June, 1905.]

WHEREAS a Company styled "The St. Johns-Kokstad Railway Company Limited," has been formed, and registered with limited liability under the "Companies' Act, 1892," for the purpose, amongst others, of constructing, equipping and working a line of railway from a point being 1,650 English feet north by west of the zero or terminus point shown on the plans deposited, on Government land adjacent to the Umzimvubu River at the Port of St. John's to Kokstad.

Preamble.

And whereas it is expedient that the said Company should be authorised and empowered to construct, equip, maintain, and work the said line of railway, and also lines of telegraph and telephone along or near thereto, in accordance with the provisions of this Act :

And whereas it is expedient that Government be authorised to pay towards the construction of the said railway a sum of money as a subsidy :

And whereas the said Company is willing to construct, equip, maintain and work the aforesaid line of railway :

And whereas plans, sections, and a book of reference of the line of railway proposed to be constructed have been deposited in the office of the Clerk of the House of Assembly :

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

Company
authorised to
construct rail-
way.

1. The St. Johns-Kokstad Railway Company Limited, hereinafter styled "the Company," shall be, and is hereby authorised and empowered to construct, equip, maintain, and work a railway from Port St. John's to Kokstad on a gauge of 3 feet 6 inches wide, and at a gradient not steeper than one in forty, with curves of not less than 5 chains radius, the Railway commencing from a point being 1,650 English feet north by west of the zero or terminus point shown on the plans deposited with the Clerk of the House of Assembly on Government land adjacent to the Umzimvubu River at the Port of St. Johns within the limits of deviation shown by the aforesaid plans save and except in so far as the said plans may be inconsistent with any of the provisions of this Act.

Route of
Railway.

2. The said railway will commence on the Government land (at a point being 1,650 English feet north by west of the zero or terminus point shown on the plans deposited, adjacent to the Umzimvubu River, at the Port of St. John's Township, and thence shall proceed to Kokstad across or over or near the following lands and farms—that is to say, the Colonial Government land adjacent to the Umzimvubu River, Colonial Government land in Port St. John's District, property belonging to the Estate of the late Sidney Turner, Outspan, Colonial Government plantations, property of the St. John's Land and Colliery Estate Syndicate, the property of Sir Henry Elliott (it is proposed to effect a junction with the proposed Railway from Umtata in the vicinity of Isenuka), property of the Colonial Government in the district of Lusikisiki, property of the Colonial Government in the District of Flagstaff or Umsikaba, Colonial Government land on which are Buildings and Gardens at Flagstaff, property of the Colonial Government in the district of Mount Ayliff, Dagster, Driefontein, Mooi Drie, Klip Drift, Kransfontein, Koppies Kraal, Colonial Government land in the district of Mount Currie, Commonage of the Kokstad, in extent about 20 acres, and terminating on the Kokstad Municipal Commonage, provided that the Company shall

Proviso.

within the period of two years from the passing of this Act obtain the sanction of Parliament, by a Bill duly complying with all the rules of the House, to the determination of the permanent terminal point at which the permanent station buildings and the necessary works appertaining thereto and in connection therewith shall be built, and provided that no compensation shall be payable by the Government for any sidings at, or buildings or works appertaining to or in connection with a terminal point constructed or erected within the aforesaid two years at the aforesaid point of 1650 English feet north by west of the aforesaid zero point, and provided further that the exact position in plan and elevation over both Government and private ground to be determined by detailed survey and to have the approval of the Commissioner of Public Works, provided that if the owner shall be dissatisfied with the decision of the Commissioner in the case of private ground the matter in dispute shall be settled by arbitration.

3. The Company may, by persons authorised thereto in writing, enter upon any land in the vicinity of the said Railway for the purpose of surveying the same and of probing and boring in order to ascertain the nature of the soil or of setting out the line of railway, making full compensation to the occupier of the said land for any damage thereby occasioned, such damage to be recoverable, in the absence of agreement, by arbitration under the Arbitration Act, 1898, and in default of an award of arbitration within six months from the date when such damage shall be alleged to have been sustained, then to be recoverable by action brought in any competent court.

Powers of entry on land subject to compensation to occupier.

4. The Company may with the consent of Government previously to be had and obtained in writing, enter upon and take possession of and hold, and retain for the purposes of this Act free of charge so much of any waste Crown land as shall be required for the construction and maintenance of the said railway or any other purposes relating to the execution of this Act, and also with the like consent may enter upon any waste Crown land lying adjacent and convenient to the said railway and dig for, excavate, and carry away all stones, clay and other material required for the purposes of the said railway free of charge: Provided that nothing in this Act contained shall establish any servitude in favour of the said Company upon any such land, not being land reasonably required for the actual construction and working of the said railway, which may hereafter be sold or leased by the Colonial Government to any Purchaser or Lessee thereof, and that the terms "Waste Crown Lands" shall not be taken to apply to land which has been or may be acquired by the Colonial Government or by any public body representing the Colonial Government, by purchase or otherwise, for any special purpose, and provided further that nothing in this Act contained shall convey any foreshore or wharfage rights.

Power to take Crown Lands for construction and maintenance of line.

No. 48—1905.

Powers of directors as to taking, etc., of lands and materials, subject to conditions as to extent to be taken and method of calculating compensation

5. All and singular the powers which are by Act No. 40 of 1889 bestowed upon Divisional Councils in regard to taking and acquiring lands and materials necessary for the making or repairing of any such road as in the said Act is mentioned, or of any works in connection therewith, are hereby bestowed upon the Company, precisely as if the said powers were, *mutatis mutandis*, herein again set forth, and as if the said railway were a public road: Provided

- (a) That the extent of the land taken for the railway shall not exceed in width fifty feet for the formation line, and sufficient additional width required for the slopes, drainage, stations, approach roads, and all other works, matters and things which may be requisite or necessary for the efficient construction, maintenance, and working of the said railway; and
- (b) That in the calculation of the price or compensation to be paid to any person under the provisions of the one hundred and forty-seventh section of the said Act, in respect of any land belonging to him and expropriated under this Act, shall be included all damage caused to him by the construction of the said railway across his land. Provided, however, that all such rights which may be claimed by the Government under the conditions of the deeds of grant of such properties and which may be ceded to the Company by the Government shall not be nullified or affected by the provisions of this clause or Clause No. 3 of this Act;
- (c) That no land be taken or material be raised or carried away as aforesaid without previous notice to the owner thereof.

Sections 205 and 206 of Act No. 40 of 1889 apply *mutatis mutandis* to this railway.

6. The provisions of the two hundred and fifth and two hundred and sixth sections of Act No. 40 of 1889 shall, *mutatis mutandis*, extend and apply to the said railway.

Compensation clause.

7. If the Company shall for the purposes of the said railway require to acquire and use any land, or to dig, get or carry away any materials from any land belonging to any person who may not be bound by law to allow such Company, exercising the powers of the said Government, so to do without requiring any recompense or payment and who may think proper to require compensation from the said Company, or if the Company shall need to acquire or use any land or to take any material from any land that the Company in the exercise of such powers as aforesaid may have a legal right to acquire or use, but which has been improved by buildings, cultivation, irrigation, fencing, or otherwise, the amount of compensation to be paid to the proprietor shall in the absence of any agreement be settled by arbitration.

8. The owner of any land, save and except Crown Land, expropriated or acquired by the said Company for the purpose of the construction and working of the said Railway, shall be bound to pass transfer to the Company of the land so acquired or expropriated.

Transfer of
Lands.

9. Nothing in this Act contained shall prevent any street or public roads hereinafter to be constructed under lawful authority from being made and carried across or under or over the said railway at all requisite and convenient places, provided that all damage caused to the said railway by such works shall be made good by the persons or body constructing the same.

Provision
for crossing
of railway by
new streets
and roads.

10. At all places where the said railway or any deviation thereof shall intersect or cross the line of any street or road, it shall be lawful for the Company to make and carry the said railway across such street or road either by means of a level crossing or by means of a convenient or sufficient bridge or viaduct over or under the said street or road as may be determined by the Commissioner, with the consent of the Municipality or Village Management Board concerned, and the Company shall be bound to make all such cuttings, embankments and approaches with all such culverts, drains and all such repairs as may be necessary to make good such street or road across or over or under the said railway, and shall also be bound to maintain and keep in efficient repair all the crossings, bridges, viaducts, cuttings and embankments, approaches, culverts and drains as aforesaid, and fence the approaches to all such crossings, viaducts and embankments, or to provide otherwise for the due protection of the public safety thereat.

Provision
whererailway
crosses any
street or road.

11. It shall be lawful for the Company to exercise all and singular the powers by this Act conferred upon them by or through an agent or agents, duly authorised in writing.

Powers may
be exercised
by an agent.

12. The said railway shall be constructed at the expense of the said Company provided that, upon the certificate of an officer to be appointed by the Government that the railway or any portion thereof has been satisfactorily completed in accordance with the provisions of this Act, there shall be paid to the Company by the Government a sum of money calculated at the rate of fifteen hundred pounds sterling per mile of railway reckoned consecutively from either terminus completed as aforesaid.

Subsidy to
be paid by
Government.

13. The construction of the said Railway shall be commenced within one-and-a-half years, and completed within five years of the promulgation of this Act, and as a guarantee of good faith that the said Railway will be commenced and completed within the said periods the Company hereby agree to deposit with the Colonial Government, within three months of the promulgation of this Act, the sum of £5,000 (Five Thousand Pounds), and further agree to forfeit this amount to the Colonial Govern-

Time for
construction
of railway.
Deposit of
£ 5,000 as
guarantee.

ment in the event of their failure to fulfil either of the conditions of this section. Should, however, the Company fulfil both the conditions of this section, then the Colonial Government shall refund the amount deposited plus interest thereon at the rate of four per cent. for the period it is in their possession.

Penalty for failure to complete

14. If the Railway shall not be commenced within two years—or if so commenced, then if the construction shall not be duly proceeded with to the satisfaction of the Commissioner—or if the Railway shall not be completed within the time fixed by Clause Thirteen—then in any such case all rights conferred on the Company by this Act may be cancelled by the Commissioner, on giving notice to that effect, in writing, to the Company; provided that:

- (1) After the expiry of such notice the Government shall be entitled to repayment from the Company of the amount of subsidy paid by the Government under this Act, together with interest thereon calculated at the rate of 4 per cent. per annum, and such sum with interest shall thereafter be a first charge in favour of the Government on the assets of the Company.
- (2) The Government shall have the option in lieu of such repayment of taking over the railway with all materials thereon; and thereupon the said line and materials shall be vested in the Government, and the Company shall be discharged from all liability in respect of subsidy paid.
- (3) In case of the Company not accepting the decision of the Commissioner notified under this section, the matter in dispute shall be referred to arbitration.

Plans, etc., to be furnished by Company.

15. The Company shall furnish to such officer as the Governor may appoint, to approved scales, complete plans and sections of the line, and drawings of all bridges and culverts—both sub-structures and superstructures—and drawings of all buildings, and all other structures and any further information which such officer may require for the purpose of:

- (a) The determination by the Commissioner, as under section 2 of this Act, of the exact position in plan and elevation of the route of the Railway; and his decision thereon shall be given before any work on the Railway is commenced.
- (b) The determination of the position and sizes of all waterways. This determination, and the approval of all details, must be given by the said officer before any work thereon is commenced.
- (c) The approval by the said officer of all designs and details for all buildings and all other structures. Such approval must be given before any work thereon is commenced.
- (d) The certificate required for the purposes of the subsidy under section 12 hereof.

In the event of any dispute concerning any items dealt with in this section, the Company may appeal to the Commissioner, and if not satisfied with his decision, to the Chief Engineer of the Central South African Railways, or the Engineer-in-Chief of the Natal Government Railways, whose decision, in case he shall consider the said appeal, shall be binding: and in case both of the said Engineers-in-Chief refuse to consider the said appeal, the matter at issue shall be decided by some referee to be named by the Commissioner, whose decision shall be binding and final.

16. All rolling stock for the purposes of working the traffic must before being used on the line have been approved of by an officer appointed by the Government.

Rolling stock to be approved.

17. All material and workmanship used or employed in and about the construction of the said Railway shall be equal in quality to the ordinary material and workmanship of the Railways constructed by the Colonial Government, and such material and workmanship must before being used have been approved of by the Engineer appointed by the Government to supervise the line. Further, not less than 1,760 full section size sleepers shall be used to every mile of line, and the rails shall not weigh less than 46½ lbs. to the yard. All plant or material obtained in Europe or America shall before shipment be submitted for inspection to the consulting engineers for the Cape Government Railways, and shall be by them approved or rejected, and no such material shall be brought upon or used in the construction of the said Railway unless so approved.

Materials, etc., to be approved.

18. The said Railway, or any portion thereof, shall not be opened for public traffic until the Company shall have properly and sufficiently fenced such portions of the said Railway as may be required by the Commissioner.

Railway, or portions, to be fenced.

19. The Colonial Government reserves the right in the event of the said Railway being connected at any time with the proposed Government Railway from Indwe to the Natal border, or with any other Railway the property of the Government, to run trains over and upon the said Company's Railway on terms to be agreed upon, and failing such agreement, then the terms of Section 17 of Act 7 of 1903 shall be taken *mutatis mutandis* as the basis of agreement.

Running powers over line by Government.

20. In the event of the said Railway being at any time connected with the proposed Government Railway to the Natal border, or any other Railway the property of the Colonial Government, the said Company undertakes to bring its Railway into a station to be selected by the Government, on grades and levels approved by the Engineer-in-Chief of the Cape Government Railways. The necessary works in connection with the said junction to be decided upon between the Government and the Company, and the cost of such works, as well as of all necessary alterations and additions thereto which may be required from time to time to work the traffic, shall be borne in equal proportions by the Government and the Company.

Junction with Government Railways.

The Company shall bear and shall every year pay to the Government such proportion of the total cost of working the junction as corresponds with the proportion of the Company's trains using the junction to the total number of trains using the junction.

The Company shall bear and shall every year pay to the Government such proportion of the total cost of using the station for shunting purposes as corresponds with the proportion of the time employed in doing the Company's shunting work to the total time employed in shunting.

For the purpose of calculating the *pro rata* share to be paid by the Company annually under this section the phrase "cost of working" shall include cost of working the junction, annual repairs to station buildings calculated at two per cent., per annum on the cost of such buildings, and the annual cost of repairs to other works.

Right of
Government
to connect
with Docks.

21. The Government shall have the right to make at any time a junction to connect this line with any other railway line from any wharves or docks now or hereafter existing at the Port of St. John's, the junction to be at such a point as shall be mutually agreed on between the parties, or as shall be determined by arbitration under the Arbitration Act, 1898.

Tariff to be
framed before
commencing
to work.

22. A tariff or tariffs of passenger fares and goods rates in all classes shall be framed by the Company and approved of by the Governor before opening such railway for public traffic, and the said tariff or tariffs shall be liable to adjustment from time to time at intervals of not less than one year at the instance of the Company or of the Governor respectively; Provided that:

- (1) Such re-adjustment before coming into force shall have been approved of by the Governor.
- (2) The tolls, fares or rates of charge to be taken or made for passengers shall be at all times charged equally to all persons and after the same rate in respect of all passengers travelling under the same conditions.
- (3) The tolls, fares or rates of charge to be taken or made for goods shall be likewise charged equally after the same rate whether by ton or otherwise in respect of all goods of the like description.
- (4) The tolls, fares and rates shall not be lower than the corresponding rates in force from time to time on the Cape Government Railways main lines, nor higher than the maximum tariff of the Cape Central Railways in force at the date of promulgation of this Act; provided that a rate not exceeding the said maximum rate may be charged until the Company earns not less than five per cent. on the capital invested by the Company.
- (5) The tolls, fares and rates as far as affected by quantities shall give the maximum of benefit to the consignors of so small quantities as 10 ton lots, unless the consent of the Government be obtained for lower rates for larger quantities.

23. The said railway or any portion thereof shall not be open for public traffic until it shall have been certified to the Governor by some Officer to be by him appointed that the same is sufficiently completed for the safe conveyance of passengers.

Railway when to be opened for traffic.

24. Upon the completion of the said railway or any portion thereof, as aforesaid, the Company shall enjoy all the privileges and be subject to all the conditions conferred by and contained in the Regulations of Railways Act, 1861, or any general Act passed for the regulation of railways.

Application of Act No. 19 of 1861.

25. The said Company shall be bound to maintain the said Railway when completed, in a proper and efficient manner, so as to reasonably satisfy the Government, and to run not less than two trains per week in each direction from terminus to terminus for passengers and goods traffic, and if it fail to comply with the conditions laid down in this section within a period of three months of being called upon to do so, it shall become liable to pay to the Government by way of liquidated damages a sum not exceeding £500 per month, the total amount of damages enforceable, however, not exceeding £5,000 in any one year, and such damages shall be recoverable against the Company in the ordinary way, and shall be chargeable, if not recovered against the purchase price of the line, should the Government exercise its rights in the manner provided for under section eighteen. It is hereby expressly stipulated that the payment hereinbefore provided for shall be as and for liquidated damages sustained by the said Government, and shall not be considered to be in the nature of a penalty, or subject to the ordinary rules regarding the recovery of penalties for breaches of contract, Provided that :

Penalty in event of failure to work line.

(1) The Government shall in addition to the aforesaid damages have the right in case of the aforesaid conditions not being complied with during any period of twelve months to enter upon and work the said line in the place of the Company at the expense and risk of the Government, who shall be further entitled to any surplus earnings over and above the expenses incurred in connection with such working. The Company shall, however, be entitled to obtain possession of the line again, and to work the same upon proving to the reasonable satisfaction of the Commissioner that it intends to carry out the aforesaid conditions.

(2) Upon resuming possession of the line the Company shall be bound to carry out the aforesaid conditions, and on any further failure by the Company to carry out the same, the Government shall on each such occasion be entitled to exercise all the rights conferred upon it by this section.

26. The provisions of Act 40 of 1889 shall apply *mutatis mutandis* to opening the gates or leaving the same unclosed or unfastened, whether the same be done by the owners or occupiers of land adjoining the railway or by any other person.

Application of Act No. 40 of 1889.

No. 48-1905.

Erection of
Telegraph
and Tele-
phone.

27. The Company is hereby further authorised and empowered to construct, erect and work for the purpose of the said Railway and for no other purpose, a telegraph and telephone or either of them along or near the line of railway subject to the provisions of the Electric Telegraphs Act of 1861 and of the Railway Regulation Amendment Act, 1895.

Conveyance
of Mails, &c.

28. The Company shall, subject to the provisions of the "Railway Regulations Amendment Act, 1895," or any Act amending the same, make provision for the conveyance to or from any station by any of the ordinary or special trains of the Company of such mails, letter-bags, and articles ordinarily conveyed by the post as the Postmaster-General may from time to time require, and the Company shall be responsible for the safe conveyance of such mails, and shall observe all such regulations respecting the taking up and delivery of the same as the Postmaster-General shall reasonably make.

Purchase of
line by Gov-
ernment.

29. At any time, after the expiration of five years, from the date of promulgation of this Act, the Government shall have the right, if so disposed, to purchase from the Company, on giving six months' notice to that effect, and the Company shall be bound, six months after receiving such notice, to sell to the Government the railway authorised by this Act, including also all buildings and plots of land acquired by the Company and used in connection with the working of the said railway, together with so much of the rolling stock as has been approved by the Government officers under section sixteen hereof, together with all plant and every matter or thing belonging to or connected with the said railway, as also any telegraph or telephone and apparatus, wire, instruments, and every matter or thing connected with the working thereof in possession of the Company under this Act. The total price to be paid by the Government on such purchase and sale shall be arrived at as follows :

- (1) So far as regards the matters and details specified and comprised in Schedule A hereto annexed the actual cost of the work done, including materials supplied, shall be taken as a basis for payment therefor unless the amount of such actual cost exceeds an amount arrived at by pricing the work done, including materials supplied, at the prices set out in the Schedule ; in which latter case the last mentioned amount shall be taken as such basis.
- (2) So far as regards the matters and details specified in Schedules B, C, D, hereto annexed the amount to be taken as a basis for payment shall be arrived at in respect only of so much of the work as is actually done and of buildings and other requisites as are actually existing as provided for in the said Schedules up to the amount or limits therein specified ; and shall in case the Government and the Company fail to agree thereon be arrived at by arbitration. Provided that :

- (a) The amount to be paid by Government as the purchase price shall be the sum of the amounts ascertained as in sub-sections 1 and 2 hereof provided; unless such sum exceeds £7,187 per mile; in which case the amount to be paid by Government shall be the sum of £7,187 per mile; but in either event the amounts paid as subsidy under this Act shall be deducted from the said sum to be paid.
- (b) To the sum to be paid under proviso (a) hereof there shall be added the price of the rolling stock to be taken over by the Government which price shall if the Government and the Company cannot agree thereon be determined by arbitration.
- (c) To the sums to be paid under provisos (a) and (b) hereof shall also be added the actual amount which had been paid by the Company and approved in writing by the Commissioner for land expropriated by the Company for the railway, including survey and legal expenses, but the additional payment in respect thereof shall not exceed £10,600 in all.
- (d) To the sums to be paid under provisos (a), (b) and (c) hereof the Government shall further pay an amount calculated at the rate of twenty per cent. upon the sum to be paid under proviso (a) after deducting from such sum the subsidy paid as aforesaid, the said amount to cover interest on capital expended during construction, cost of raising such capital, profit to which the Company is entitled, and all other charges. The additional twenty per cent. shall not be paid in respect of any sum payable under provisos (b) and (c) hereof nor on the subsidy contributed by Government.
- (e) From the total of the sums payable under provisos (a), (b), (c) and (d) hereof shall be deducted a fair and reasonable sum for wear and tear of the permanent way, buildings and superstructure, after making allowance for the cost of renewals. The actual amount to be so deducted shall, failing agreement, be determined by arbitration.

30. For the purpose of any land taken or any arbitration under this Act the provisions of the "Arbitration Act, 1898," are hereby incorporated.

Application of Act No. 29 of 1898.

31. The Company shall and may sue and be sued within this Colony in its corporate name, and the service of process upon the Secretary for the time being of the said Company at his principal office or place of business in this Colony shall for all purposes be deemed and taken to be good service upon the Company.

Actions in corporate name.

32. This Act may be cited for all purposes as the "St. Johns-Kokstad Railway Act, 1905."

Short title.

SCHEDULE.

A.

SCHEDULE OF PRICES.

	£	s.	d.
Earthworks, Banks, Excavations of all sorts. Cubic Yards	0	1	10
Masonry and Concrete in Bridges and Culverts, and Retaining Walls. Cubic Yards	2	7	6
Steel Superstructures in Work. Tons	20	0	0
Steel Pipes in work. Tons	18	0	0
Permanent Way Materials (Rails, Fastenings and Sleepers laid in road). Miles... ..	1,241	0	0
Ballasting (21 Cubic Yards per 66 feet). Miles	300	0	0
Telegraph with Instruments to the Telegraph Department Specification. Miles	70	0	0
Mile and Gradient Posts. Miles	15	0	0
Fencing, Single. Miles	60	0	0
<i>(Note.—In the price of £7,187 per mile for complete Line, it has been assumed that the Line will be Fenced both sides for half of total length.)</i>			
Survey and Supervision. Miles	250	0	0
Temporary Works and Contingencies. Miles ...	150	0	0

Schedule B.

B.

LIST OF STATIONS, ETC.

At	Station	Class
At 13 miles	Station	Class C.
At 25 "	"	" B.
At 34 "	"	" C.
At 44 "	"	" B.
At 56 "	"	" C.
At 63 "	"	" C.
At 73 "	"	" B.
At 86 "	"	" C.
At 100 "	"	" B.
At 115 "	"	" C.
At 125 "	"	" B.
At 132 "	"	" C.
At 142 " Kokstad	"	" A.

At approximately every 7 miles, a platelayer's cottage, etc.—number 20 in all—consisting of a four-roomed wood and iron house, with kitchen and w.c., a 400 gallon water tank and an underground cement tank with connections, and natives' quarters, wood and iron, 20 feet by 10 feet, and fencing where required, and trolley, with usual tools.

Permanent Way Inspector's quarters No. 2, consisting of a better class wood and iron house, four-roomed, with kitchen and w.c., and 400 gallon tank and underground tank, connections, and fencing, if required.

At 142 miles, Kokstad, a Resident Engineer's quarters, consisting of a five-roomed brick house, with bathroom, kitchen and w.c., and two 400 gallon tanks, and underground tank, with connections and fencing if required.

C.

Schedule C.

SUMMARISED DETAILS.

A Station Class "A" : Comprises the following :—

Total length of Lines $1\frac{1}{4}$ miles, with 18 sets points and crossings with timbers complete.

(Note. The price of £7,187 per mile includes lines and points and crossings, but excludes all these remaining works at St. John's Station.)

A Station building, including quarters as per Cape Government Railway Drawing No. 13,962.

A platform 300 feet by 25 feet, high level, brick or stone face, metalled.

A Goods shed 100 feet by 25 feet, wood and iron on stone foundations.

An outside Goods platform, high level, timber, 60 feet by 30 feet.

A Goods room on platform 15 feet by 15 feet, wood and iron.

A lamp room 10 feet by 8 feet, wood and iron.

Urinals and closets, cement floor, 10 feet by 12 feet, wood and iron.

Urinals and closets, cement floor, 10 feet by 12 feet, wood and iron (for Natives).

A Cattle Kraal, with stone face.

A wagon landing with stone face.

Quarters :

One four-roomed house with 400 gallon water tank and w.c.

Two two-roomed houses with 400 gallon tanks and w.c.'s.

One barracks for four men with two 400 gallon tanks and w.c.

Signals :

HEAD A distant and home.

Stop Blocks :

No. 3.

Name Boards :

No. 2.

Warning Boards, No. 1.

Fencing to yard, with gates where required.

A truck weighbridge.

The usual Station equipment and furniture.

- A Station Class "B"* : Comprises the following :—
 Station Buildings and other arrangements as shown on
 C.G.R. Drawing No. 16240. With two signals and
 usual Station equipment and furniture.
- A Station Class "C"* : Comprises :
 Lines 25 chains and 3 sets of points and crossings with timbers.
 A Platform, low level, 50 feet by 25 feet, timber faced.
 A shelter, 15 feet by 12 feet, wood and iron.
 A Loading Platform, 40 feet by 30 feet, earth, timber faced,
 one end ramped.
 Fencing if required.

Schedule D.

D.

WATER SUPPLY AND SHOPS.

Watering Stations :

Seven in number, of which two shall be terminal and five intermediate.

The Watering Station at each terminus shall comprise :

A 10,000 gallons iron water tank, on columns, complete with valves and hose complete, with 300 lineal yards of 3 inch galvanised iron piping, and with suitable steam or oil engine driven pump. A wood and iron pump house.

Pumpers' Quarters :

A two-roomed wood and iron house with tank and w.c.

The Intermediate Watering Stations shall each comprise :

Wood tanks of 6,000 gallons on trestles, and other requirements as at terminals.

Engine Sheds : Two in number, wood and iron, four stalls with ash-pits.*Turntables :* Two in number, each 50 feet.*Coal Stages :* Three in number.*Quarters :*

Two first-class wood and iron four-roomed houses, with tank and w.c.

No. 3. Ordinary class four-roomed wood and iron houses, with tanks and w.c.'s.

No. 3. Firemen's quarters, two-roomed wood and iron houses, with tanks and w.c.'s.

No. 2. Barracks for four men each, wood and iron, with two tanks each and w.c.'s.

A loco, store, 50 feet by 20 feet, wood and iron.

An engine repairing shed, 80 feet by 30 feet, two lines, wood and iron.

A carriage repairing shed, 80 feet by 30 feet, two lines, wood and iron.

Foreman's quarters, No. 1, as per first-class drivers.

Fitter's quarters, No. 6, as per firemen's quarters.

Wash-out pipes, No. 2.

Machinery for shops up to £750.

No. 49—1905.]

[June 8, 1905.]

ACT

To Authorise a Company styled "The St. Johns—Umtata Railway Company, Limited," to construct and work a line of Railway from a point upon the proposed St. Johns—Kokstad Railway at Isenuka to Umtata.

[Assented to 6th June, 1905.]

WHEREAS a Company styled "The St. Johns—Umtata Railway Company, Limited," has been formed, and registered with limited liability under the "Companies' Act, 1892," for the purpose, amongst others, of constructing, equipping and working a line of railway from a point upon the proposed St. Johns—Kokstad Railway at Isenuka to Umtata.

Preamble.

And whereas it is expedient that the said Company should be authorised and empowered to construct, equip, maintain, and work the said line of railway, and also lines of telegraph and telephone along or near thereto, in accordance with the provisions of this Act :

And whereas it is expedient that Government be authorised to pay towards the construction of the said railway a sum of money as a subsidy :

And whereas the said Company is willing to construct, equip, maintain, and work the aforesaid line of railway :

And whereas plans, sections, and a book of reference of the line of railway proposed to be constructed have been deposited in the office of the Clerk of the House of Assembly :

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

1. The St. Johns-Umtata Railway Company, Limited, hereinafter styled "the Company," shall be, and is hereby authorised and empowered to construct, equip, maintain, and work a railway to Umtata on a gauge of 3 feet 6 inches wide, and at a gradient not steeper than one in forty, with curves of not less than 5 chains radius, the Railway commencing from a point upon the proposed St. John's-Kokstad Railway at Isenuka within the limits of deviation shown on the plans duly lodged with the Clerk of the House of Assembly, save and except in so far as the said plans may be inconsistent with any of the provisions of this Act.

Company authorised to construct Railway.

2. The said Railway will commence from a point upon the proposed St. John's-Kokstad Railway at Isenuka, and thence shall proceed to Umtata, across or over or near the following land and farms, that is to say: The property of Sir Henry Elliot, the property of the Colonial Government in the District of Port St. John's, the property of A. G. Mourant, the property of the Colonial Government in the District of Ngqeleni, on

Route of Railway.

which are church buildings, buildings, and gardens, Colonial Government land in the District of Libode, Colonial Government land in the District of Umtata, the property of Robert James, the property of Henkel, the property of Klette, the Umtata Municipal Commonage in extent about 25 acres, and terminating on the Umtata Municipal Commonage, the exact position in plan and elevation over both Government and private ground to be determined by detailed survey and to have the approval of the Commissioner of Public Works, and if the owner shall be dissatisfied with the decision of the Commissioner in the case of private ground the matter in dispute shall be settled by arbitration. And that the said Railway shall have full running powers over the proposed St. John's-Kokstad Railway from St. John's to the point of junction at Isenuka (on the terms and conditions hereinafter described in this clause) which last mentioned Railway shall commence on the Government land (at a point being 1,650 English feet North by West of the zero or terminus shown on the plans deposited) adjacent to the Umzimvubu River at the Port of St. John's Township: provided that the Company shall within the period of two years from the passing of this Act obtain the sanction of Parliament, by a Bill duly complying with all the rules of the House, to the determination of the permanent terminal point at which the permanent station buildings and the necessary works appertaining thereto and in connection therewith shall be built, and provided that no compensation shall be payable by the Government for any sidings at, or buildings or works appertaining to or in connection with a terminal point constructed or erected within the aforesaid two years at the aforesaid point of 1650 English feet North by West of the aforesaid zero point from which point the line shall proceed across or over or near the following lands and farms—that is to say, the Colonial Government land adjacent to the Umzimvubu River, Colonial Government land in Port St. John's District, property belonging to the estate of the late Sidney Turner, Outspan, Colonial Government plantations, property of the St. Johns Lands and Colliery Estate Syndicate, the property of Sir Henry Elliot. The Company shall be authorised and empowered to make a junction at Isenuka, or other point on the St. Johns-Kokstad Railway, and shall be entitled to have through traffic conveyed over the said railway between such point and Port St. Johns in such manner and upon such terms as shall be mutually agreed upon, or failing such agreement as shall be settled by arbitration in terms of the Arbitration Acts of this Colony.

Proviso.

Powers of entry on land subject to compensation to occupier.

3. The Company may, by persons authorised thereto in writing, enter upon any land in the vicinity of the said Railway for the purpose of surveying the same and of probing and boring in order to ascertain the nature of the soil or of setting out the line of railway, making full compensation to the occupier of the said land for any damage thereby occasioned, such damage to

be recoverable, in the absence of agreement, by arbitration under the Arbitration Act, 1898, and in default of an award of arbitration within six months from the date when such damage shall be alleged to have been sustained then to be recoverable by action brought in any competent court.

4. The Company may, with the consent of Government, previously to be had and obtained in writing, enter upon and take possession of and hold, and retain for the purposes of this Act free of charge so much of any waste Crown land as shall be required for the construction and maintenance of the said railway or any other purposes relating to the execution of this Act, and also with the like consent may enter upon any waste Crown land lying adjacent and convenient to the said railway and dig for, excavate, and carry away all stones, clay and other material required for the purposes of the said railway free of charge: Provided that nothing in this Act contained shall establish any servitude in favour of the said Company upon any such land, not being land reasonably required for the actual construction and working of the said railway, which may hereafter be sold or leased by the Colonial Government to any Purchaser or Lessee thereof and that the terms "Waste Crown Lands" shall not be taken to apply to land which has been or may be acquired by the Colonial Government, or by any public body representing the Colonial Government by purchase or otherwise for any special purpose.

Power to take Crown Lands for Construction and Maintenance of Line.

5. All and singular the powers which are by Act No. 40 of 1889, bestowed upon Divisional Councils in regard to taking and acquiring lands and materials necessary for the making or repairing of any such road as in the said Act is mentioned, or of any works in connection therewith, are hereby bestowed upon the Company, precisely as if the said powers were, *mutatis mutandis*, herein again set forth, and as if the said railway were a public road: Provided

Powers of Directors as to taking, etc., of lands and materials, subject to conditions as to extent to be taken and method of calculating compensation.

- (a) That the extent of the land taken for the railway shall not exceed in width fifty feet for the formation line, and sufficient additional width required for the slopes, drainage, stations, approach roads, and all other works, matters and things which may be requisite or necessary for the efficient construction, maintenance, and working of the said railway; and
- (b) That in the calculation of the price or compensation to be paid to any person under the provisions of the one hundred and forty-seventh section of the said Act, in respect of any land belonging to him and expropriated under this Act, shall be included all damage caused to him by the construction of the said railway across his land: Provided, however, that all such rights which may be claimed by the Government under the conditions of the deeds of grants of such properties which may be

ceded to the Company by the Government shall not be nullified or affected by the provisions of this clause or clause No. 3 of this Act.

(c) That no land be taken or material be raised or carried away as aforesaid without previous notice to the owner thereof.

Sections 205 and 206 of Act No. 40 of 1889 apply *mutatis mutandis* to this railway.

Compensation Clause.

6. The provisions of the two hundred and fifth and two hundred and sixth sections of Act No. 40 of 1889 shall *mutatis mutandis*, extend and apply to the said railway.

7. If the Company shall for the purposes of the said railway require to acquire and use any land, or to dig, get or carry away any materials from any land belonging to any person who may not be bound by law to allow such Company, exercising the powers of the said Government, so to do without requiring any recompense or payment and who may think proper to require compensation from the said Company, or if the Company shall need to acquire or use any land or to take any material from any land that the Company in the exercise of such powers as aforesaid may have a legal right to acquire or use, but which has been improved by buildings, cultivation, irrigation, fencing or otherwise, the amount of compensation to be paid to the proprietor shall in the absence of any agreement be settled by arbitration.

Transfer of lands.

8. The owner of any land, save and except Crown Lands, expropriated or acquired by the said Company for the purpose of the construction and working of the said railway shall be bound to pass transfer to the Company of the land so acquired or expropriated.

Provision for crossing of railway by new streets and roads.

9. Nothing in this Act contained shall prevent any street or public roads hereinafter to be constructed under lawful authority from being made and carried across or under or over the said railway at all requisite and convenient places: Provided that all damage caused to the said railway by such works shall be made good by the persons or body constructing the same.

Provision where railway crosses any street or road.

10. At all places where the said railway or any deviation thereof shall intersect or cross the line of any street or road, it shall be lawful for the Company to make and carry the said railway across such street or road either by means of a level crossing or by means of a convenient or sufficient bridge or viaduct over or under the said street or road as may be determined by the Commissioner, with the consent of the Municipality or Village Management Board concerned, and the Company shall be bound to make all such cuttings, embankments and approaches with all such culverts, drains and all such repairs as may be necessary to make good such street or road across or over or under the said railway, and shall also be bound to maintain and keep in efficient repair all the crossings, bridges, viaducts, cuttings and embankments, approaches, culverts and drains as aforesaid and fence the approaches to all such crossings, viaducts and embank-

ments or to provide otherwise for the due protection of the public safety thereat.

11. It shall be lawful for the Company to exercise all and singular the powers by this Act conferred upon them by or through an agent or agents, duly authorised in writing. Powers may be exercised by an agent.

12. The said railway shall be constructed at the expense of the said Company, provided that, upon the certificate of an officer to be appointed by the Government that the railway or any portion thereof has been satisfactorily completed in accordance with the provisions of this Act, there shall be paid to the Company by the Government a sum of money calculated at the rate of fifteen hundred pounds sterling per mile of railway reckoned consecutively from either terminus completed as aforesaid. Subsidy to be paid by Government.

13. The construction of the said Railway shall be commenced within one-and-a-half years and completed within five years of the promulgation of this Act, and as a guarantee of good faith that the said Railway will be commenced and completed within the said periods the Company hereby agree to deposit with the Colonial Government, within three months of the promulgation of this Act, the sum of £2,000 (Two Thousand pounds) and further agree to forfeit this amount to the Colonial Government in the event of their failure to fulfil either of the conditions of this section. Should, however, the Company fulfil both the conditions of this section, then the Colonial Government will refund the amount deposited plus interest thereon at the rate of four per cent. for the period it is in their possession. Time for construction of railway; Deposit of £2,000 as guarantee.

14. If the Railway shall not be commenced within two years—or if so commenced, then if the construction shall not be duly proceeded with to the satisfaction of the Commissioner—or if the Railway shall not be completed within the time fixed by Clause Thirteen—then in any such case all rights conferred on the Company by this Act may be cancelled by the Commissioner on giving notice to that effect in writing to the Company; provided that: Penalty for failure to complete.

- (1) After the expiry of such notice the Government shall be entitled to repayment from the Company of the amount of subsidy paid by the Government under this Act together with interest thereon calculated at the rate of four per cent. per annum, and such sum with interest shall thereafter be a first charge in favour of the Government on the assets of the Company.
- (2) The Government shall have the option in lieu of such repayment of taking over the Railway with all materials thereon: and thereupon the said line and materials shall be vested in the Government, and the Company shall be discharged from all liability in respect of subsidy paid.
- (3) In case of the Company not accepting the decision of the Commissioner notified under this section the matter in dispute shall be referred to arbitration.

No. 49—1905.

Plans, etc., to be furnished by company.

15. The Company shall furnish to such officer as the Governor may appoint, and to approved scales, complete plans and sections of the line, and drawings of all bridges and culverts—both sub-structures and superstructures—and drawings of all buildings, and all other structures and any further information which such officer may require for the purpose of :

- (a) The determination by the Commissioner, as under section 2 of this Act, of the exact position in plan and elevation of the route of the Railway ; and his decision thereon shall be given before any work on the Railway is commenced.
- (b) The determination of the position and sizes of all waterways. This determination, and the approval of all details, must be given by the said officer before any work thereon is commenced.
- (c) The approval by the said officer of all designs and details for all buildings and all other structures. Such approval must be given before any work thereon is commenced.
- (d) The certificate required for the purposes of the subsidy under section twelve hereof.

In the event of any dispute concerning any items dealt with in this section, the Company may appeal to the Commissioner, and if not satisfied with his decision, to the Chief Engineer of the Central South African Railways, or the Engineer-in-Chief of the Natal Government Railways, whose decision in case he shall consider the said appeal shall be binding ; and in case both of the said Engineers-in-Chief refuse to consider the said appeal the matter at issue shall be decided by some referee to be named by the Commissioner whose decision shall be binding and final.

Rolling stock to be approved.

16. All rolling stock for the purpose of working the traffic must before being used on the line have been approved of by an officer appointed by the Government.

Materials, etc., to be approved.

17. All material and workmanship used or employed in and about the construction of the said Railway shall be equal in quality to the ordinary material and workmanship of the Railways constructed by the Colonial Government, and such material and workmanship must before being used have been approved of by the Engineer appointed by the Government to supervise the line. Further, not less than 1,760 full section size sleepers shall be used to every mile of line, and the rails shall not weigh less than 46½ lbs. to the yard.

All plant or material obtained in Europe or America shall before shipment be submitted for inspection to the Consulting Engineers for the Cape Government Railways, and shall be by them approved or rejected, and no such material shall be brought upon or used in the construction of the said Railway unless so approved.

Railway or portions to be fenced.

18. The said Railway or any portion thereof shall not be opened for public traffic until the Company shall have properly and suffi-

ciently fenced such portions of the said Railway as may be required by the Commissioner.

19. The Colonial Government reserves the right in the event of the said Railway being connected at any time with the proposed Government Railway from Indwe to the Natal border, or with any other Railway the property of the Government, to run trains over and upon the said Company's Railway on terms to be agreed upon, and failing such agreement, then the terms of Section 17 of Act 7 of 1903 shall be taken *mutatis mutandis* as the basis of agreement.

Running powers over line by Government.

20. In the event of the said Railway being at any time connected with the proposed Government Railway to the Natal border, or any other Railway the property of the Colonial Government, the said Company undertakes to bring its Railway into a station to be selected by the Government, on grades and levels approved by the Engineer-in-Chief of the Cape Government Railways. The necessary works in connection with the said junction to be decided upon between the Government and the Company, and the cost of such works, as well as of all necessary alterations and additions thereto which may be required from time to time to work the traffic, shall be borne in equal proportions by the Government and the Company.

Junction with Government railways.

The Company shall bear and shall every year pay to the Government such proportion of the total cost of working the junction as corresponds with the proportion of the Company's trains using the junction to the total number of trains using the junction.

The Company shall bear and shall every year pay to the Government such proportion of the total cost of using the station for shunting purposes as corresponds with the proportion of the time employed in doing the Company's shunting work to the total time employed in shunting.

For the purpose of calculating the *pro rata* share to be paid by the Company annually under this section the phrase "cost of working" shall include cost of working the junction, annual repairs to station buildings calculated at two per cent. per annum on the cost of such buildings, and the annual cost of repairs to other works.

21. The Government shall have the right to make at any time a junction to connect this line with any other railway line from any wharves or docks now or hereafter existing at the Port of St. John's, the junction to be at such a point as shall be mutually agreed on between the parties or as shall be determined by arbitration under the Arbitration Act, 1898.

Right of Government to connect with Docks.

22. A tariff or tariffs of passenger fares and goods rates in all classes shall be framed by the Company and approved of by the Governor before opening such railway for public traffic and the said tariff or tariffs shall be liable to adjustment from time to time at intervals of not less than one year at the instance of the Company or of the Governor respectively: Provided that

Tariff to be framed before commencing to work.

- (1) Such readjustment before coming into force shall have been approved of by the Governor.
- (2) The tolls, fares or rates of charge to be taken or made for passengers shall be at all times charged equally to all persons and after the same rate in respect of all passengers travelling under the same conditions.
- (3) The tolls, fares or rates of charge to be taken or made for goods shall be likewise charged equally after the same rate whether by ton or otherwise in respect of all goods of the like description.
- (4) The tolls, fares and rates shall not be lower than the corresponding rates in force from time to time on the Cape Government Railways main lines, nor higher than the maximum tariff of the Cape Central Railways in force at the date of promulgation of this Act; provided that a rate not exceeding the said maximum rate may be charged until the Company earns not less than five per cent. on the capital invested by the Company.
- (5) The tolls, fares and rates so far as affected by quantities shall give the maximum of benefit to the consignors of so small quantities as 10 ton lots, unless the consent of the Government be obtained for lower rates for larger quantities.

When Railway to be opened for traffic.

23. The said railway or any portion thereof shall not be open for public traffic until it shall have been certified to the Governor by some officer to be by him appointed that the same is sufficiently completed for the safe conveyance of passengers.

Application of Act No. 19 of 1861.

24. Upon the completion of the said railway or any portion thereof as aforesaid the Company shall enjoy all the privileges and be subject to all the conditions conferred by and contained in the Regulations of Railways Act, 1861, or any general Act passed for the regulation of railways.

Penalty in event of failure to work line.

25. The said Company shall be bound to maintain the said Railway when completed, in a proper and efficient manner, so as to reasonably satisfy the Government, and to run not less than two trains per week in each direction from terminus to terminus for passengers and goods traffic, and if it fail to comply with the conditions laid down in this section within a period of three months of being called upon to do so, it shall become liable to pay to the Government by way of liquidated damages a sum not exceeding £500 per month, the total amount of damages enforceable, however, not exceeding £5,000 in any one year, and such damages shall be recoverable against the Company in the ordinary way, and shall be chargeable, if not recovered, against the purchase price of the line, should the Government exercise its rights in the manner provided for under section eighteen. It is hereby expressly stipulated that the payment hereinbefore provided for shall be as and for liquidated damages sustained by the said Government, and shall not be considered to be in the

nature of a penalty, or subject to the ordinary rules regarding the recovery of penalties for breaches of contract; provided that:

- (1) The Government shall in addition to the aforesaid damages have the right in case of the aforesaid conditions not being complied with during any period of twelve months to enter upon and work the said line in the place of the Company, at the expense and risk of the Government who shall be further entitled to any surplus earnings over and above the expenses incurred in connection with such working. The Company shall, however be entitled to obtain possession of the line again and to work the same upon proving to the reasonable satisfaction of the Commissioner that it intends to carry out the aforesaid conditions.
- (2) Upon resuming possession of the line the Company shall be bound to carry out the aforesaid conditions and on any further failure by the Company to carry out the same the Government shall on each such occasion be entitled to exercise all the rights conferred upon it by this section.

26. The provisions of Act 40 of 1889 shall apply *mutatis mutandis* to opening the gates or leaving the same unclosed or unfastened whether the same be done by the owners or occupiers of land adjoining the railway or by any other person.

Application of Act No. 40 of 1889.

27. The Company is hereby further authorised and empowered to construct, erect and work for the purpose of the said railway and for no other purpose a telegraph and telephone or either of them along or near the line of railway subject to the provisions of the Electric Telegraphs Act of 1861 and of the Railway Regulation Amendment Act, 1895.

Erection of Telegraph & Telephone.

28. The Company shall subject to the provisions of the "Railway Regulations Amendment Act, 1895," or any Act amending the same, make provision for the conveyance to or from any station by any of the ordinary or special trains of the Company of such mails, letter bags and articles ordinarily conveyed by the post as the Postmaster-General may from time to time require, and the Company shall be responsible for the safe conveyance of such mails, and shall observe all such regulations respecting the taking up and delivery of the same as the Postmaster-General shall reasonably make.

Conveyance of Mails, etc.

29. At any time after the expiration of five years from the date of promulgation of this Act, the Government shall have the right, if so disposed, to purchase from the Company, on giving six months' notice to that effect, and the Company shall be bound six months after receiving such notice to sell to the Government the railway authorised by this Act, including also all buildings and plots of land acquired by the Company and used in connection with the working of the said Railway, together with so much of the rolling stock as has been approved by the Govern-

Purchase of line by Government.

ment officers under section sixteen hereof, together with all plant and every matter or thing belonging to or connected with the said railway, as also any telegraph or telephone and apparatus, wire, instruments and every matter or thing connected with the working thereof in possession of the Company under this Act. The total price to be paid by the Government on such purchase and sale shall be arrived at as follows :

- (1) So far as regards the matters and details specified and comprised in Schedule A, hereto annexed, the actual cost of the work done including materials supplied shall be taken as a basis for payment therefor, unless the amount of such actual cost exceeds an amount arrived at by pricing the work done including materials supplied at the prices set out in the Schedule, in which latter case the last-mentioned amount shall be taken as such basis.
- (2) So far as regards the matters and details specified in Schedules B, C, D, hereto annexed, the amount to be taken as a basis for payment shall be arrived at in respect only of so much of the work as is actually done and of buildings and other requisites as are actually existing as provided for in the said Schedules up to the amounts or limits therein specified and shall, in case the Government and the Company fail to agree thereon be arrived at by arbitration.

Provided that :

- (a) The amount to be paid by Government as the purchase price shall be the sum of the amounts ascertained as in sub-sections one and two hereof provided (unless such sum exceeds £6,818 per mile) in which case the amount to be paid by Government shall be the sum of £6,818 per mile : but in either event the amounts paid as subsidy under this Act shall be deducted from the said sum to be paid.
- (b) To the sum to be paid under proviso (a) hereof shall be added the price of the rolling stock to be taken over by the Government which price shall if the Government and the Company cannot agree thereon be determined by arbitration.
- (c) To the sums to be paid under provisos (a) and (b) hereof shall also be added the actual amount which has been paid by the Company and approved, in writing, by the Commissioner for land expropriated by the Company for the railway, including survey and legal expenses : but the additional payment in respect thereof shall not exceed £5,250 in all.
- (d) To the sums to be paid under provisos (a), (b) and (c) hereof the Government shall further pay an

amount calculated at the rate of 20 per cent. upon the sum to be paid under proviso (a) after deducting from such sum the subsidy paid as aforesaid: the said amount to cover interest on capital expended during construction, cost of raising such capital, profit to which the company is entitled, and all other charges. The additional 20 per cent. shall not be paid in respect of any sums payable under provisos (b) and (c) hereof nor on the subsidy contributed by Government.

- (e) From the total of the sums payable under provisos (a), (b), (c) and (d) hereof shall be deducted a fair and reasonable sum for wear and tear of the permanent way, buildings of superstructure, after making allowance for the cost of renewals. The actual amount to be so deducted shall, failing agreement, be determined by arbitration.

30. For the purpose of any land taken or any arbitration under this Act the provisions of the "Arbitration Act, 1898," are hereby incorporated. Application of Act No. 29 of 1898.

31. The Company shall and may sue and be sued within this Colony in its corporate name, and the service of process upon the Secretary for the time being of the said Company at his principal office or place of business in this Colony shall for all purposes be deemed and taken to be good service upon the Company. Actions in corporate name.

32. This Act may be cited for all purposes as the "St. John's —Umtata Railway Act, 1905." Short title.

SCHEDULE.

A.

SCHEDULE OF PRICES.

	£	s.	d.
Earthworks, Banks, Excavations of all sorts, Cubic Yards	0	1	10
Tunnels with faces, Lin. Yards	50	0	0
Masonry and Concrete in Bridges and Culverts and Retaining Walls, Cubic Yards	2	7	6
Steel Superstructures in work, Tons	20	0	0
Steel Pipes in work, Tons	18	0	0
Permanent Way Material (Rails, Fastenings and Sleepers laid in road) Miles	1,238	0	0
Ballasting (21 Cubic Yards per 66 feet) Miles	300	0	0
Telegraph, with Instruments, Miles	70	0	0
Mile and Gradient Posts, Miles	15	0	0
Fencing, Single, Miles	60	0	0

Schedule A.

(NOTE.—In the price of £6,818 per Mile for complete Line, it has been assumed that the Line will be fenced both sides for half of total length.)

Survey and Supervision, Miles . . .	250	0	0
Temporary Works and Contingencies, Miles . . .	150	0	0

Schedule B.

B.

LIST OF STATIONS, ETC.

At $5\frac{1}{2}$ miles . . .	...	Junction Station	...	Class B.
„ 14 „ . . .	...	Station	...	„ C.
„ 29 „ . . .	...	„	...	„ C.
„ 40 „ . . .	...	„	...	„ B.
„ 50 „ . . .	...	„	...	„ C.
„ 61 „ . . .	...	„	...	„ B.
„ 76 „ . . .	...	„	...	„ A.

At approximately every 7 miles a Platelayer's Cottage numbering 11 in all, consisting of a four-roomed wood and iron house, with kitchen and w.c., a 400 gallon water tank and an underground cement tank with connections, and Native Quarters wood and iron 20 feet by 12 feet, and fencing where required and trolley with usual tools.

Permanent Way Inspector—Quarters No. 1 consisting of a better class wood and iron house, four roomed with kitchen and w.c. and 400 gallon tank and underground tank with connections and fencing if required.

Assistant Resident Engineer's quarters consisting of a five roomed brick house with bath room, kitchen and w.c. and two 400 gallon tanks and underground tank with connections and fencing if required.

(NOTE. If St. John's-Kokstad Railway is built this will not be required.)

Schedule C.

C.

SUMMARIZED DETAILS.

A Station Class A. comprises the following:—

Total length of lines: $1\frac{1}{4}$ miles, with 18 sets of points and crossings with timbers complete.

A Station building, including quarters as per C.G.R. Drawing No. 13962.

A Platform, 300 feet by 25 feet, high level, brick or stone, face metalled.

A Goods Shed, 100 feet by 25 feet, wood and iron on stone foundations.

An Outside Goods Platform, high level, timber, 60 feet by 30 feet.

- A Goods Room on Platform, 15 feet by 15 feet, wood and iron.
- A Lamp Room, 10 feet by 8 feet, wood and iron.
- Urinals and Closets, cement floor, 10 feet by 12 feet, wood and iron.
- Urinals and Closets, cement floor, 10 feet by 12 feet, wood and iron (for natives.)
- A Cattle Kraal, with stone face.
- A Wagon Landing, with stone face.

Quarters.

- One four-roomed house with 400 gallons water tank and w.c.
- Two two-roomed houses with 400 gallons tanks and w.c.'s.
- One Barrack for four men with two 400 gallons tanks and w.c.

Signals.

A Distant and Home.

Stock Blocks.

No. 3.

Name Boards.

No. 2.

Warning Boards.

No. 1.

Fencing.

To yard with gates where required.

A truck weighbridge.

The usual Station equipment and furniture.

A Station Class B. comprises the following:—

- Station Buildings and other arrangements as shown on C.G.R. Drawing No. 16240, with two signals and usual Station equipment and furniture.

A Station Class C. comprises:—

Lines, 25 chains and 3 sets of points and crossings with timbers.

A Platform, low level, 50 feet by 25 feet, timber faced.

A shelter, 15 feet by 12 feet, wood and iron.

A Loading Platform, 40 feet by 30 feet, earth, timber faced, one end ramped.

Fencing if required.

D.

WATER SUPPLY, ETC.

Schedule D.

Watering Stations, 5 in number, 1 at each Terminus and three intermediate Stations:

The Watering Station at each Terminus comprises a 10,000 gallons iron tank on columns complete with valves and hose complete, with 300 lineal yards of 3 in. galvanized iron piping and with suitable steam and oil engine driven pump.

A wood and iron pump house.

Pumper's quarters, a two-roomed wood and iron house with tank and w.c.

(Note.—If the St. John's-Kokstad Railway is built one of these will not be required.)

The Intermediate Watering Stations shall each comprise wood tanks of 6,000 gallons on trestles and other requirements as at terminals.

Engine Sheds, 2 in number.

Wood and iron, four stalls with ash pits.

(Note.—If the St. John's-Kokstad Railway is built one of these will not be required.)

Turntables, 2 in number, each 50 feet.

(Note.—If St. John's-Kokstad Railway is built one of these will not be required.)

Coal Stages, 2 in number.

(Note.—If the St. John's-Kokstad Railway is built one of these will not be required.)

Quarters.

2 in number : First-class wood and iron four roomed house with tank and w.c.

(Note.—If the St. John's-Kokstad Railway is built one of these will not be required.)

3 in number : Ordinary Class four-roomed wood and iron houses with tanks and w.c.'s.

(Note.—If St. John's-Kokstad Railway is built one of these will not be required.)

Firemen's Quarters, 4 in number ; 2-roomed wood and iron houses with tanks and w.c.'s.

(Note.—If St. John's-Kokstad Railway is built two of these will not be required.)

Barracks, 2 in number for four men each, wood and iron, with 2 tanks each and w.c.'s.

(Note.—If St. John's-Kokstad Railway is built one of these will not be required.)

A Loco. Store, 50 feet by 20 feet, wood and iron.

Wash-out Pipes, No. 2.

(Note.—If St. John's-Kokstad Railway is built one of these will not be required.)

No. 50—1905.]

ACT

[June 8, 1905.]

To Provide for the raising of a Loan of One hundred and forty-four thousand three hundred pounds sterling for the purpose of prosecuting and improving the Harbour Works of Port Elizabeth, East London, and Mossel Bay, and to apply surpluses on certain works to meet the cost of and deficits on certain other works.

[Assented to 6th June, 1905.]

Preamble.

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

1. For the purpose of carrying out the works and services detailed in Schedule "A" hereunto annexed it shall be lawful for the Governor to raise by Public Loan, either temporarily or by means of Consolidated or Colonial Stock in London or in the Colony the sum of £144,300, provided that the sum so raised shall be used to cover expenditure either already made out of the said Harbour Boards Revenue, or still to be made for the services described in Schedule "A" hereunto annexed.

Governor may raise Loan for £144,300.

2. The several Harbour Boards shall from and after the 1st day of July, 1905, pay out of their Revenue to the Sinking Fund Commissioners appointed under the provisions of Act No. 11 of 1897 an annual amount calculated at the rate of 1 per cent. on the amount authorised to be raised herein, which sum shall be credited to the Sinking Fund Account under Act No. 40 of 1895 and be applied towards the reduction of any portion of the existing Harbour Board Debt or in respect of any debt now or hereafter created either permanently or temporarily on behalf of the said Harbour Boards.

Annual Contribution to Sinking Fund

3. It shall be lawful for the Governor to apply the surpluses on the several Harbour Works enumerated in Schedule "B" to this Act to meet the cost of and deficits on certain other works as detailed therein, and it shall be lawful for the Governor to temporarily apply the unappropriated balance of the amount authorised for the purchase by the Table Bay Harbour Board of the Amsterdam Battery towards the construction by the said Board of certain other works.

Governor may apply surpluses on works to cover deficits and expenditure on certain other works.

4. The provisions of Sections 3 and 4 of "The Harbour Boards Loans Act" No. 33 of 1902, shall *mutatis mutandis* apply in respect of the sum herein authorised to be raised by Loan.

Sec. 3 and 4 of Act 33 of 1902 to apply.

5. No expenditure under this Act shall be incurred for any new work until the Treasurer shall have notified, under his hand, that the funds for such work are available.

Treasurer to notify that funds are available.

6. This Act may be cited as "The Harbour Boards Loan Act, 1905."

Short Title.

SCHEDULE "A."

Schedule A

1. *Port Elizabeth Harbour Board.*

Tugs and Lighters	...	...	...	...	£50,172
Surveys	...	...	...	...	4,879
Warehouses and Sheds	...	...	...	...	9,548
Weighbridge	...	...	...	...	992
Native Location	...	...	...	...	6,576
Artisans' Dwellings (for completion)	...	...	...	...	3,222
Baggage, Cranes and Steps	...	...	...	...	1,500
Patent Slip (Additional)	...	...	...	...	2,883
Administrative Office (Additional)	...	...	...	...	4,628
Expenses of Raising Loans, Act 33 of 1902	...	...	...	...	19,700

£104,100

II. *East London Harbour Board.*

Expenses of Raising Loans, Act No. 33 of 1902 ... £21,200

III. *Mossel Bay Harbour Board.*

1. New Iron Jetty	£5,450	
2. Foundations of No. 2 Quay	1,365	
3. Cranes, Locomotives, Sheds, &c.	680	
4. Locomotive Trucks	1,365	
5. Capping Breakwater	2,840	
6. Lighthouse Quarry	1,575	
7. Dredger working one year	2,100	
8. Slipway	475	
9. Permanent Railway Sidings	1,050	
10. Taking down and renewing portion of Old Jetty	2,100	
		£19,000
Total		£144,300

Schedule B.

SCHEDULE "B."

STATEMENT OF SURPLUSES, OTHER WORKS AND DEFICITS.

I. *Table Bay Harbour Board.*Act 33 of 1898 and Schedule "A"
of Act 20 of 1900, viz.:

	Surpluses.	Other Works or Deficits.
Breakwater Completion	£3,545 0 0	
Moorings	1,547 0 0	
Sundry Balances of Acts prior to 1898	30,029 8 2	
Capping of Breakwater		£3,545 0 0
Purchase of Land on Green Point Common,		15,331 5 0
Bogie Trucks		16,245 3 2
	£35,121 8 2	£35,121 8 2

II. *Port Elizabeth Harbour Board.*

Act 10, 1894.

Concrete Retaining Wall ... £449 7 5

Locomotives and Rolling Stock ... 170 0 7

Act 26, 1896.

New Approach to North Jetty ... 11 16 6

Don Pedro Jetty ... 5,166 10 11

Act 35, 1898.

North Embankment Extension ... £54 8 11

South Embankment Extension ... 463 16 10

Lengthening and Widening
South Jetty ... 3,608 7 8

Patent Slip

9,953 8 8

II. *Port Elizabeth Harbour Board.*—Continued.

	Surpluses.	Other Works or Deficits.	
<i>Act 17, 1900.</i>			
Electric Lighting and Power Plant	£267 4 9		
Hydraulic Plant Extension ...	909 4 1		
Widening Baakens River Bridge	1,562 0 5		
<i>Act 20, 1900.</i>			
Loco's Trucks and Tarpaulins ...	...	£700 16 5	
300 Additional Trucks ... ..	...	1,539 13 6	
2 New Locomotives ... ..	...	213 13 10	
Expenses of raising Loan, Act 35 of 1898 ... ..	...	146 7 10	
<i>Act 33 of 1902.</i>			
Additional Rolling Stock, Land- ing and Shipping Plant and new Tug ... ..	...	11,500 0 0	
Widening Humewood Road ...	...	1,000 0 0	
New Warehouses, Wool Stores, Workshops and Workmen's Dwellings	300 0 0		
New approach to South Jetty...	...	600 0 0	
Don Pedro Jetty Extension ...	...	200 0 0	
Reclamation	6,800 0 0		
Removing portion of Strutt's Reef	5,000 0 0		
New Harbour Board Office ...	...	8,800 0 0	
Contingencies	10,000 0 0		
Total	£34,708 9 2	£34,708 9 2	

III. *East London Harbour Board.*

Balance prior to Act 11 of 1894 £1,282 10 1

Act 11 of 1894.

Rubble on sea face South Breakwater	2,700 0 0		
Launch Jetty West Bank ...	7 3 7		
Weighbridge	430 0 0		
Adapting Gantry for dealing with logs and rails ...	92 7 7		
Quigney River ... ..	...	£87 0 11	
Renewing and Erecting 5-ton Crane ... ..	...	13 2 2	
Fire Extinguishing Apparatus	...	131 7 3	

III. *East London Harbour Board.*—Continued.

	Surpluses.	Other Works or Deficits.	
<i>Act 27 of 1896.</i>			
Additional Timber Jetty ...	£185 1 1		
Sorting Shed for In-transit Traffic	213 17 4		
Additional Paraffin Storage ...	602 16 4		
Boating Yard Appliances ...	2,733 7 11		
New Dredger, "Kate," less amount recovered from Underwriters, Dredger, "Lucy" ... ..	...	2,321 6 6	
New Cranes ... ..	...	450 6 7	
Plant for Landing and Shipping Purposes—			
1 Tug, "Buffalo" ... ..	...	5,539 5 6	
1 Tug, "Cecil Rhodes" ... ..	...	750 0 0	
16 Lighters ... ..	...	1,224 19 1	
<i>Act 34 of 1898.</i>			
New Cranes	5,537 12 1		
Additional Landing and Shipping plant and accessories ...	296 2 0		
Completion of concrete wharf in extension of No. 3 wharf, total length 450 feet ...	...	5,548 10 3	
<i>Act 20 of 1900.</i>			
Produce Warehouse on Upper Terminal near No. 3 Quarry	472 6 8		
<i>Act 33 of 1902.</i>			
Steam Tug "Annie"	116 9 5		
Launch "Mary"	397 16 5		
Extension No. 2 Produce Wharf	238 7 1		
Extension of ballasting and coal wharf and one crane West Bank	760 0 8		
Transporters on East and West Banks	9,691 13 5		
Quay Wall, etc., on West Bank	...	9,691 13 5	
Total	£25,757 11 8	£25,757 11 8	

No. 1—1906.]

[June 29, 1906.]

ACT

To Amend the Customs Amendment and Tariff Act of 1903 and to effect certain other alterations in the Customs Laws.

[Assented to 29th June, 1906.]

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

Preamble.

1. The Customs Union Convention, together with the Protocols thereto, entered into at Pietermaritzburg, on the 24th day of March, 1906, is hereby ratified and confirmed.

Ratification of Customs Union Convention.

2. The Laws enumerated in Schedule A hereunto annexed, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed, save as to rights vested or liabilities incurred under any of the said laws before the taking effect of this Act.

Repeal of Laws.

3. On and after the date of the taking effect of this Act there shall be raised, levied, collected and paid upon the goods, wares and merchandize imported or brought into this Colony described and set forth in Classes I, II, III, IV, and VI. of the Schedule "B" hereunto annexed, the duties therein set forth, and all such duties shall, on collection, be paid into the Colonial Treasury.

What Customs Duties shall be levied.

4. Subject to the exceptions referred to in item No. 131 of Class V. of Schedule "B" to this Act in regard to spirits, beer, or blasting compounds, the goods, wares and merchandize described and set forth in the said Class, shall be admitted into this Colony free of duty.

What goods, wares and merchandize are to be admitted free.

5. A duty of Customs shall be levied and imposed upon ale or beer and spirits, except methylated spirits, brewed or distilled from the produce of and in any Colony or Territory in the Customs Union, when imported into this Colony, which duty shall be equivalent to the duty imposed by way of excise according to the law of this Colony, at the time of such importation, upon articles of a like class here brewed or distilled.

Duty on Ale and Beer and Spirits, except Methylated Spirits, brewed or distilled within the Union.

6. Notwithstanding anything to the contrary in Section 3 of this Act, the duties provided for under item No. 92b on galvanised corrugated iron or steel sheets and under item No. 129 on wood, shall not come into force until the 1st day of September next, and under item 25 on match splints until the 1st day of October next, up to which dates the duties imposed in Schedule "B" to Act 5 of 1903 thereon shall, notwithstanding the repeal of Section 2 of the said Act, be raised, levied, collected, paid and dealt with as directed in the aforementioned Section 3.

Duty provided for on galvanised corrugated iron or steel sheets and on wood not to come into force until 1st September, 1906.

No. 1—1906.

Governor may impose or suspend duties on fresh or frozen meats and animals for slaughter.

On date of imposition stocks in cold storage establishments to be deemed to be in Bond.

Rebate on duty on goods the growth, produce or manufacture of the United Kingdom.

Similar rebate to reciprocating British Colonies.

Minister to decide any question as to whether any goods are entitled to aforesaid rebate.

How value of goods to be ascertained.

7. And further notwithstanding anything to the contrary contained in Section 3 of this Act the Governor may by Proclamation suspend in whole or in part the collection of the duties upon fresh, chilled and frozen meats, and on animals for slaughter, for consumption in this Colony and may similarly remove such suspension. And, after the promulgation of this Act, or on the removal of such suspension the Government shall take stock of all imported meats in the various cold storage establishments in this Colony and all such stock shall be deemed to be in Bond and liable to the Customs duties imposed in Class I of Schedule "B" of this Act. Provided that no such Proclamation with reference to the suspension of the duties on fresh, chilled and frozen meats, and on animals for slaughter, shall issue or be of force until the consent of both Houses of Parliament has been obtained by way of resolution.

8. Under such regulations as may be prescribed by the Governor in that behalf a rebate of Customs Duties shall be granted on any goods and articles, the growth, produce or manufacture of the United Kingdom imported therefrom into this Colony for consumption therein to the extent following :

- (a) In the case of goods and articles charged with Customs Duty under Class I., the amount shewn in the column indicating such rebate ; and
- (b) In the case of goods and articles charged with Customs Duty under Classes II., III., IV., and VI., three per cent. *ad valorem* on such goods and articles.

9. A rebate similar to that provided for in the eighth Section of this Act and under similar regulations shall be granted in like manner and under like conditions to goods and articles the growth, produce or manufacture of any British Colony, Protectorate or Possession granting equivalent reciprocal privileges to this Colony, provided that no such rebate shall be granted in the case of any particular Colony, Protectorate or Possession until on and after a date to be mutually agreed upon by the parties to the Union and notified by Proclamation in the *Gazette*.

10. In the event of any question arising as to whether any goods or articles are entitled to any such rebate as aforesaid, the decision of the Minister in whom the control of the Customs Department is vested shall be final.

11. In all cases where the duties imposed upon the importation of articles into this Colony are charged, not according to the weight, tale, gauge or measure, but according to the value thereof, such value shall be ascertained by the declaration of the importer of such articles, or his agent, in the manner and form following, that is to say :

I, A. B., do hereby declare that the above is a true description and complete return of all the goods contained in the above mentioned packages and that the values given of the same are

the true current value thereof as defined by law including the cost of packing and packages at the place where the goods were purchased or imported from into the Colony.

Witness my hand, the.....day of.....

The above declaration signed the.....day of.....
in the presence of

C.D.,

Collector (or other proper Officer)

Which declaration shall be written on the bill of entry of such articles and shall be subscribed with the hand of the importer thereof, or of his agent, in the presence of the Controller or other proper Officer of the Customs, and the said value, shall be the sum whereon duty shall be levied: Provided that if, upon view and examination of such articles by the proper Officer of Customs, it shall appear to him that the said articles are not valued according to the current value thereof as defined by Section 13 of this Act, then and in such case the Controller or other proper Officer may, if he deem it fitting so to do, require the importer, or his agent, to declare on oath before him to the truth of the aforesaid declaration, according to the best of the belief of such importer, or his agent, and to adduce any documentary evidence he may possess in support thereof: Provided, also, that if it shall appear to the Controller or other proper Officer, whether such oath as aforesaid shall have been required or not, that such articles have been declared at a value below the current value thereof as defined in Section 13 of this Act, the articles shall, in such case, be examined by two competent persons, one to be nominated and appointed by the Controller or other Principal Officer of Customs, and the other by the importer; and such two persons shall, before entering into the enquiry, appoint an umpire, and shall then declare on oath before the Controller or proper Officer of Customs what is the current value as defined by Section 13 of this Act of such articles, and in case such persons shall not agree then the declaration of such value on oath, as aforesaid, of the umpire shall be final; and if any importer shall fail, within three days from his being required so to do by the proper Officer of Customs, to make an appointment as herein-before provided, or if no declaration shall be made by the persons appointed, or by the umpire selected by them, within three days from their appointment or selection, then, in any such case, the declaration of the person or persons to be appointed as aforesaid by the Controller or other principal Officer of Customs shall be final, and the duties shall be charged, and paid upon the value as ascertained and declared in conformity therewith: Provided,

Procedure
in cases of
suspected
under-valuation.

No. 1—1906.

Penalties
for under-
valuation.

further, that should the value so ascertained and declared under any of the provisions hereinbefore contained for arbitration exceed by fifteen per cent., and not by thirty per cent., the value originally declared by the importer, there shall be payable on such goods double the amount of duty otherwise chargeable thereon, and should the value so ascertained and declared as aforesaid exceed by thirty per cent., and not by sixty per cent., the value originally declared by the importer, then there shall be payable on such goods four times the amount of duty otherwise chargeable thereon, and should the value so ascertained and declared as aforesaid exceed by sixty per cent. or upwards, the value originally declared by the importer, then such goods shall be forfeited.

Entry and
collection of
duty on goods
per Parcels
Post.

12. For the purpose of the entry for Customs and the collection of duty on goods, wares and merchandize imported into the Colony by Parcels Post, the form or label affixed to the parcel under the Postal Regulations shall be deemed to be an entry made under the provisions of this Act or Act 10 of 1872, and the statement of value entered on such form and signed by the sender shall take the place of the declaration required to be made by the importer in the first portion of Section 11 of this Act, for the purpose of ascertaining the value of articles on importation into the Colony. And should it appear to the Controller or other proper Officer of Customs on examination that the value declared by the sender does not represent the true current value of the goods as defined by Section 13 of this Act, or should it be found that the contents of the parcel have not been fully and properly described, then shall the same be dealt with as provided for in the preceding Section, and shall be liable to the penalties prescribed by this or any other law relating to Customs.

Term "Cur-
rent Value"
defined.

13. For the purposes of estimating the amount of Customs duty whenever levied on goods *ad valorem*, and of the declaration and oaths which may be at any time required by any law or regulations in relation to the question of such duty, the current value of such goods shall be taken to be the true current value in the open market for similar goods at the place of purchase bought in the ordinary manner from the manufacturer or supplier in normal quantities, including the cost of packing and packages, but not including Agents' commission if it does not exceed 5 per cent., provided that in no case shall the true current value as above defined be less than the cost of the goods to the importer at the place of purchase.

When goods
on which duty
has been paid
are removed
to another
Colony in the
Union 95 per
cent. of duty
to be paid to
such Colony.

14. Whenever any goods upon which the duties have been paid in this Colony shall be removed to and for consumption in any other Colony or Territory within the Customs Union there shall be payable to the Government of such Colony or Territory ninety-five per cent. of the Customs Union duties collected under this Act on the said goods.

15. Whenever any goods imported or warehoused on importation into this Colony shall be removed overland to any Colony, State or Territory outside the Customs Union, it shall be lawful for the Governor to grant a rebate of the Customs duties payable on such goods, provided, however, that no such rebate shall be granted until after notice thereof shall have been given in the *Gazette*.

Governor may by notice in *Gazette* grant rebate of duties on goods removed to places outside the Customs Union.

16. The Governor may make and alter regulations for the following purposes:—

Governor may make and alter regulations dealing with rebate of Customs duties, the removal of goods to and from Colonies in the Union, for the payments of duties collected on behalf of other Colonies, for rebating the duty on spirits for manufacturing, etc., and on soap, etc., for wool-washing; and generally for all purposes necessary to carry out provisions of this Act.

- (a) The rebate of Customs duties authorised by this Act.
- (b) The removal from or importation into, or transit through this Colony of any of the goods and articles referred to in Schedule "B" of this Act, or of goods and articles the growth, produce or manufacture of this Colony or any other Colony or Territory in the Union.
- (c) The payment to any other Colony or Territory of its share of the Customs duties collected within this Colony.
- (d) The granting of a rebate of the whole or part of the duty on methylated spirits or alcohol imported solely for manufacturing or scientific purposes or for fuel within this Colony, and on soap and other substances imported for and exclusively used in connection with the industry of wool-washing.
- (e) The warehousing and removal in Bond of goods mentioned in Schedule "B" of this Act, to any other Colony or Territory within the Customs Union.

And generally for all matters whatsoever necessary to more effectually carry out the provisions and intentions of this Act, and all such regulations shall be of full force and effect on and after publication in the *Gazette*.

17. If any person in this Colony shall counterfeit or falsely or wilfully use, when counterfeited or falsified, any invoice or other statement in support of the declared value of any goods, wares or merchandize, whatsoever, imported into this Colony, or shall produce any false or counterfeited certificate or make any false representation in regard to the country in which any goods were grown, produced or manufactured, or who shall contravene any regulation made and published as in the preceding Section mentioned, shall be liable to a fine not exceeding £300, and in default of payment to imprisonment with or without hard labour, for any period not exceeding twelve months, or to both such fine and such imprisonment, and all goods removed in contravention of any such regulation, and all vehicles and animals made use of in the removal of such goods, shall be liable to be forfeited to the Colonial Treasury.

Falsification of documents, etc.

Penalty for above and for contravention of regulations made under this Act £300 or one year's imprisonment.

5018 THE CUSTOMS AMENDMENT AND TARIFF ACT, 1906.

No. 1—1906.

Any entry, writing, oath, affirmation or declaration required to be made by any law relating to the Customs shall, if made in any one Colony or Territory in the Customs Union, be binding and of full force and effect in any other portion of the Union.

Prison and penitentiary made goods prohibited to be imported. 19. The importation into this Colony of prison and penitentiary made goods is prohibited, and any such goods imported shall be seized and dealt with in the manner prescribed for seized goods in the Customs Act 10 of 1872, and should any question arise in respect of any goods detained under this Section the onus of proving that the same were not made in a prison or penitentiary shall rest with the importer.

Opium, restriction on importation of. 20. It shall not be lawful for any person except a registered medical practitioner, dentist or chemist and druggist to import into this Colony any gum opium, extract of opium, poppies or preparations of poppies, and no such person shall import any such substance without a permit, stating the quantity to be imported, signed by the Colonial Secretary or an Officer duly authorised by him, in such form and containing such conditions as shall be prescribed by Regulation published in the *Gazette*.

Penalty for illegal importation of opium. 21. Any person contravening the provisions of the last preceding Section shall be liable on conviction to a fine not exceeding £500, and in default of payment to imprisonment with or without hard labour for any period not exceeding six months, and any substance mentioned in the last preceding Section unlawfully imported shall be seized and disposed of as provided for under the Customs laws relating to seized goods.

Importation of obscene pictures, etc., an offence. 22. Section 14 of Act 10 of 1872 shall be read and construed as if at the end thereof were inserted the following words, "and "further, any person who imports or attempts to import any "such indecent or obscene prints, paintings, photographs, books, "cards, lithographic or other engraving, or any other indecent "or obscene articles, shall be guilty of an offence, and shall on "conviction before any Resident Magistrate, who shall have "jurisdiction to impose the penalties provided, be liable "to a fine not exceeding £50, or, in default of payment, to "imprisonment with or without hard labour for any period not exceeding three months, or to both such fine and imprisonment."

Magistrates to have jurisdiction. Penalty. Short Title. 23. This Act may for all purposes be cited as "The Customs Amendment and Tariff Act, 1906," and shall come into operation upon a day to be fixed by Proclamation, in which Proclamation shall be set forth the name of each Colony or Territory in the South African Customs Union and party to the Customs Union Convention, and from time to time thereafter, the Governor may in accordance with such Convention by further Proclamation declare the admission to the said Union of any Colony, Territory or State of South or Central Africa having a civilized Government.

SCHEDULE A.

Schedule A

LAWS REPEALED.

Number and Year.	Title.	Extent of Repeal.
Act 1 of 1889.	"Customs Union Tariff Act, 1889."	Sections 5, 7 and 8.
Act 8 of 1897.	"Customs Amendment Act, 1897."	Section 3.
Act 6 of 1898.	"Customs Amendment Act and Tariff Act, 1898."	Sections 5, 6 and 7.
Act 5 of 1903.	"Customs Amendment and Tariff Act, 1903."	Sections 2, 3, 4, 5, 6, 7, 8, 9, 10 and 12.

SCHEDULE B.

Schedule B.

CLASS I.—SPECIAL RATES.

	DUTY.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.		
	£	s.	d.	£	s.	d.
1. Acetic Acid, per Imperial gallon	0	3	3	0	0	3
2. Ale, Beer, and Cider; all kinds of strength exceeding 3 per cent. of proof spirit, per Imperial gallon	0	2	0	0	0	1½
(Note.— <i>Vide</i> Article 16.)						
3. Animals :—						
(a) Cattle for slaughter, each	1	10	0	Nil.		
(b) Sheep for slaughter, each	0	5	0			
(c) Mules and Geldings, each	1	0	0			
(Note.— <i>Vide</i> Article 12.)						

	DUTY.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.		
	£	s.	d.	£	s.	d.
4. Beads, known as "Kaffir Beads," per lb.	0	0	6 $\frac{1}{4}$	0	0	0 $\frac{1}{4}$
5. Blasting Compounds, including all kinds of explosives suitable and intended for blasting, and not suitable for use in fire-arms; and collodion cotton not intended for manufacturing purposes, per lb.	0	0	2 $\frac{1}{2}$	0	0	0 $\frac{1}{2}$
(Note.— <i>Vide</i> Article 16.)						
6. Butter, butterine, margarine, ghee, and other substitutes for butter, per lb.	0	0	2 $\frac{1}{4}$	0	0	0 $\frac{1}{4}$
7. Candles, per 100 lbs.	0	5	0	0	0	10
8. Cards, playing, per pack (and in addition 15 per cent. <i>ad valorem</i> .)	0	0	6			Nil.
9. Cement, per 400 lbs.	0	1	3			3% <i>ad valorem</i>
10. Chicory and substitutes for Coffee or Chicory, including chicory root, per lb.	0	0	2			Nil.
11. Clothing, second hand, for sale, per coat, vest, or trousers, each.....	0	2	0			"
12. Coal and Patent Fuel, per ton of 2,000 lbs.	0	3	0			"
13. Coke, per ton of 2,000 lbs.	0	1	0			"
14. Cocoa :—						
(a) Raw, per lb.	0	0	1			"
(b) Ground or manufactured, unsweetened, per lb.	0	0	2	0	0	0 $\frac{1}{2}$
(c) Cocoa and milk, chocolate and milk, coffee and milk, per lb. ...	0	0	2	0	0	0 $\frac{1}{2}$
(d) Cocoa butter and cocoa paste, per lb.	0	0	2	0	0	0 $\frac{1}{2}$
15. Coffee :—						
(a) Raw, per lb.	0	0	0 $\frac{3}{4}$			Nil.
(b) Roasted, ground, or mixed, per lb.	0	0	2			"
16. Confectionery, including sweetened cocoa or chocolate, honey, jams, jellies, pudding and jelly powders, preserves, sweetmeats, candied or preserved						

	DUTY.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.		
	£	s.	d.	£	s.	d.
ginger or chow-chow, and all other kinds compounded, made, or preserved with sugar, but not including purely medicinal preparations properly classed as apothecaryware, per lb.	0	0	2½	0	0	0¼
17. Corn and Grain :—						
(a) Wheat :—						
(1) In the grain, per 100 lbs. ...	0	1	2	0	0	2
(2) Ground or otherwise prepared, per 100 lbs.	0	2	6	0	0	3
(3) Bran, wheaten, per 100 lbs. ...	0	1	2	0	0	2
(b) Barley, buckwheat, Kaffir corn, maize, millet, oats, rye, beans, and peas :—						
(1) In the grain, raw, or malted, per 100 lbs.	0	2	0	0	0	2
(2) Ground or otherwise prepared, including Samp, per 100 lbs.	0	2	9	0	0	3
(c) Rice, per 100 lbs.	0	1	0			Nil.
Not including patent, proprietary, or other specially prepared foods for invalids or infants, or corn and grain prepared as vegetables.						
18. Dates, per lb.	0	0	0½			„
19. Fish, not being of South African taking, per lb.	0	0	1¼	0	0	0¼
20. Fodder :—						
Chaff, hay, lucerne, oathay, oil-cake, and other fodder not otherwise described, per 100 lbs.....	0	2	0	0	0	2
21. Fruits :—						
(a) Preserved, of all kinds, bottled, tinned, or otherwise preserved, including pulp and candied peel, per lb.....	0	0	2½	0	0	0¼

	DUTY.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.		
	£	s.	d.	£	s.	d.
(b) Dried, of all kinds, including almonds and nuts, per lb.....	0	0	2 $\frac{1}{4}$	0	0	0 $\frac{1}{4}$
22. Gunpowder and other explosives suitable for use in firearms, per lb..... (and in addition 15 per cent. <i>ad valorem</i> .)	0	0	6	Nil.		
23. Guns and Gun-barrels, fire-arms :—				3 % <i>ad valorem</i>		
(a) Single, per barrel.....	1	0	0	Nil.		
(b) Double and other, per barrel..... (and in either case in addition 15 per cent. <i>ad valorem</i>).	0	15	0	„		
24. Lard, including compound lard, cottolene, nuttose, and other similar substances for use as food, per lb.	0	0	1 $\frac{1}{4}$	0	0	0 $\frac{1}{4}$
25. Matches :—				3 % <i>ad valorem</i>		
(a) Wooden ; in boxes or packages of not more than 100 matches, per gross of boxes or packages	0	2	0	Nil.		
In boxes containing more than 100, but not more than 200 matches, per gross of boxes or packages...	0	4	0	„		
And for every 100 additional matches, in boxes or packages, per gross of 100 matches.....	0	2	0	„		
(b) Fusees, vestas, or wax matches, or other patent lights used as such : in boxes or packages containing not more than 50, per gross of boxes or packages.....	0	2	0	„		
In boxes or packages of more than 50, but not more than 100, per gross of boxes or packages.....	0	4	0	„		
And for every 50 additional in boxes or packages, per gross of 50 matches.....	0	2	0	„		
Match splints to be classed, and pay duty, as matches.....						
26. Meats, fats, soups, and other similar substances used as food, but not in-						

	DUTY.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.		
	£	s.	d.	£	s.	d.
cluding extracts and essences or tallow, per lb.....	0	0	1¼	0	0	0¼
27. Milk, condensed, desiccated, or preserved milk or cream :—						
(a) Full cream, per 100 lbs.....	0	5	2	0	1	0
(b) Skimmed or separated, per lb....	0	0	6			Nil.
28. Oils, mineral : illuminating, and burning, per Imperial gallon.....	0	0	1			”
29. Onions and garlic, not preserved, per lb.	0	0	0½			”
30. Pickles, sauces, chillies, chutneys, and other condiments, per lb.....	0	0	2¼	0	0	0¼
31. Pills, imported in packages not for direct sale retail to the public, per lb.	1	0	0			Nil
32. Pistols and Revolvers, each..... (and in addition 15 per cent. <i>ad valorem</i>)	0	5	0			” 3% <i>ad valorem</i>
33. Potatoes, not preserved, per 100 lbs....	0	2	0	0	0	2
34. Soap, soap powders, and extracts, per 100 lbs..... (or 25 per cent. <i>ad valorem</i> , whichever shall be the greater). (<i>Vide Article 18.</i>)	0	4	9	0	0	7 (Or 3 per cent. <i>ad valorem</i> , as the case may be.)
35. Spices and Turmeric, per lb.....	0	0	2¼	0	0	0¼
36. Spirits :—						
(a) Perfumed, per Imperial gallon....	1	2	6			Nil
(b) Liqueurs, cordials, and mixed spirits, exceeding 3 per cent. of proof spirit, per Imperial gallon...	1	0	0			”
(c) Other sorts, exceeding 3 per cent. of proof spirit, per Imperial proof gallon.....	0	19	0			”

Note.—No allowance will be made for underproof in excess of 15 per cent.

Note.—Medicinal and toilet preparations and essences (liquid) and syrups and tinctures containing over 3 per cent. of proof spirit to be classed as spirits under item (b).

(Note.—*Vide Article 16.*)

	DUTY.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.		
	£	s.	d.	£	s.	d.
37. Sugar:—						
(a) Candy, loaf, castor, icing, and cube, per 100 lbs.....	0	5	0	Nil.		
(b) Other kinds, including golden and maple syrup, molasses, saccharum, and treacle, per 100 lbs.	0	3	6	„		
(c) Saccharine and other sweetening substances in a concentrated form, per lb.....	1	0	0	„		
Note.—In the case of sugar upon which bounties are granted in the country of origin, an additional duty equal to the amount of such bounty is to be levied.						
38. Tea, per lb.....	0	0	4	„		
39. Tobacco:—						
(a) Cigars and cigarillos, per lb..... (and in addition 15 per cent. <i>ad valorem</i>)	0	6	0	„		
(b) Goorak, or gooracco, and hookah mixture, and all imitations or substitutes therefor or for tobacco, per lb.....	...			„		
(c) Snuff, per lb.....	0	6	0	„		
(d) Cigarettes, per lb..... (and in addition 15 per cent. <i>ad valorem</i>)	0	4	0	„		
(e) Manufactured, per lb.....	0	4	6	„		
(f) Unmanufactured, per lb.....	...			„		
40. Vinegar:—						
(a) Of standard strength, fit for immediate use as such (<i>i.e.</i> , requiring no more than 40 grains of bicarbonate of potash to neutralise 1 oz. troy):						
(1) in bottles or other vessels of the capacity of not						

	DUTY.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.		
	£	s.	d.	£	s.	d.
more than one Imperial quart, per Imperial gallon	0	1	1	0	0	1
(2) In larger vessels or in bulk, per Imperial gallon.....	0	0	7	0	0	1
(b) Concentrated extract or essence of greater strength than above, per Imperial gallon.....	0	3	3	0	0	3
41. Wine :—						
(a) Still wines, not exceeding 20 per cent. of proof spirit, per Imperial gallon.....	0	4	0	Nil		
(b) Still wines, exceeding 20 per cent., but not exceeding 50 per cent. of proof spirit, per Imperial gallon	0	8	0	„		
(c) Sparkling wines, per Imperial gallon..... (and in addition 15 per cent. <i>ad valorem</i> on all the above classes of wine)	0	12	6	„		
Note.—Wines containing less than 3 per cent. of proof spirit are not included in the above, and wines containing more than 50 per cent. of proof spirit are classed as spirits.				„		
General Note.—24 reputed half-pints, 12 reputed pints, 6 reputed quarts, and 4 reputed Imperial quarts to be deemed to be not less than 1 gallon.				„		
Tins, jars or other receptacles of reputed weight to be deemed to be not less than such weight.						
Reputed 12 oz., 14 oz., and 16 oz. packets of candles to be deemed to be of those weights respectively.						
Cement in packages of not less than 350 lbs., and not more than 400 lbs., to be deemed to be 400 lbs.						

	DUTY.	Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.
<p>Packages of flour or wheaten meal containing not less than 90 lbs., and not more than 100 lbs., to be deemed to be 100 lbs.</p> <p>Oils, mineral, illuminating, and burning, in ordinary reputed two 5 American gallon or ten 1 American gallon tins to be deemed to be not less than $8\frac{1}{3}$ Imperial gallons, and two 4 reputed Imperial gallon tins to be deemed to be not less than 8 Imperial gallons.</p> <p>“Proof” means the strength of proof as ascertained by Sykes’ hydrometer.</p>	<p>£ s. d.</p>	<p>£ s. d.</p>

CLASS II.

MIXED RATES.

	£	s.	d.
42. Boots and Shoes, per £100	15	0	0
With a minimum per pair of—			
Men’s	0	0	9
Women’s	0	0	6
Children’s	0	0	3
43. Printed matter:—			
(a) Advertising, including catalogues, price lists, almanacs, calendars, labels, posters, and show cards, per £100	25	0	0
Or 2d. per lb., whichever shall be the greater.			
(b) Account and cheque books, printed stationery and forms, company reports, scrip, share certificates and promissory notes, cards (Christmas, New Year,			

birthday, post, and pictorial), directories, guide books and handbooks relating to South Africa, and boxes, cardboard, and bags, paper, printed upon, per £100 25 0 0

44. Vehicles :—

- (a) Carriages, carts, coaches, and wagons, and finished parts thereof not elsewhere enumerated, per £100 25 0 0
- (b) Second-hand carriages, carts, coaches, and wagons, per vehicle... 10 0 0

And in addition 15 per cent. *ad valorem*, but in no case shall the duty be less than 25 per cent. *ad valorem*.

(Note.—Not including motor cars or cycles.)

3 per cent. *ad valorem* will be rebated under Article 3 of the Convention on all Articles in this class.

CLASS III.

25 PER CENT. *ad valorem*.

45. Beverages :—

- (a) Waters : aerated, mineral and table.
- (b) Fruit juices, cordials and syrups, not elsewhere enumerated.
- (c) All other kinds not exceeding 3 per cent. of proof spirit.

46. Biscuits, cakes, puddings and pastry.

47. Blankets and sheets, or rugs, cotton or woollen, or manufactures of cotton and wool commonly used as cotton or woollen blankets or rugs, and cotton quilts, the single article in pairs or in the piece ; and coats, jackets or other apparel made of blanketing or baize, not elsewhere enumerated.

48. Bon-bons, surprise packets and crackers, and fancy confectionery.

49. Bricks, except bath.

50. Extracts and essences of all kinds, for food, flavouring or perfumery, not elsewhere enumerated, including concentrated soup.

51. Fireworks of all descriptions.

52. Harness and saddlery, not including riding saddles.

53. Medicinal preparations, not elsewhere enumerated, other than pills imported in packages not for direct sale retail to the public, when prepared by any secret or occult art and recommended to the public under any general name or title as specifics for any diseases or affections whatsoever affecting the human or animal bodies.
54. Oils, essential or perfumed, including eucalyptus.
55. Perfumery, cosmetics, dyes, powders and other preparations for toilet use, not elsewhere enumerated.
56. Shawls and shawling, and loin cloths, whether in the piece or not.

Note.—3 per cent. *ad valorem* will be rebated under Article 3 of the Convention on all articles in this class.

CLASS IV.

3 PER CENT. *ad valorem*.

57. Ambulance materials, imported by recognised associations, corps, or hospitals, lawfully established for instruction or drill in first aid to the wounded.
58. Ammonium : anhydrous, carbonate, chloride (sal-ammoniac) and nitrate : in bulk.
59. Asbestos packing and boiler compositions.
60. Assay apparatus and assay mabor.
61. Bands and belting of all kinds for driving machinery, boiler tubes, bolting cloth and mill silk.
62. Barytes and pumice : in bulk.
63. Battery cloth and baize, gauze, matting, sieving and screening, for use in connection with machinery and apparatus, including brattice cloth, but not including cocoanut matting.
64. Bolts, nuts, rivets, screws, nails and washers, and brass and iron tips and caps for boots and shoes.
65. Book-binders' requisites, consisting of boards, cloths, leather, marble paper, skin, thread, tape, vellum, webbing, wire, gold and silver leaf, parchment, imitation leather, binders' paper, and cardboard and linen board.
66. Bottles and jars of common glass or earthenware, and bottles ordinarily used for aerated waters : empty.
67. Brass and copper, and composition metal : in bars, ingots, plates and sheets ; plain including perforated, but otherwise unmanufactured.
68. Calcium : carbonate, caustic, chloride, chlorate, bi-sulphite : in bulk.
69. Carbonic acid gas.
70. Cement, liquid, for tube mills.
71. Chains for hauling.
72. Chimneys : metal (smoke stacks).
73. Collodion cotton and glycerine and kieselguhr : in bulk for manufacturing purposes.

74. Confectioners' requisites, namely, glucose, moulding starch, gelatine and unsweetened desiccated cocoanut : in bulk.
75. Corks and bungs, and cork wood unmanufactured.
76. Cranes, elevators and shears.
77. Crucibles, cupels, cupelling furnaces, graphite, ingot moulds, retorts and furnaces for roasting minerals.
78. Cyanide of potassium and of sodium; sulpho cyanide of potassium, sodium and calcium.
79. Disinfectants : in bulk, provided they are of a standard approved by the various Governments of the Union.
80. Emery : in bulk, emery cloth and paper, emery wheels.
81. Felt, rubberoid, uralite, and similar substances for building purposes.
82. Fire clay and Terra Alba.
83. Fire escapes and fire extinguishing appliances and apparatus.
84. Fruits, fresh or green, including cocoanuts.
85. Glue : in bulk.
86. Gypsum (sulphate of lime or plaster of paris) : in bulk.
87. Hair-cloth and springs for furniture.
88. Hops.
89. Hose : conveying.
90. Hubs, rims, spokes, felloes, shafts, tent bows and poles, cut or fashioned, not finished, except when for wagons and carts commonly used for the conveyance of goods.
91. India rubber, unmanufactured.
92. Iron and steel :—
 - (a) Rough and rolled but otherwise unmanufactured.
 - (b) Plain, perforated, galvanized and corrugated sheets.
 - (c) Angle, bar, channel, hoop, rod, plate, H, T, and similar iron or steel, not perforated or put together or worked up in any way for structural or other purposes : not elsewhere enumerated.
93. Jacks, screw and hydraulic.
94. Launches, tugs and lighters ; provided that when condemned or landed to be broken up duty shall be paid at the Customs on the hull and all fittings, according to the tariff that may then be in force.
95. Lead : bar, pipe, sheet, foil, and acetate of.
96. Leather : patent, enamelled, roan and morocco, and pig skin in the piece, and valve hide.
97. Lifts : power, including the gates.
98. Machinery :—
 - (a) Machinery, apparatus, appliances and implements (not including material, vehicles, mechanics' tools, domestic machines, or harness) for agricultural, manufacturing, mining, book-binding, printing, and other industrial purposes.

- (b) Machinery, apparatus, appliances, implements and electrical material used in connection therewith, for the generation, storage, transmission, distribution of, and lighting by, gas or electric power, but not including electroliers, hand lamps or fancy fittings.
99. Magnesium Sulphate : in bulk.
 100. Metal of all sorts in bars, blocks, ingots, and pigs for founding, not elsewhere described.
 101. Metal shaft sets and rails, buckets, skips, trucks and tubs, wheeled or otherwise, for hauling on rails or wires.
 102. Packing and lagging for engines, machinery, piping and buildings.
 103. Paper : all plain paper in its original mill ream, wrapper or reels, not less in size than 16 inches by 15 inches, not including feint or ruled papers or blotting, brown, cartridge, drawing, manifold, packing or tissue papers.
 104. Pipes, piping and tubes of all kinds for gas, steam, drainage, sewerage, irrigation, water supply or pumping, including meters, cocks and taps, but not including grids, manhole covers and fittings, surface boxes, down-piping and guttering.
 105. Potassium and sodium : carbonate, bi-carbonate, caustic and silicate, chlorate, chloride, bi-chromate, permanganate, red and yellow prussiate of : in bulk.
 106. Presses : wool, hay, straw and forage.
 107. Printing, lithographic and ruling inks, roller composition and stamping colours and printers' bronze.
 108. Railway construction or equipment requisites, as follows :—
 Rails, sleepers, fastenings for rails or sleepers, girders iron bridge-work, culvert tops, locomotives, tenders, ballast trucks, goods wagons, carriages, trolleys, engine water-tanks, turn tables, permanent or fixed signals, weigh-bridges and railway lamps.
 109. Resin : in bulk.
 110. Saddle-trees.
 111. School furniture and requisites : being all articles certified by the Superintendent-General of Education, or any official appointed for that purpose in any Colony or Territory in the Union to be for use in any school.
 112. Sheep-dip, sheep-dipping powders, materials suitable only for dip and dipping tanks.
 113. Slates for roofing.
 114. Sprayers and sprinklers and other apparatus for destroying pests or diseases in stock, plants or trees.
 115. Springs, axles, steps and other metal parts not ordinarily made in the Union, for carts, carriages, coaches and wagons.
 116. Staves, not worked further than roughly fashioned.

117. Substances for destroying pests or diseases in stock, plants or trees, sulphate of copper, arsenic and arsenious acid, arseniate of soda : in bulk.
118. Tanks and vats, suitable and intended for mining purposes, and substructures for the same.
119. Telegraphs and telephones : materials and instruments for use in construction and working of telegraph and telephone lines.
120. Thread : boot and shoe makers', saddlers' and sailmakers', and seaming twine and binding twine and harvest-yarn.
121. Tin and zinc : bar, plate or sheet : plain or perforated, but otherwise unmanufactured.
122. Traction engines, power lorries and trailers for the same, stone crushers, steam rollers and street sweeping machines.
123. Tramway construction and equipment requisites as follows:—
Rails, sleepers, fastenings for rails or sleepers, iron gates, girders, iron bridge-work, culvert tops, cars, trolleys, water-tanks, and turn tables.
124. Vegetables, fresh or green, but not including garlic, potatoes or onions
125. Water-boring and pumping apparatus, and pumps, not including beer pumps.
126. Wire and wire-netting for fencing : droppers, gates, hurdles, posts, standards, strainers, staples, stiles, winders, and other materials or fastenings of metal ordinarily used for agricultural or railway fencing ; and baling wire.
127. Wire for making mattresses.
128. Wire rope.
129. Wood :—
(a) Unmanufactured.
(b) Ceiling and flooring boards : planed, tongued and grooved.

Note.—The whole of the duties upon this class will be rebated under Article 3 of the Convention.

CLASS V.—FREE.

130. All raw produce of South Africa, and animals bred in South Africa imported into the Union overland.
131. All animals bred and articles grown, produced or manufactured within the Union, except :—
Spirits, beer or blasting compounds, distilled or manufactured within the Union, in case of the imposition of a duty or the prohibition of manufacture for sale.
(*Vide* Article 16 of the Convention.)
132. Animals, living, not elsewhere enumerated.
133. Appointments and uniforms for the military, naval, volunteer or other (Imperial or Colonial) forces of His Majesty.

134. Atlases, charts, globes and maps.
135. Bags (not including paper bags) for flour, grain, manure, local manufactures, produce, sugar, wool, coal and minerals, and bagging and sacking in the piece.
136. Band instruments and stands, the *bona fide* property of any military, naval or volunteer corps, and not the property of individuals.
137. Bones, feathers, grass, ivory, hair, hoofs, horns, moss, shells, skins, teeth, wool and other parts of animals, birds, fishes or reptiles, not being manufactured, polished or further prepared than dried or cleaned, but in their raw and unmanufactured state.
138. Books and music, printed, including newspapers and periodicals, not being foreign unauthorised prints of any British or South African copyright work, the importation of which is prohibited, not being advertising matter elsewhere enumerated.
139. Borax, bromine, litharge, manganese dioxide and quicksilver : in bulk.
140. Bottles and jars of common glass or earthenware, imported full of any article liable to a rated duty only.
141. Bullion (in the bar or sheet), coin, specie, bank notes and other paper currency.
142. Carriages, carts, wagons and other wheeled vehicles, the manufacture of South Africa, imported into the Union overland.
143. Church decorations, altars, bells, fonts, lecterns, pulpits, organs, plate or vestments, and illuminated windows, imported by or for presentation to any religious body.
144. Coir, candle wick, cotton, flax, fibre, flock, hemp and jute : raw, waste or unmanufactured.
145. Consular uniforms and appointments, and printed official consular stationery.
146. Cork dust, paper shavings, sawdust, husks and other waste substances, intended and suitable for use only as packing material.
147. Cups, medals and other trophies imported for presentation as prizes at examinations, exhibitions, shows or other public competitions, for excellence in art, bravery, good conduct, humanity, industry, invention, manufactures, learning, science, skill or sport, or for honourable or meritorious public services, or rifle shooting by Imperial or Colonial forces or recognised rifle associations, not being for the purpose of advertisement : provided that such articles shall on importation or delivery free from the Customs bear engraved or otherwise indelibly marked on them the occasion or purpose for which presented.
148. Diagrams, designs, drawings, models and plans.

149. Diamonds and other gems, or precious stones, in their rough state.
150. Dye nuts, gambier, myrobalans, sumach, valonia, and dye-stuffs for leather; and alum.
151. Engravings, lithographs and photographs, not including enlargements or reproductions of photographs, and not being labels or advertisements elsewhere enumerated.
152. Fish fry and ova.
153. Fish: fresh, dried, cured, or salted of South African taking and raw oil from fish of South African taking.
154. Guano and other substances, animal, mineral or vegetable, artificial or natural suitable for use as fertilisers or manures.
155. Ice.
156. Life boats, belts and buoys, and other life saving apparatus imported by any recognised Society.
157. Marble in the rough or sawn.
158. Nitrates except nitrate of ammonium, for manufacturing purposes or for fertilisers: in bulk.
159. Oils: palm, palm kernel, cotton seed: in bulk.
160. Paintings, pictures, picture books and etchings, not being advertisements or labels elsewhere enumerated.
161. Platinum, chloride of.
162. Public Stores, imported or taken out of Bond by, and *bona fide* for the sole and exclusive use of, the Government of His Britannic Majesty, and of any Government belonging to the Union, provided that a certificate be delivered to the Customs authorities given under the hand of an officer approved by the Principal Officer of Customs, setting forth that any duty levied on such public stores would be borne directly by the Government: and provided further that no portion of such stores used or unused shall be sold or otherwise disposed of so as to come into possession of or into consumption by any persons not legally entitled to import the same free of duty, without the consent of the Principal Officer of Customs and the payment of the duties to him by the officer so selling or disposing of such public stores at the rate leviable at the date of sale.
163. Rattans, cane and bamboo: unmanufactured.
164. Sculpture, being original works of art.
165. Seeds, bulbs, plants and tubers, for planting or sowing only, not including edible kinds or fodder.
166. Specimens illustrative of natural history and exhibits for public museums or scientific purposes, and antiquities for the same purposes.
167. Stone linings and pebbles for tube mills.
168. Sulphur: in bulk.

169. Sulphurous Anhydride.
 170. Tallow.
 171. Tobacco, the produce of South Africa, imported into the Union overland.
 172. Vaccine virus, toxin and serum.
 173. Wax : viz. :—paraffin and stearine, and stearine grease, ordinarily used in the manufacture of candles or explosives.
 174. Wood meal and wood pulp.

CLASS VI.

GENERAL *ad valorem* RATE.—15 PER CENT.

175. All goods, wares, and merchandise not elsewhere charged with duty, and not enumerated in the Free List, and not prohibited to be imported into the Union, shall be charged with a duty of 15 per cent. *ad valorem*.

NOTE : 3 per cent. *ad valorem* will be rebated under Article 3 of the Convention.

No. 2—1906.]

[June 29th, 1906.

ACT

To Apply a further Sum not exceeding Three Hundred and Thirty-six Thousand Six Hundred and Eighty-three Pounds Sterling for the Service of the Year ending 30th June, 1906.

[Assented to 29th June, 1906.]

Preamble.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending the 30th June, 1906, in addition to the sum provided by Act 31 of 1905 : Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof as follows :—

Public Revenue charged with £336,683.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending on the 30th June, 1906, with a further sum of Three Hundred and Thirty-six Thousand Six Hundred and Eighty-three Pounds Sterling, in addition to the sum provided for by Act 31 of 1905.

How to be applied

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

Short Title.

3. This Act may be cited for all purposes as the "Additional Appropriation 1905-1906 Act, 1906."

SCHEDULE.

ADDITIONAL APPROPRIATION. 1905-1906.	Establish- ments.	Services exclusive of Estab- lishments.	Total.	Votes to be taken.
	£	£	£	£
I. PRIME MINISTER ...	287	5,951	6,238	6,238
II. COLONIAL SECRETARY	1,555	99,461	101,016	101,016
III. TREASURER	6,081	144,731	150,812	150,812
IV. ATTORNEY-GENERAL	9,877	774	10,651	10,651
V. COMMISSIONER OF PUBLIC WORKS ...	4,101	40,618	44,719	44,719
VI. SECRETARY FOR AGRI- CULTURE	1,495	21,752	23,247	23,247
Grand Total	£ 23,396	313,287	336,683	336,683

No. 3—1906.]

[July 2nd, 1906.

ACT

To Provide for depositaries for Private Bill Documents required to be deposited in accordance with the Standing Rules and Orders of either House of Parliament.

[Assented to 2nd July, 1906.]

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

Preamble.

1. In the interpretation of this Act the following terms shall have the meanings herein respectively attached to them:

Interpreta-
tions.

Document shall mean any map, diagram, plan, section, book, writing or extract therefrom.

Depositary shall mean any person, being an officer in the Civil Service, designated as such for the purpose of this Act and in the manner provided for therein.

Depositor shall mean any person whose duty it is in accordance with the Standing Rules and Orders of either House of Parliament to deposit documents, or the agent of such person.

2. It shall be lawful for the President of the Legislative Council or for the Speaker of the House of Assembly, as the case may be, to designate, by means of a notice in the *Gazette*, any person, being an officer of the Civil Service, as the depositary of all documents required in pursuance of Standing Rules and

Designation
of Deposita-
ries.

Orders to be deposited in relation to any Private Bill of the intention to introduce which into Parliament due public notice has been given.

Duties of Depository.

3. As often as any depositor presents any documents to any depository designated as aforesaid, it shall be the duty of such depository to take charge of and to give to the depositor a receipt for the same in the form prescribed by the Standing Rules and Orders. The depository shall make due provision for the care and custody of such documents, and he shall for a reasonable time during office hours and on the payment of the fees herein after named, permit interested persons to inspect such documents or to make copies of them wholly or in part.

Fees.

4. A fee of two shillings and sixpence shall be payable by every person inspecting or copying such documents wholly or in part, and, in addition to such fee, a further sum of one shilling shall be payable by such person for every hour during which such inspection may continue after the first hour.

Penalty.

5. Neglect or refusal to carry out the provisions of this Act will be deemed to be a contempt of Parliament in addition to the contempts and offences enumerated in section 7 of Act No. 13 of 1883, and shall render the offender liable to be dealt with as the Standing Rules and Orders aforesaid provide.

Short Title.

6. This Act may be cited as "The Private Bill Documents Deposit Act, 1906."

No. 4—1906.]

[July 2, 1906.

ACT

To apply a Sum not exceeding One Million Pounds Sterling towards the Service of the Year ending 30th June, 1907.

[Assented to 2nd July, 1906.]

Preamble.

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

Revenue charged with £1,000,000 towards service of year ending 30th June, 1907.

1. The Public Revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending 30th June, 1907, with a sum not exceeding One Million Pounds Sterling (1,000,000), which sum shall be applied towards the service of the said year in conformity with the Estimates of the Expenditure for the year ended the 30th of June, 1906, which have been presented to Parliament.

Short Title.

2. This Act may be cited for all purposes as "The Appropriation (part 1906-07) Act, 1906."

No. 5—1906.]

[July 31, 1906.]

ACT

To confer certain enlarged powers upon The
Kimberley Waterworks Company Limited.

[Assented to 27th July, 1906.]

WHEREAS under the provisions of the Griqualand West Ordinance No. 12 of 1880, the Kimberley Waterworks Company Limited was vested with certain powers for the purpose of supplying water to the Division of Kimberley from the Vaal River.

Preamble.

And whereas it is desirable to confer upon the said Company certain enlarged powers for the purpose of assuring a permanent supply of such water to the said division.

And whereas it is expedient therefore that the said Company should be empowered to construct a weir or dam upon and across the said river and for the purposes thereof, to take and acquire land and materials.

And whereas it is desirable that the said Company should be empowered to cleanse, clear and remove obstructions from the bed of the said river, and to divert certain road and drift or crossing likely to be affected by the construction of the said weir, and to substitute others in place thereof.

And whereas it is further desirable that the said Company should be empowered to erect and maintain gauges in the said river.

And whereas it is also expedient that the penalties imposed by The Kimberley Waterworks Company Limited, Ordinance No. 12 of 1880 be made applicable for injuring or obstructing the proposed Works; and that the Resident Magistrate's Court for the District of Kimberley have jurisdiction over all such offences.

And whereas the said Company have deposited plans and sections of the proposed works and diversions with the Clerk of the House of Assembly.

Be it hereby enacted by the Governor of the Cape of Good Hope with the advice and consent of the Legislative Council and House of Assembly thereof.

1. The Kimberley Waterworks Company Limited, hereinafter called the Company, its successors and assigns, are empowered to construct, raise, repair and maintain on the Vaal River on the up stream side of the place known as De Hoop Drift, at the site indicated on Nos. 1 and 2 of the said plans or within the limits of deviation shown thereon, a weir or dam not exceeding six feet in height above the datum line of the said plans.

Company
empowered to
construct a
weir on Vaal
River.

2. The Company is further empowered to enter upon, take possession of, use and acquire all such lands and to erect thereon such buildings, machinery and other appurtenances, and to dig

Lands and
materials
may be taken
subject to
compensa-
tion.

for, excavate, take and carry away all such stones, gravel, clay, earth or other materials belonging to any person on either bank or in the bed of the said river, as may be necessary for the exercise of the powers granted by the provisions of the preceding section: Provided, however, that the Company shall pay to such person such compensation as shall be mutually agreed upon or as in the absence of mutual agreement shall be determined by arbitration in manner provided by the "Lands and Arbitrations Clauses Act, 1882."

Company to have access to weir and gauges.

3. The Company shall at all times by themselves, their engineers, contractors, workmen, agents and servants with or without carts, wagons, vehicles and conveyances have free access to the site of the weir or dam aforesaid and to the gauges or other appliances hereinafter mentioned, for the purpose of constructing, raising, repairing, or maintaining the same or for the purpose of taking observations or for any other purpose.

Cleansing and removing obstructions from river bed.

4. The Company is empowered at all times when it shall deem necessary to clear, cleanse and remove obstructions from the bed of the said river at the site of the said weir or dam, and along its course on the up stream side thereof up to the proposed new drift in the next section mentioned.

New Drift to be constructed in place of Snyders Drift.

5. The Company is empowered to close the drift or crossing on the said river known as Snyders Drift, but shall construct to the satisfaction of the road authorities concerned on the up stream side thereof at the site indicated in Nos. 1 and 5 of the aforesaid plans, or within the limits of deviation shown thereon, another drift or crossing and shall divert thereto the roads at present leading to the first mentioned drift or crossing, also in a manner satisfactory to the road authorities concerned.

Power to erect gauges.

6. The Company is empowered to erect and maintain in or along the said river gauges or other appliances for the purpose of measuring the flow of the water therein.

Impounded water not to be used for irrigation purposes, outside certain limits.

7. It shall not be lawful for the Company to use or to dispose of the water impounded under the powers granted by this Act for irrigation purposes outside any Municipal limits, Village or Mining areas, in the Division of Kimberley. This prohibition shall not extend to:

Exceptions.

- (a) Land owned and irrigated by the Company at the date of the taking effect of this Act.
- (b) Agricultural allotments or gardens supplied with water by the Company prior to the date of the taking effect of this Act.
- (c) Water supplied for domestic or residential purposes to consumers outside such limits or areas.

Penalty Clause R.M. jurisdiction.

8. The provisions of the section numbered XX of the Griqualand West Ordinance, No. 12 of 1880, shall apply to the works contemplated by and the buildings, gauges, machinery, and other appurtenances or appliances erected under the pro-

visions of this Act as if the same had been mentioned in the said Ordinance, and all offences hereunder shall be cognizable and triable as in section XXIV of the said Ordinance provided.

9. This Act may be cited for all purposes as “The Kimberley Waterworks Company Limited Enlarged Powers Act, 1906.”

No. 6—1906.]

[July 31, 1906.

ACT

To Enable the Mayor, Councillors and Burgesses of the Borough of King William's Town to obtain an additional supply of water from the Buffalo River, in the Division of King William's Town, and for other purposes.

[Assented to 30th July, 1906.]

WHEREAS it is desirable that the supply of water to the inhabitants of the Borough of King William's Town should be supplemented, and that provision should be made for the supply of water to the inhabitants of the Village of Izeli and to such other person or persons residing outside the limits of the Municipality along the pipe track of the works authorised by this Act who may be desirous of taking such supply and who can conveniently be supplied by the Council of such Municipality from the works aforesaid; and whereas the Borough Council have caused surveys to be made and are advised that such supply can be obtained by impounding water in and taking the same from the Buffalo River at a point in the Pirie Forest within the Division of King William's Town; and whereas it is expedient and necessary that the Mayor, Councillors and Burgesses of the Borough of King William's Town should be authorised to construct and maintain such reservoirs, lines of pipes, and other waterworks as may be necessary for impounding such water and for the purpose of conveying the same to the Borough and elsewhere for distribution; and whereas it is expedient that necessary powers and rights over Crown and other lands in the vicinity of the waterworks and the sources of water supply and in connection with the supply of water and its protection from pollution and with regard to regulating the supply of water to those entitled to the same should be conferred upon the said Borough Council; and whereas it is expedient that the Council should be authorised to borrow sums not exceeding in all £65,000 for the purposes of defraying the costs of the works aforesaid and that they be authorised to levy special rates for the purpose of defraying the interest on all sums so borrowed and for providing a sinking fund

5040 THE KING WILLIAM'S TOWN ADDITIONAL WATER
SUPPLY ACT, 1906.

No. 6—1906.

for the redemption of the sums borrowed; and whereas plans and sections of the works proposed to be constructed have been deposited with the Clerk of the House of Assembly; Be it enacted by the Governor of the Cape of Good Hope by and with the advice and consent of the Legislative Council and the House of Assembly, in the manner following, to wit:

Interpreta-
tion Clause.

1. In this Act unless the context otherwise requires:—

The word "Borough" means the Borough of King William's Town.

The word "Council" means the Council of the Borough of King William's Town.

The word "Town Clerk" means Town Clerk of King William's Town.

The word "waterworks" includes reservoirs, dams, cisterns, tanks, embankments, filter beds, settling pools, aqueducts, cuts, sluices, mains, pipes, stand pipes, valves, junctions, intakes, weirs, outfalls, discharge pipes, culverts, bridges, roads, approaches, ways, gauges, meters, engines, lands, buildings, erections, and things for supplying or used in connection with the supply of water.

The expression "deposited plans" means the plans deposited with the Clerk to the Honourable the House of Assembly in terms of the standing rules and orders of the House of Assembly.

The word "person" shall include any company or corporate body.

Power to
take water
from the Buf-
falo River and
to make com-
pensation to
those entitled
thereto.

2. Subject to the provisions of this Act the Council may from time to time appropriate, take, collect, impound, divert, and convey from the Buffalo River in the division of King William's Town at and above the place indicated on the deposited plans, viz., a spot in the Pirie Forest above Haynes' Farm on Crown land an adequate supply of water for the inhabitants of the Borough and for Municipal purposes and also for such of the inhabitants of the Village of Izeli and such other persons residing outside the limits of the Municipality along the pipe track of the waterworks who may desire such a supply and can be conveniently supplied by the Council.

And for the purpose of enabling them so to do it shall and may be lawful for the Governor of this Colony as he is hereby authorised to give and grant to the said Council in full and free property on such conditions as may be agreed upon all such Government land as may seem to him desirable upon which the said Buffalo River takes its rise or all such Government land as is situated at or immediately adjoining the point on the said river from whence it is intended that such supply shall be so taken, impounded, diverted, appropriated and conveyed. Provided, however, that if such taking, impounding, diversion, appropriation or conveyance shall deprive any person of any water or any

right of water which he may at the time of taking effect of this Act possess or be entitled to in reference to the said Buffalo River or in any way interfere with or lessen such water or right to water such person shall be entitled to recompense or compensation to be settled in case of difference as hereinafter mentioned. Provided that the Council shall have the right to purchase any property or properties in respect whereof any such water or right of water is enjoyed instead of and in lieu of compensation where it shall be so mutually agreed between the Council and the person or persons deprived of such water or right of water. Provided further that no person to whom any Government land shall be sold or leased after the passing of this Act shall thereby acquire any water or right of water for the interference with or lessening of which by the works hereby authorised he shall be entitled to claim any recompense or compensation.

3. The said Council is hereby empowered to construct and make according to deposited plans and maintain all such works as may in the opinion of the said Council be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking or conveying the said water, whether by reservoirs, dams, water courses or leadings, pipes, conduits, drains, ditches or other means, and to erect such buildings and accessories as may be deemed requisite for the purpose of the said works and for securing an adequate supply of water as aforesaid, and is further empowered to extend the works so as to increase their capacity for conveying the said water to the said Borough.

Power to construct necessary works for securing water supply.

4. Subject to the provisions of this Act the Council may divert the water so collected and impounded, and convey the same by a line or lines of pipes and other waterworks to the Borough and elsewhere within the lines of deviation shown on the deposited plans and may construct such distributing reservoirs, filter beds and other waterworks and accessories necessary in the opinion of the Council to carry out the terms and purposes of this Act or give effect thereto.

Construction of pipes and other water works authorised.

The line of pipes will leave the dam on Crown lands, thence through the properties of the following:—W. E. Haynes, Willie Willet, Henry Bran, the Quesha Location, August Friedrich Luck, August Friedrich Tessorf, Gustave Hoft, Izeli Commonage, and finally connecting with the 10 inch main of the existing water supply at a point close to the Buffalo River on Ernest Friedrich Zietzkes property immediately south of the Braunschweig Village area on the Izeli Commonage, along the present pipe line to the existing high level reservoir, branching off therefrom in a fresh line of pipes through filter beds to a service reservoir to be constructed about five hundred yards above the present High Level Reservoir on the Borough Commonage and from thence to connect with the existing town mains.

5042 THE KING WILLIAM'S TOWN ADDITIONAL WATER
SUPPLY ACT, 1906.

No. 6—1906.

Buffalo
River catch-
ment area de-
fined.

5. The area in and near the Buffalo River shown on the deposited plans and contained within a boundary line passing along the ridge of mountains running from Little Mount Kemp at the N.E. corner westerly and southerly to and along the ridge dividing the Gwili Gwili water shed from the Buffalo water shed along the Kabula Ridge to old Fort Evelyn, thence in an easterly direction through the site of the proposed dam to the intersection of the ridge dividing the Cwencwe water shed from the Buffalo water shed, thence along such ridge in a northerly direction back to Little Mount Kemp, and being in its entirety the Evelyn Valley, is hereby defined and declared to be the catchment area of the Buffalo River.

Power to
take land and
materials for
carrying on
works.

6. The Council is hereby empowered to enter upon, occupy, enclose, take and use for the purposes of this Act any land belonging to His Majesty the King commonly called "Crown Lands," or any land set apart as Commonage Lands for any place or village not being a Municipality at the time of the passing of this Act, and also to enter upon, occupy, enclose, take and use any land, the private property of any person or persons whomsoever which may be required for the purpose of this Act, and may agree as hereinafter provided for the purchase or hire of such private land, or may take, carry away, or use for the purposes of the said works any stone, clay, gravel or other material requisite for carrying out the said water works, and may break up or excavate any land for the purpose of laying down, repairing, inspecting, maintaining, removing or otherwise dealing with any reservoir or reservoirs, pipe or pipes, or other works, and may either compensate the owners of such lands as hereinafter provided or enter into any contract relative to obtaining such lands or materials or for laying down any pipe or pipes or other works upon such terms and conditions as may be mutually agreed to.

Power to
take lands to
protect source
of water.

7. It shall be lawful for the said Council to acquire and take possession in the manner hereinbefore and hereinafter provided of any land situate in the Catchment Area aforesaid whether belonging to His Majesty the King commonly called "Crown Lands" or land set apart as Commonage aforesaid, or land belonging to private persons that may be required for the purpose of protecting the sources of supply from whence the water may flow into the reservoirs, dams, places or place where the said works may take off the said water of the said River.

Entry on
Crown lands,
Governor's
sanction.

8. The power relative to Crown land, including any native or other Reserve or Commonage vested in the Crown, conferred by the two preceding sections of this Act shall be exercised only with the previous sanction of the Governor who may impose such conditions and limitations as to extent or otherwise and as to the payment of reasonable compensation in respect of any interference with rights, privileges or interests of natives or others occupying any such Crown land as to the Governor may seem necessary.

9. Nothing in this Act shall be construed as entitling the Council to exercise any of the powers conferred therein upon, over or under any land vested in the Colonial Government and reserved for Forest purposes except with the written consent of the Chief Conservator of Forests first had and obtained under such reasonable conditions and terms as may be imposed by him. All works carried out and things done in pursuance of this Act, under, upon or over such Government property, shall be carried out and done under the supervision of an officer to be appointed by the Chief Conservator of Forests therefor and at the Council's expense.

And consent for Chief Conservator of Forest Land.

10. The said Council are hereby further empowered to lay down pipes or construct conduits under or along any public road or street or under or along any ground set apart in the diagram or conditions of sale of any sale of land as a street or thoroughfare without making or being liable to make any compensation in respect thereof.

Power to lay pipes in thoroughfares without compensation.

11. It shall be lawful for the said Council at all times by themselves, their engineers, contractors, or workmen and with or without wagons, carts or carriages or other vehicles, horses or animals and with or without all implements, materials and machinery as may be requisite and necessary to have free access and right of way to, over, and along the line of works and to and from all other property of the said Council acquired or to be acquired under the provisions of this Act for the purpose of inspecting, adding to, repairing, relaying or supervising the said works or for any other purpose whatsoever that may be deemed expedient by the said Council in or about carrying out the purposes of this Act. Provided however that such right of way, except where absolutely necessary, shall in no case exceed a space of six feet on each side of the line of works.

Right of way over lands.

12. The Council is hereby further authorised and empowered to construct, maintain and work for the purposes of the said waterworks and for no other purposes a telegraph and telephone line or either of them along or near the said line of works, subject to the provisions of Act No. 20 of 1861 or any law amending or extending the same and to any regulations from time to time made under the provisions of such Acts.

Power to construct telephone and telegraph for said waterworks.

13. The Council shall have power to enter into any contract or contracts with any person for the performance of the whole or any portion of the works authorised by this Act.

Power to enter into contracts for construction of works.

14. Any person or persons from whom any water or right of water, land, or any stone, gravel, or other material, may be required to be taken for the purposes of this Act, shall be bound and obliged to send in to the Town Clerk of the said Council his, her, or their claim or claims for the purchase amount, hire, recompense or compensation which he, she, or they shall claim to be entitled to for such water or right of water, land, or any

Mode of acquiring lands and materials.

stone, gravel, or other material required, or taken, or which shall be required or taken for the purpose of this Act, within twelve months after any such taking as aforesaid, and for that purpose necessary plans, specifications, and reports in connection with the said works shall lie at the office in King William's Town of the Town Clerk of the said Council, during his usual business hours for and during the period aforesaid, for the inspection of any person or persons who shall be interested therein. After which said period no further or any claim or claims, which shall have not been sent in, in manner herein provided for, shall be recognised, nor shall such claimants be entitled to recover the amount of their claims or any portion thereof from the said Council, by any means or proceeding whatever: And in case the said Council shall not consent or agree to pay the amount of such or any claim or claims, the amount of compensation to be paid by the Council shall be determined by arbitration, for which purpose the provisions of the Lands and Arbitrations Clauses Act, 1882, are incorporated herein.

Borrowing
powers con-
ferred.

15. It shall be lawful for the said Council from time to time to borrow and take up at interest such sum or sums of money not exceeding in the whole sixty-five thousand pounds (£65,000) sterling as may be required for the purposes of this Act and to charge the Borough rates of the said Borough as security for any such sum or sums borrowed by the said Council.

Annual rate
to be levied.

16. In order to pay the interest on and to provide for the repayment of the amount of any such loan and to provide for all other claims arising under this Act the Council shall be empowered to impose, levy and assess a sufficient annual rate or assessment over and above what the said Council is already empowered to impose and levy upon the immovable property within the limits of the Borough: and every rate or assessment so imposed and made by the said Council shall be of the same force and effect and be levied in the same manner and subject to the same rules, regulations and procedure and under the same exemptions as if it had been a rate imposed under the provisions of the King William's Town Borough Act No. 27 of 1905.

Payment of
Interest and
Sinking
Fund.

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

that it shall be lawful for the said Council to apply for the payment of interest or principal or interest and principal of the moneys aforesaid any funds or money coming to the said Council from any source whatever and not specifically appropriated or required for any other object.

18. All moneys borrowed and debts lawfully incurred by the said Council under the provisions and for the purposes of this Act shall be subject to the Public Bodies Debts Act, 1867.

Public Bodies Debts Act, 1867, to apply.

19. The Council shall keep or cause to be kept a separate and distinct account of all monies borrowed under this Act and of the expenditure of such monies and of all revenues arising from the waterworks contemplated by this Act. And the said Council shall yearly and every year so long as any part of the debt contracted under the authority of this Act shall be in existence prepare and deposit in the office of the Borough an account showing the particulars aforesaid and giving any other information which the said Council may deem necessary or expedient to impart. Provided that every account shall be made up to the 31st May in each and every year.

Council to keep separate accounts.

20. Any person who shall wilfully injure, damage, disturb, obstruct, or interrupt any building, erection, conduit, reservoir, dam, watercourse, drain, ditch, pipe or pipes, or other work or works, or shall obstruct, hinder or prevent the forming, constructing, completing, or maintaining the works contemplated by this Act, shall, upon conviction, forfeit for the use of the said Council a sum not exceeding one hundred pounds sterling, or be imprisoned with or without hard labour for any period not exceeding six calendar months, or to both fine and imprisonment. Provided that nothing in this section contained shall be held or taken to exempt such person from any civil or criminal liability for any of the aforesaid acts to which he would have been subject if this Act had not been passed, but no person shall be prosecuted criminally both under this Act and any other law for or in regard to one and the same act.

Penalties.

21. Any person who shall bathe or wash himself in any dam or reservoir belonging to the Council, or in any stream flowing into such dam or reservoir, by means of any watercourse constructed by the Council, or shall wash, throw, or cause to enter therein any dog or other animal, or who shall place or throw any rubbish, dirt, filth, or other noisome thing in any such dam or reservoir, or stream, or wash or cleanse therein any wool, leather or skin of any animal, or any clothes or other thing, shall for every offence, on being convicted thereof forfeit for the use of the said Council a sum not exceeding five pounds sterling, and in failure of the payment of such fine the party convicted shall be liable to be imprisoned with or without hard labour for any period not exceeding twenty-one days.

Further penalties.

5046 THE KING WILLIAM'S TOWN ADDITIONAL WATER
SUPPLY ACT, 1906.

No. 6—1906.

Power to
frame bye-
laws and read
Act with Acts
21 of 1881 and
27 of 1905.

22. All the powers to frame bye-laws and to make and publish a tariff of charges conferred upon the said Council by Acts No. 21 of 1881, and No. 27 of 1905, are in like manner hereby granted to the said Council in connection with the works and the supply of water authorised by this Act, but for the sake of uniformity they shall be read as if framed under Act No. 27 of 1905, and all existing bye-laws relating to the supply of water and the charges at present in force shall be of like force regarding the works to be constructed by virtue of this Act, and the supply of water by the proposed works as though the same were published and framed hereunder, nor shall anything in this Act contained be taken to deprive the Council of any rights and privileges it may possess, or which it may be entitled to avail itself of under the provisions of any existing law or statute, but this Act shall be read as one with Acts 21 of 1881, and 27 of 1905.

Fines to be
paid to Bor-
ough funds.

23. The amount of all fines and penalties imposed by this Act or any byelaws or regulations made thereunder shall when recovered be paid into the Borough Funds.

Expenses of
surveys, etc.

24. The cost charges and expenses of surveys and of obtaining this Act may be paid by the Council out of the monies borrowed for the purposes of this Act.

Short Title.

25. This Act may be cited for all purposes as "The King William's Town Additional Water Supply Act of 1906."

No. 7—1906.]

[August 10, 1906.

ACT

To Amend Act No. 2 of 1858, being an Act "For transferring to One of Her Majesty's Principal Secretaries of State the Powers and Properties vested, in this Colony, in the Officers of the Ordnance."

[Assented to 8th August, 1906.]

Preamble.

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

Amendment
of Section 4 of
Act 2 of 1858.

1. From and after the taking effect of this Act the fourth Section of Act No. 2 of 1858, being an Act "For transferring to One of Her Majesty's Principal Secretaries of State the Powers and Properties vested, in this Colony, in the Officers of the Ordnance," shall be read and construed as if the words "Commanding Royal Engineer" were omitted therefrom and the words "General or other Officer" were inserted in their stead.

Short Title.

2. This Act may be cited for all purposes as the "Transfer of Ordnance Act Amendment Act, 1906."

No. 8—1906.]

[August 10, 1906.

ACT

To Amend the Companies Act, 1892.

[Assented to 8th August, 1906.]

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

Preamble.

1. Any company whose objects require or comprise the transaction of business in the United Kingdom, any British Colony or foreign country, may cause to be prepared an official seal for and to be used outside the Colony, which seal shall be a fac-simile, as near as may be, of the common seal of the company with the exception that on its face shall be inscribed the name of the place in and for which it is to be used ; and the company may, by writing under its common seal, empower its agents in such place to fix such duplicate official seal to any instrument by law required to bear the common seal ; and such power shall continue during the period mentioned in the said writing ; and whenever any such duplicate seal shall be affixed to any instrument aforesaid, the agent affixing the same shall, by writing under his hand and written on the instrument so sealed, certify the date when and the place where the same was affixed ; and any instrument to which any such seal shall have been duly affixed within the place the name whereof is inscribed on such seal shall bind the company in the same way and to the same extent and have the same force and effect as if it had been sealed with the common seal of the company ; provided that the powers conferred by this Act shall be exercised by such companies only as are or shall be expressly authorized to exercise the same by their Articles of Association or by a special resolution passed according to law, and shall be exercised subject to any directions or restrictions in the Articles or resolution aforesaid.

Duplicate
Seals.

2. This Act may be cited as the “Companies Act Amendment Act, 1906.”

Short Title.

No. 9—1906.]

[August 10, 1906.

ACT

To Continue Part II. of the “Additional Taxation Act, 1904.”

[Assented to 8th August, 1906.]

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

Preamble.

1. The income tax provided and charged under and by virtue of Part II. of the “Additional Taxation Act, 1904,” and con-

Extension of
period during
which In-
come tax
payable.

No. 9—1906.

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

Short Title.

2. This Act may be cited as the "Income Tax Continuance Act, 1906."

No. 10—1906.]

[August 14, 1906.

ACT

To Permit the Conditional Release of Certain First Offenders.

[Assented to 9th August, 1906.]

Preamble.

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

Provision for conditional release of first offenders.

1. In any case in which a person is convicted of any crime for which capital punishment is not a penalty, and no previous conviction is proved or known against him, if it appears to the Court before which he is tried that, regard being had to the youth, character and antecedents of the offender, or to the trivial nature of the offence or to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the Court may, instead of sentencing such offender at once to any punishment or treatment provided by any other law or Act, direct that he be released on entering into a recognisance, with or without sureties, and during such period as the Court may direct, to appear and receive sentence when called upon, and in the meantime to keep the peace and be of good behaviour.

Procedure on non-observance of conditions.

2. If the Court before which the offender was tried, or, if such Court be not sitting, any Superior Court having jurisdiction over the District in which the case was tried, is satisfied by information on oath that the offender has failed to observe any condition of the recognisance, it may issue a warrant for his apprehension.

Procedure on arrest of person released.

3. An offender apprehended on any such warrant as aforesaid, shall, if not brought before the Court before which he was tried, be brought before the Superior Court which granted the said warrant, and such Court may either remand him to gaol by

warrant until the time at which he was required by the said recognisance to appear to receive sentence or until the sitting of the Court before which he was tried if that be sooner, or may admit him to bail with one sufficient surety conditioned on his appearing before such latter Court to receive sentence, or it may release him from arrest without bail or make such other order as to such Court shall seem meet.

4. The Court, before directing the release of an offender under this Act, shall be satisfied that the offender or his surety has a fixed place of abode or regular occupation in the District over which such Court has jurisdiction or in which the offender is likely to live during the period fixed for the observance of the conditions of the recognisance or of the Court's order: Provided that any such offender may apply to the said Court, or, if it be not sitting, to a Superior Court having jurisdiction over the District for leave to alter his abode or to go out of the Colony.

Provisions to be observed before releasing first offenders.

5. Any Superior Court before which the offender is tried or is brought may direct any Magistrate or Police Officer to make such enquiries as the Court may deem fit into the character, antecedents or circumstances of the offender and to lay such information before the said Court.

Enquiry may be ordered.

6. Notwithstanding anything in this or any other Act contained it shall be lawful for any Court, instead of inflicting any punishment upon a first offender, to discharge him with a reprimand in case of his conviction for an offence which from its nature or circumstances is in the opinion of the Court sufficiently trivial to merit such treatment.

Discharge with a reprimand.

7. This Act may be cited as the "First Offenders Act, 1906."

Short Title.

No. 11—1906.]

[August 14, 1906.]

ACT

To Amend the Law relating to Marriage by Banns

[Assented to 9th August, 1906.]

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

Preamble.

1. In cases in which banns of marriage shall have been lawfully published in different places, both of which shall be in this Colony, or one of which shall be in this Colony and the other in another country, or each of which shall be in another country or other countries respectively, it shall be lawful for the officiating Minister in this Colony, upon production to him of the certificates of the due publication of the banns, to solemnize the marriage between the parties whose banns have been so duly published notwithstanding anything to the contrary in the Marriage Order in Council of the 7th September, 1838.

Marriage by banns where published elsewhere.

No. 11—1906.

Act No. 28
of 1897 re-
pealed.
Short Title.

2. The Marriage Law Amendment Act, No. 28 of 1897, is hereby repealed.

3. This Act may be cited as "The Marriage Law Amendment Act, 1906."

[No. 12—1906.]

[August 17, 1906.]

ACT

To Amend the "Act to Limit the Liability of Certain Members of Certain Partnerships, No. 24 of 1861."

[Assented to 13th August, 1906.]

Preamble.

WHEREAS it is expedient that the limitation of the liability of partnerships registered under the Special Partnerships' Limited Liability Act, 1861, should be made public for the protection of creditors and others dealing with such partnerships, and that the aforesaid Act be amended accordingly, be it enacted by the Governor of the Cape of Good Hope, with the advice and the consent of the Legislative Council and House of Assembly thereof, as follows:—

Limited Partnerships to bear the word "Registered."
How name of partnership to be made public.

1. All limited partnerships registered under the aforesaid Act shall bear after their partnership name the word "Registered," which word shall form part of the partnership name.

2. Every partnership registered under the aforesaid Act shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the partnership is carried on, in a conspicuous place, and in letters easily legible, and shall have its name mentioned in legible characters in all notices and advertisements, and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such partnership, and in all bills of parcels, invoices, receipts, and letters of credit of the partnership.

Penalty for default.

3. If any partnership under the aforesaid Act does not paint or affix and keep painted or affixed its name in manner directed by this Act, it shall be liable to a penalty not exceeding five pounds for every day during which such name is not so kept painted or affixed, and every partner who shall knowingly and wilfully authorize or permit such default shall be liable to the like penalty, and if any partner issues or authorizes the issue of any notice, advertisement or other official publication of such partnership, or signs or authorizes to be signed, on behalf of such partnership, any bill of exchange, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the partnership, wherein its names is not mentioned in manner

aforsaid, he shall be liable to a penalty of fifty pounds, and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the partnership.

4. This Act may be cited for all purposes as "The Special Partnerships' Limited Liability Amendment Act, 1906." Short Title.

No. 13—1906.]

[August 17, 1906

ACT

To Amend the Law relating to Public Outspans.

[Assented to 13th August, 1906.]

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

Preamble.

1. In addition to the powers conveyed by section two of "The Outspans Act, 1902," it shall be lawful from and after the taking effect of this Act for the Governor, with the consent of the Divisional Council of the District in which such Outspan is situated, to resume and reserve such portions of Public Outspans as may be required for public purposes, provided that notice of the Governor's intention to do so shall have been published for a period of one month in the *Gazette*, and in one or more newspapers published or circulating in the Division in which such Outspan is situated. Governor may resume and reserve Outspans for public purposes.

2. From and after the taking effect of this Act the provisions to sub-section (3) of section three of the said Act shall be read and construed to apply to the whole of the said section three and not merely to sub-section (3) thereof as now printed. Provisions to sub-section (3) of section three of said Act to apply to whole section.

3. From and after the taking effect of this Act, sub-section (3) of section three of "The Outspans Act, 1902," shall be read and construed as if the words "or, if no agreement can be come to with the owner, as may be decided by arbitration in accordance with the provisions of the Lands and Arbitration Clauses Act, 1882," had been inserted after the words "with the consent of the owner thereof." Arbitration.

4. It shall be lawful for the Governor to reserve any Crown Land for use as a Public Outspan by Proclamation in the *Gazette*. Governor may reserve Crown Land for Outspans.

5. Notwithstanding anything to the contrary contained in Act 40 of 1889, Act 41 of 1902, or any other Law, it shall be lawful from and after the taking effect of this Act for any Divisional Council with the consent of the Governor to lease any Outspan being Crown Land or portion thereof over which it has control, not conveniently situated for the use of the travelling public, in exchange for a lease of other land more Lease of Outspans in exchange for more suitable areas.

conveniently situated and having better facilities for the purpose of an Outspan, the owner of which land has signified in writing his assent to such exchange, provided that notice of the intention of the Divisional Council to apply for the Governor's consent to the proposed lease shall be published at least once a fortnight for two calendar months in the *Gazette* and in one or more newspapers circulating in the Division, which notice shall name the Outspan or portion thereof and shall fully describe the land to be leased in exchange therefor giving the approximate extent of each, and provided that a plan, correctly representing both pieces of land in their true relative position shall lie open for inspection at the office of the Divisional Council during the currency of the notice, together with a statement of the conditions of the proposed lease; provided further that all objections to the proposed lease be forwarded to the Government by the Divisional Council together with a report from the said Council as to the reasons which render the proposed exchange desirable in the public interests, that no lease shall be for a longer period than five years, and that the conditions of the lease be approved of by the Governor.

Rights by
lease to be
inseparable
from owner-
ship.

6. The rights to any public Outspan conveyed by a lease⁹ as provided in the last preceding section, shall be inseparable from the ownership of the land on which a temporary right of Outspan has been given in exchange, and upon a change of ownership of any such land the rights aforesaid shall, *ipso facto*, be transferred to the new owner as though he had been the original lessee.

General
conditions of
lease.

7. It shall be a condition of every lease entered into under the two last preceding sections

- (a) That the Outspan held thereunder shall be used for grazing purposes only and that no portion of it shall be cultivated under any circumstances.
- (b) That it shall not be sublet.
- (c) That the lease shall not confer upon the lessee any claim to a grant of the land or to compensation for improvements.
- (d) That the lessee shall not be entitled to the privileges conferred upon lessees by any laws, which are now or may hereafter be put in force for regulating the prospecting and mining for precious stones, precious minerals and base minerals.

Short Title. 8. This Act may be cited for all purposes as "The Outspans Act, 1906."

No. 14—1906.]

[Not yet Promulgated.]

ACT

To Consolidate and Amend the Law relating to the Collection and Payment of the Public Moneys, the Audit of the Public Accounts and the Protection and Recovery of Public Property; and for other purposes connected with the control and management of the Public Finances of the Colony.

ANALYSIS:

Part I. Preliminary, sections 1-3.	(2) Payment out of Loan Moneys sections 34-35.
Part II. Controller and Auditor-General, sections 4-13.	(3) Mode of Payment, sections 36-40.
Part III. Public Banking Arrangements, sections 14-25.	Part VI. Audit and Inspection, sections 41-52.
Part IV. Accounting Officers and Collection of Moneys, sections 26-29.	Part VII. The Public Accounts and Statements, sections 53-62.
(1) Accounting Officers, sections 26-28.	Part VIII. Miscellaneous, sections 63-70.
(2) Collection of Public Moneys, section 29.	(1) Moneys outside the Colony, section 63.
Part V. Payment of Moneys, sections 30-40.	(2) Funds for the Contingencies Account, section 64.
(1) Payment out of Revenue, sections 30-33.	(3) Penalties, sections 65-69.
	(4) Regulations, section 70.

[Assented to 16th August, 1906.]

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

PART I.
PRELIMINARY.

1. The Audit Act No. 30 of 1875 and the Audit Act Amendment Acts No. 32 of 1888 and No. 19 of 1899 and everything following the words "is to be appropriated" in the 80th section of the Constitution Ordinance of the 3rd April, 1852 are repealed: But, in so far as they are in force at the commencement of this Act, all appointments and regulations made, orders passed, and acts done under the said Acts shall be deemed to have been respectively made, passed and done under this Act.

Repeal.

2. The Treasurer shall be charged with the administration of this Act, and all persons concerned in the receipt, custody and expenditure of public moneys shall, subject to the provisions of this Act and the regulations made thereunder, obey all such instructions as they may from time to time receive from the Treasury in respect to the public moneys or accounting for the same, in accordance with the provisions of this Act.

Minister in Charge.

3. In this Act unless the contrary intention appears—

- (a) "Public Accountant" shall mean every person who by any law, regulation, or appointment is charged with the duty of collecting or receiving, or who does actually collect or receive any public moneys, or who is charged with the duty of disbursing or who does actually disburse any public moneys.
- (b) "Public Moneys" shall mean all moneys received or paid on behalf of the Consolidated Revenue Account, any Loan Account, any Deposit Account, or any other account which the Auditor shall be required by this Act or by any other Act, or by the Governor, to examine and audit.
- (c) "Exchequer Account" shall mean the Account in which all taxes, duties and all other revenues, the proceeds of all loans raised, the surplus funds available for investment of the Post Office Savings Bank, the Sinking Fund Commissioners, the Pension Fund Deposit Account, or the Guarantee Fund shall figure on the one side and the issues therefrom, authorised by the Auditor, upon the other side, and the "Consolidated Revenue Account" shall mean an account of the cash income and the current expenditure forming part of the said Exchequer Account.
- (d) "Financial Year" shall mean the period from the first day of July in one year to the thirtieth day of June in the next following year, both days inclusive.
- (e) "Expenditure Act" shall mean any Act, other than an Appropriation Act, under which any money is authorised to be expended for any purpose therein specified, whether the said money be authorised to be raised by loan or charged against the Consolidated Revenue Account.
- (f) "Loan Service" shall mean purpose specified in any Loan Act.
- (g) "Prescribed" shall mean prescribed by this Act or the Regulations.
- (h) "Regulations" shall mean Regulations to be made under the authority of or in force under this Act.
- (i) "Revenue" shall mean all moneys collected or received for or on account of the Consolidated Revenue Account.
- (j) "Deposit Accounts" shall mean the accounts relating to funds of which the Treasurer is, by Statutory obligation or otherwise, a Trustee and Custodian, and such accounts as those of the Guardians Fund, the Harbour Boards, the South African Widows Fund as are not included in the Consolidated Revenue or General Loans Accounts.

- (k) "Treasurer" shall mean the Treasurer of the Colony.
 (l) "Auditor" shall mean the Controller and Auditor-General holding office under this Act.
 (m) "Assistant Auditor" shall mean the Assistant Controller and Auditor-General holding office under this Act.

PART II.

THE CONTROLLER AND AUDITOR-GENERAL.

4. The Auditor and Assistant Auditor shall be appointed by the Governor, and neither of them shall be capable while holding the said office of holding any other office of profit under the Crown.

Appointment of Auditor and Assistant Auditor.

5. The Auditor and Assistant Auditor shall hold their offices during good behaviour subject, however, to their removal on an address praying for such removal presented to the Governor by both Houses of Parliament; provided that when Parliament is not sitting, it shall be lawful for the Governor to suspend either or both the said officers for inability or misbehaviour; and when and so often as the same shall happen, a full statement of the cause of such suspension shall, within seven days after such suspension, if Parliament be then sitting, or if Parliament be not then sitting, then within seven days after the commencement of the next session thereof be laid before both Houses of Parliament; and if an address shall at any time during the Session be presented to the Governor by both Houses of Parliament praying for the restoration of either or both such officers such officer or officers shall be restored accordingly, but if no such address shall be so presented, it shall be lawful for the Governor to confirm such suspension and to declare the office of such Auditor or Assistant Auditor, as the case may be, to be, and the same shall thereupon become, vacant.

Tenure of Office.

6. The Auditor shall receive an annual salary of not less than Twelve Hundred Pounds and not exceeding Fifteen Hundred Pounds and the Assistant Auditor an annual salary of Eight Hundred Pounds, and such salaries shall be a charge upon and paid out of the Consolidated Revenue Fund, which, to the necessary extent, is hereby appropriated accordingly.

Salaries.

7. Anything which under the authority of this Act is directed to be done by the Auditor may, in his absence, be done by the Assistant Auditor, except the certifying and reporting upon accounts for the House of Assembly.

Authority of Assistant Auditor.

8. In the case of illness, incapacity, suspension or absence of the Auditor or Assistant Auditor, the Governor may appoint some other person to act as Auditor or Assistant Auditor as the case may be, during such illness, suspension or absence; but for a period not exceeding twelve months in all and every such person shall,

Deputy of Auditor.

No. 14—1906.

while he acts as such deputy, have the powers and perform the duties of the Auditor or Assistant Auditor as the case may be.

Auditor
may appoint
Inspectors.

9. The Auditor may, by order in writing, authorize any officer in the Public Service on his behalf to inspect, examine or audit any books and accounts of any public accountant, or to examine or make inquiries with respect to any public stores or public property under the control of the State, and such person shall report thereon to the Auditor.

Auditor em-
powered to
call for all
Books, etc.,
and all Public
Officers re-
quired to at-
tend and pro-
duce them.

10. (1) The Auditor may, by order in writing, require all persons in the public service as he may deem fit to appear personally before him at a time and place to be named in such order, and to produce to him all such account books, vouchers, documents and papers in the possession or control of such persons as shall appear to him to be necessary for the purposes of his examination of public accounts.

(2) The Auditor may, when he shall think fit, cause search to be made in, and extracts to be taken from, any book, document or record in any public office without paying any fee for the same.

Auditor
may examine
when neces-
sary.

11. The Auditor is hereby authorised personally or by his deputy to examine all persons whom he may think fit to so examine respecting the receipt or expenditure of money, or any public stores respectively affected by the provisions of this Act and in respect of any other matters and things necessary for the due performance and exercise of the duties and powers vested in him.

Auditor
may obtain
opinion of
Attorney-
General.

12. The Auditor may lay before the Attorney-General a case in writing as to any question regarding the interpretation of any Act of Parliament or regulation concerning the powers of the Auditor or the discharge of his duties, and the Attorney-General or the officer acting as such as the case may be, shall give a written opinion on such case.

Duties of
Auditor.

13. The Auditor shall examine, inquire into and audit the accounts of all persons entrusted with the collection, custody, receipt, payment, or issue of public moneys, and he is hereby empowered to call upon all persons in the service of the Government who may be in charge of public moneys, or of any public body whose accounts he may be directed or required to examine, inquire into, and audit, for all necessary or proper explanations respecting their receipts, expenditure and stores, and respecting all matters necessary to enable him to discharge his duties under this Act.

PART III.

PUBLIC BANKING ARRANGEMENTS.

Public
Moneys.

14. All moneys paid into any bank to any Colonial Government Account shall be deemed to be public moneys and the property of His Majesty, and to be money lent by His Majesty to the bank.

15. There shall be opened in the Books of the Bank or Banks acting for the time being as the Government Banker an Account to be styled the Exchequer Account of the Colony and such Account shall be operated upon in the manner set forth in this Act: provided that it shall be unlawful to make any advances or grants from the Exchequer Account except in accordance with the provisions of this Act.

Exchequer
Account.

16. All taxes, duties and other revenues, including any receipts which are to be treated as appropriations in aid, and the proceeds of all loans for the service of the Government, or the Harbour Boards, shall be payable to and levied by such persons as the Governor may direct, anything contained in Ordinance No. 43 bearing date the 28th February, 1828, and Act No. 3 of 1876 to the contrary notwithstanding; and, except in so far as may otherwise be directed in regulations, all such revenues and proceeds of loans shall be carried without deduction to the credit of the Exchequer Account of the Colony in the bank used by the Government; and this Exchequer Account shall be kept separate from any other account of the Government in the said bank.

Amounts to
be carried to
the same.

17. The Auditor shall, by this Act, be appointed Controller of the Exchequer Account, and it shall be unlawful for the bank to make any issue or transfer from the said Exchequer Account except on an order signed by him (or in his absence by the Assistant Auditor as his deputy); and no money shall be issued by the Auditor (or in his absence by his deputy) out of the said Exchequer Account except:

Auditor to
be Controller
of the Ex-
chequer.

- (a) In accordance with the provisions of Section 36 of this Act;
- (b) On requisitions of Ministers through and approved by the Treasurer, and of the Speaker of the House of Assembly under Section 17 of Act 13 of 1883, authorised and approved by the Auditor under the thirty-eighth section of this Act, or
- (c) In accordance with regulations.

His duties
in connection
therewith.

18. The records of the Exchequer Account shall be kept by the Auditor, and all public accountants making deposits in the bank to the credit of the said Exchequer Account, shall, on each day on which they make such deposit, advise the Auditor thereof, in such form as may be prescribed in regulations.

Exchequer
Account to be
kept by Audi-
tor.

19. All moneys paid into the bank on account of the Exchequer shall be considered by the said bank as forming one general fund in their books; and all orders directed by the Auditor to the said bank for issues shall be satisfied out of such general fund. A daily account of all deposits to, and all issues or transfers made from, the Exchequer Account shall be transmitted by the bank to the Auditor, and a summary of such transactions to the Treasurer.

Moneys paid
to Exchequer
Account to be
considered by
Bank as one
General
Fund.

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If insufficiency in Consolidated Revenue Account Auditors to certify to any who may make advances.

20. If it shall appear that the funds in the Consolidated Revenue Account of the Colony are insufficient to defray the authorised charges upon such account the Treasurer shall prepare and transmit to the Auditor a Statement of the amount of such funds and charges and the Auditor if satisfied of the correctness of the same shall issue to the Treasurer a Certificate to the amount of the deficiency and the Treasurer may obtain advances against such Certificate or may employ any deposits, balances, or other funds in the hands of the Government to an amount not exceeding the total sum of such Certificate and all such advances shall be placed to the Credit of the Exchequer Account at the Bank or Banks used by the Government, and be available to satisfy the issues granted or to be granted, by the Auditor; and the principal and interest of all such advances shall be paid out of the growing produce of the Consolidated Revenue Account.

Post Office Savings Bank Funds available for investment to be lodged in Exchequer.

21. Notwithstanding anything to the contrary in section 6 of the Post Office Savings Bank Act, No. 6 of 1883, the Postmaster-General shall from time to time deposit to the credit of the Exchequer Account such sums from the Post Office Savings Bank Account as are available for investment, after allowing a reasonable Working Balance; and the Postmaster-General shall, on the day of making such deposit, advise the Treasurer and the Auditor of the same, in such form as may be prescribed by regulations; and the Auditor shall re-issue such moneys from the Exchequer only for actual investment, or to the Postmaster-General (on the requisition of the Treasurer) to enable him to make repayments to depositors in the said Post Office Savings Bank; and these provisions shall equally apply to the proceeds of the sale or realisation of any investments held in connection with the said funds.

Government may not borrow in excess of unexercised permanent borrowing powers; any such loan null and void.

22. Except as specially provided by an Act of Parliament and by the provisions of this Act it shall not be lawful for the Government to borrow in excess of unexercised permanent borrowing powers as certified by the Auditor, nor for any bank or other person to lend to the Government any moneys either by way of loan or overdraft, and every engagement for the repayment of any such loan or overdraft shall be absolutely null and void.

Sinking Fund, Pensions Fund and Guarantee Fund moneys available for investment to be lodged in Exchequer.

23. The Sinking Fund Commissioners appointed under the provisions of the Sinking Fund Commissioners Act, No. 11 of 1897, the Accounting Officer of the Pensions Fund Deposit Account, and the Accountant of the Guarantee Fund shall from time to time deposit, to the credit of the Exchequer Account, such sums from the said accounts as are available for investment, after allowing a reasonable Working Balance; and the said Sinking Fund Commissioners, Accounting Officer of the Pensions Fund Deposit Account, and Accountant of the Guarantee Fund respectively, shall, on the day of making such deposit, advise the

Treasurer and Auditor of the same, in such form as may be prescribed by regulations; and the Auditor shall re-issue such moneys from the Exchequer only for actual investment, or to enable the said officers to meet charges legally made against the funds administered by them; and these provisions shall equally apply to the proceeds of the sale or realisation of any investments held in connection with the said funds.

24. No public accountant or accounting officer shall open any public or official account in any bank without the authority, in writing, of the Treasurer; and neither the Treasurer nor any bank shall permit any public accountant or accounting officer to have an overdraft on any public or official account.

No account to be opened by Public Officer without permission of Treasurer.

25. On the death, resignation or removal of any public accountant or accounting officer, the balances remaining at the credit of his public or official account at any bank shall, upon the appointment of his successor, vest in, and be transferred to the public or official account of such successor at the said bank; and on the death, bankruptcy or insolvency of any public accountant or accounting officer, such balances shall not constitute assets of his estate or be in any manner subject to the control of his legal representative, assignee or trustee.

Public Accounts on death, resignation, or removal of Accountant to be regarded as the official Public Account of his successor.

PART IV.

ACCOUNTING OFFICERS AND COLLECTION OF MONEYS.

(1) *Accounting Officers.*

26. The Governor shall appoint the officers and departments who shall be charged with the duty of making and accounting for the expenditure of any vote or provision by loan Act, and such officers are declared to be accounting officers.

Who are Accounting Officers for expenditure under Vote or Loan Act.

Provided that no sub-division of a vote between two accounting officers shall in any case be permitted.

27. The Governor shall further appoint officers who shall be responsible for the duty of receiving and disbursing moneys on behalf of deposit accounts for which the Treasurer is responsible, and these officers are also declared to be accounting officers.

Accounting Officers for Deposit Accounts.

28. Every accounting officer shall be subject to the provisions of this Act and the regulations, and shall perform such duties, keep such books, and render such accounts as are prescribed by this Act or by the regulations.

Every Accounting Officer subject to the provisions of this Act.

(2) *Collection of Public Moneys.*

29. All persons entrusted with the collection, custody, and receipt of moneys belonging to the Public Revenue or other accounts or funds of the Colony, shall dispose of the said sums at such times and in such a manner, whether by deposit in the bank or otherwise, as may be directed by regulations, and shall furnish such accounts and information concerning their transactions as may be prescribed in regulations.

Collection of Public Moneys.

PART V.

PAYMENT OF MONEYS.

(1).—*Payment out of Revenue.*

Proceedings of Auditor on receipt of Estimates.

30. After the passing of the annual Appropriation Act, or of any Act covering Supplementary or Additional Estimates or Unauthorised Expenditure, a copy of the said Act, together with a copy of any estimates referred to therein, shall be forwarded by the Treasurer to the Auditor, who shall thereupon notify to the several Ministers respectively the sums authorised by Parliament for expenditure by the several departments under each Minister. And such sums shall be issued on the requisitions, on the form prescribed by the regulations, of the Minister, or the Speaker of the House of Assembly charged with such expenditure so far as the said requisitions shall have been approved by the Treasurer and the Auditor, provided that no such sums shall be issued except to an accounting officer.

Appropriation Accounts shall cover sums actually paid within the year, except as regards Railway Department, when they may be kept open for twenty days longer.

31. Every appropriation out of the Consolidated Revenue Fund for the services of any financial year, shall be taken as covering sums which may actually have come in course of payment within the same period, save that in order to secure a substantial agreement between the expenditure accounts of the Railway Department as kept from a cash and from a liability point of view, it shall be lawful for the Governor to direct, should he see fit, that the expenditure cash accounts of that Department for each month and for any financial year, may be kept open for not more than twenty days after the close of such month or financial year, to admit of claims which have become due and payable in such month or year, as the case may be, being paid and brought to charge in the accounts of the same.

Appropriations for each financial year shall lapse at the close of the year.

32. Every appropriation out of the Consolidated Revenue Fund for the service of any financial year shall lapse and cease to have any effect for any purpose at the close of that year, except in regard to the Railway accounts, for twenty days after the expiration of the said year as specially provided in the previous section; and any balance of such appropriation which may then be unapplied, shall be written off and cease to be a liability of the Consolidated Revenue Fund for that year, and the accounts of the year shall then be closed.

Conditions under which surpluses on sub-votes or items may be made available to cover deficits.

33. If the exigencies of the Public Service render it necessary to alter the proportions assigned to the particular items comprised under one vote, it shall be lawful for the Minister charged with such expenditure to authorise the use of surpluses on items in a sub-vote to cover deficits on items in the same sub-vote, or, when there are no sub-votes, the use of surpluses to cover deficits for items which are not incongruous: Provided that no surplus on a sub-vote shall be made available for expenditure on another sub-vote, or any surplus in a vote which has no sub-votes, for

expenditure of an incongruous kind under the same vote without the authorisation of the Treasurer; and, in the latter event, the said Treasurer's approval, upon a form prescribed in the Regulations, shall be forwarded to the Auditor in order that the amount may be duly transferred as though the estimates had originally shown the figures as so modified, and that the facts may be reported by him to Parliament, provided further that on no account shall any salary grants be supplemented from savings under any other items.

(2).—*Payment out of Loans Moneys.*

34. After the passing of any Loan Expenditure Act a copy of the said Act shall be forwarded by the Treasurer to the Auditor, who shall thereupon notify to the several Ministers respectively the sums authorised by Parliament for expenditure by the several departments under each Minister after the moneys required have been actually borrowed.

Proceedings of Auditor on receipt of Loan Expenditure Acts.

35. Any moneys borrowed under the authority of any Loan Act, whether passed before or after the commencement of this Act, other than loans to cover deficits in revenue, may be applied for and towards the purpose of the loans services specified in such Acts, on requisition of the Minister in charge of such expenditure, approved by the Treasurer and Auditor :

Treatment of moneys borrowed.

Provided that nothing in this section shall authorise the application for or towards any such loans services of any larger sum of money than is by the Loan Act authorising such service expressly appropriated or set apart therefor :

Provided further that it shall be lawful for the Auditor, on the application of the Treasurer, to approve of the temporary use for one purpose of moneys borrowed for another purpose, provided authority to borrow money for the former purpose has been granted by Parliament, but not at the time exercised or of the temporary use of surplus revenue in the same manner.

(3).—*Mode of Payment.*

36. (1) No moneys shall be drawn from the Consolidated Revenue Account, except under the authority of an Act of Parliament, or out of a special deposit account, except for the purposes of such account and under such authority as may be applicable to its constitution.

How money may be issued out of Consolidated Revenue Account.

(2) No moneys shall be drawn from any public account except in the manner herein provided or in accordance with regulations.

37. All requisitions against funds provided by Parliament for expenditure shall be in a form prescribed by regulations and shall be submitted in the first instance to the Treasurer, who is empowered by this Act to reduce or refuse any amounts so requisitioned for when he considers that the financial conditions of

Requisitions for funds — Treasurer's and Auditor's powers therewith.

the Colony render it necessary to restrict or postpone expenditure ; and the Auditor shall in no case authorise the issue of more than the sum approved by the Treasurer.

Accounting Officer's use of funds supplied him, and mode of accounting therefor.

38. (1) Upon receipt of an advice from the Auditor that a credit upon requisition has been authorised to him, an accounting officer, either personally or through his authorised agents, may forthwith issue drafts or charges upon the proper accounts, in form prescribed by the regulations, for the payment of the services or purposes mentioned in the said requisition.

(2) The amounts of such drafts or charges shall not collectively exceed the amount for which credits have been authorised.

(3) Such drafts or charges shall be sufficient authority to any bank on which they are drawn and in which the said accounts are kept to debit the accounts respectively with the respective amounts mentioned in the said drafts or charges.

(4) Every accounting officer in whose favour a credit has been established under this section shall, at such times as the regulations may direct, transmit to the Auditor accounts or abstracts duly vouching for his several payments from such a credit.

Requirements to be met before money may be issued.

39. (1) No accounting officer or public accountant shall pay any account unless :—

(a) He has ascertained that the provisions of this Act and of the regulations relating to payment of accounts have been complied with ; and

(b) The payment of the account has been authorised by the responsible Minister of his Department or by some officer appointed by such Minister in that behalf : Provided that in the latter case the officer shall not authorise payments to an amount greater than that specified by the Minister appointing him.

(2) No Minister or person appointed by him as aforesaid shall authorise the payment of an account unless he has ascertained that the payment is authorised by law or has been sanctioned by the Treasurer under Sec. 37 of this Act, and, if chargeable against the Consolidated Revenue Fund or on an Expenditure Act, is covered by Parliamentary appropriation.

(3) The correctness of every account in regard to computations, castings, rates of charge, and the faithful performance of services shall be certified by the officer incurring the expense, except in so far as the Auditor shall have satisfied himself on these points before payment is made.

Acquittance to be obtained for money paid.

40. Every accounting officer or public accountant shall, at the time of paying an account, obtain such acquittance for the amount paid as may be prescribed in the regulations.

PART VI.

AUDIT AND INSPECTION.

41. The manager or person in charge of any bank keeping any account under this Act shall keep a pass book showing the debit and credit sides of each such account, and shall furnish the same to the Treasurer or to each accounting officer, as often as required.

Bank Pass Book to be sent to Treasurer and Auditor.

42. The Auditor on receipt by him of the necessary accounts, vouchers, documents and returns required by regulations to be furnished to him by accounting officers or public accountants, shall inquire into and audit the accounts of all such persons as are entrusted with the collection, custody, receipt, payment or issue of public moneys, and shall—

Examination by the Auditor of accounts submitted to him.

- (a) Compare the entries in the cash book or cash account with the supporting vouchers and documents and also with the bank pass book ;
- (b) Ascertain whether such vouchers and documents bear upon the face of them the correct description of the proper heads of receipt or expenditure to which the moneys mentioned therein have been credited or debited ;
- (c) Ascertain whether the moneys mentioned on the debit side of the cash book or account have been duly paid to the several bank accounts authorised by the Treasurer, and whether the sums mentioned on the credit side of the cash book or account have been actually and duly disbursed under competent authority, and on the prescribed certificates ;
- (d) Ascertain whether the moneys mentioned in the entries in the cash book or account have been credited or debited to the proper heads of receipt or expenditure ;
- (e) Ascertain whether the rates, computations and castings are correct or duly certified to by responsible departmental officers ;
- (f) Ascertain whether such moneys were legally available for, and applicable to, the services or purposes to which the same have been applied or charged ;
- (g) Ascertain whether the provisions of this Act, and of any other Act, and of the regulations have been in all respects complied with.

43. (1) The Auditor shall make such queries and observations addressed to the Treasurer, or to any accounting officer or public accountant or other officer in the Public Service in any way concerned with the receipt or payment of public moneys, and call for such accounts, vouchers, statements, documents and explanations, as he may think necessary.

Queries and Observations by the Auditor.

Every such query and observation addressed to any such accounting officer or officers shall, within fourteen days after its receipt, be returned to the Auditor by such accounting officer or officers with the necessary reply or memorandum thereon.

(2) After such queries and observations have been answered, and after such accounts, vouchers, statements, documents, and explanations have been rendered, the Auditor shall allow and discharge and grant an acquittance to such accounting officer or officers as aforesaid, for all receipts which are found correct, and for all payments duly and properly made and supported by proper receipts or vouchers.

(3) Every such acquittance shall be in such form as prescribed in the regulations as may be applicable to the case, or to the like effect, and shall be a full and complete discharge as to the several moneys mentioned therein :

Provided that in respect of any of the foregoing operations prescribed in sections forty-two and forty-three, the Auditor, after satisfying himself that the Accounts bear evidence that the vouchers have been completely checked, examined and certified as correct in every respect, and that they have been allowed and passed by the proper departmental officers, may admit the same as satisfactory evidence of payment in support of the charges to which they may relate.

Surcharges
by the Audi-
tor.

44. (1) If it appears to the Auditor from any examination, audit or inspection made by him, or by any person appointed by him—

- (a) That any accounting officer or public accountant has wilfully or negligently omitted to collect or receive any money ; or
- (b) That any money has not been duly credited to the proper head of revenue or account, or has not been duly accounted for and paid over to an authorised account ; or
- (c) That any money has been applied or charged to any service or purpose for which the same was not legally available or applicable ; or
- (d) That any expenditure has not been duly authorised, or has not been duly vouched or certified ; or
- (e) That there has been any deficiency or loss through the fraud, mistake, default, or error of any person ; or
- (f) That any account, voucher, statement, document, or explanation in the last preceding section referred to is in any essential particular defective or imperfect ; or
- (g) That any material error has been committed ; or
- (h) That any of the provisions of this Act or any other Act, or the regulations have not been complied with ;

the Auditor shall, as soon as the said accounts, vouchers, statements, documents, or explanations have been examined by him, surcharge any accounting officer, or public accountant, or officer certifying accounts, or person in any way concerned with the receipt or payment of public moneys who appears to him to be in default, with any deficiency or loss, or with any expenditure which has not been duly authorised, vouched or certified, and disallow the same, and he shall give written notice of such surcharge to such accounting officer, public accountant, officer, or person, stating the time within which such surcharge must be satisfied.

(2) All surcharges unsatisfied in the time allowed by the Auditor shall be transmitted by him to the Treasurer to be by him enforced against the accounting officer, public accountant, officer, or person surcharged.

(3) The Auditor may at any time revoke any surcharge or disallowance by him under this section which has been made in error.

45. Whenever the Treasurer has received notice of an unsatisfied surcharge, he shall, unless such surcharge shall have been previously satisfied or withdrawn, send notice in writing of such surcharge to the accounting officer, public accountant, or person surcharged, and take such measures or proceedings as the case may require, to recover the amount thereof; and no amount payable to, or claimed by, such accounting officer, public accountant, officer, or person from the Crown shall be paid until such surcharge has been satisfied; and the amount of every such surcharge may be sued for and recovered on behalf of His Majesty by action, in the name of the Treasurer, as a debt, in any competent court of jurisdiction.

Notice of
Surcharge to
Treasurer.

Provided always that unless the Treasurer shall otherwise direct, not more than one-fourth of the amount of salary due monthly to any officer so surcharged shall be kept back under this section.

46. In all cases in which an accounting officer, public accountant, officer, or person may be dissatisfied with any surcharge made against him by the Auditor, such accounting officer, public accountant, officer, or person shall have a right of appeal to the Treasurer, who, after such further investigation as he may consider equitable, whether by *vivâ voce* examination or otherwise, may make such order.

Appeal from
surcharge.

(a) Either partially or wholly confirming such surcharge, or partially or wholly suspending its operation pending submission of the case to Parliament, and the Auditor shall govern himself accordingly.

(b) Provided that whenever such suspension of a surcharge is granted, a Governor's Warrant upon the Contingencies Account for the amount in question shall be applied for simultaneously.

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Inspection
and examina-
tion of books
and accounts.

47. (1) The Auditor may, whenever he thinks fit, and shall also (if possible) once at least in every year, make or cause to be made an inspection, examination and audit in respect of the books and accounts of every accounting officer and every public accountant, other than sub-collectors of revenue who pay in to collectors; and for the purpose of such inspection, examination, and audit he shall:—

- (a) Ascertain whether the whole of the revenue and public moneys have been duly collected and accounted for in pursuance of this Act, or any other Act, and whether the moneys received under any credit in pursuance of this Act have been duly and properly paid to the persons entitled to receive the same;
- (b) Investigate and examine all contracts, accounts, invoices, books, bills of parcels, vouchers relating to the Public Service, and all documents relating to or concerning the same, and all circumstances affecting or attending the making of any such contracts;
- (c) Once at least in every year (if possible) inspect and examine, or cause to be inspected or examined, all stores under the control of the State of whatsoever nature or description the same may be, and shall cause stock thereof to be taken;
- (d) Ascertain, or cause to be ascertained, the quantity, description, and price of all stores under the control of the State, and of all stores supplied for the use of departments of the Public Service, and whether any such stores are, in his opinion, in excess of reasonable requirements; and
- (e) Examine, or cause to be examined, whether the proper quantities of such stores are remaining in stock in the proper store or building.

(2) The Auditor shall, in his Annual Report to Parliament hereafter referred to, report the general result of such inspections and examinations.

Vouchers re-
quired for re-
ceipts and
payments.

48. No sum shall be allowed in any account to have been duly received or paid without the production of a voucher for the actual receipt or payment of the same:

Provided that the Treasurer, on satisfactory evidence being produced that the requisite papers have been lost or destroyed, or that it is not possible to obtain or replace them, may order that any such sum be allowed or disallowed, as the case may be, and may make such order in the premises as he thinks fit, and such order shall be binding on all parties concerned and be acted on accordingly.

Defective
Vouchers.

49. (1) When a voucher produced for a sum of money disbursed is defective for the want of any certificate or other document which ought to have accompanied it, or in any other

particular, the Auditor may, upon proof being made to his satisfaction that the accounting officer did not wilfully neglect to procure or produce such certificate or document, and that the sum specified in the voucher has been actually and properly disbursed, admit such voucher as a sufficient discharge and allow the amount of the same.

(2) The Auditor may admit and allow vouchers for any moneys expressed therein, although the same are not stamped according to law, in cases in which it appears to him to be lawful or expedient so to do.

50. The Governor may exempt from detailed audit by the Auditor, but not from an appropriation audit by him, the accounts of receipt and expenditure of any department, the peculiar duties, constitution, or services of which may render such exemption expedient:

Governor may exempt certain accounts from detailed audit.

Provided that a statement as to such exemption shall be laid before the House of Assembly, if Parliament is then sitting, within seven days after such exemption has been made as aforesaid, and if Parliament is not sitting, then seven days after the next meeting of Parliament.

51. The provisions of this Act, except as mentioned in Section 17 (b), shall not apply or extend to the audit or control of the Accounts and Appropriations of the House of Assembly, and of the Joint Parliamentary expenses of both Houses of Parliament; and the audit by the Speaker of the accounts of all payments and receipts in reference to all matters affecting the service of the House of Assembly and of Joint Parliamentary expenses shall be continued as heretofore anything in this Act to the contrary notwithstanding.

Audit under section 16 of Act 13 of 1883 to include "Joint Parliamentary expenses."

52. The examination and audit by the Treasurer and Auditor-General of the wards' book and accounts in the office of the Master of the Supreme Court, prescribed by section 35 of Ordinance No. 105 of 1833, shall hereafter cease, and the audit of the said books and accounts shall be entrusted to the Auditor under this Act, who shall certify annually to the excess moneys to credit of the Guardian's Fund over the total due to persons and estates with whom and with which accounts have been opened in the wards' books; and notwithstanding anything to the contrary in the second section of the Sinking Fund Extension Act, No. 12 of 1900, the cost of such audit, as assessed by the Auditor, shall be a first charge against surplus interest and lapsed funds arising from the operation of the Guardian's Fund.

Audit of wards' books and accounts to be made by Auditor.

PART VII.

THE PUBLIC ACCOUNTS AND STATEMENTS.

53. The Auditor shall cause in every year an account of the receipts and expenditure of the Colony for the financial year ended 30th June preceding to be prepared; and the said account, Annual accounts of Revenue and Expenditure.

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together with the report of the Auditor thereon, shall be laid before the House of Assembly by the Treasurer on or before the 31st of March in the following year if Parliament be then sitting, and if not sitting, then within one week after Parliament shall be next assembled.

Annual App-
ropriation
Accounts to
be prepared
for Parli-
ament.

54. On or before the 30th of September in every year accounts of the appropriation of the several supply grants comprised in the Appropriation Act of each year shall be prepared by the several accounting officers, and be transmitted for examination to the Auditor; and when certified and reported upon as hereinafter directed, they shall be laid before Parliament, and such accounts shall be called the "Appropriation Accounts" of the moneys expended for the services to which they relate; and the Auditor shall certify and report on such accounts as hereinafter directed, and the report thereon shall be signed by the Auditor;

Provided always, and it is the intention of this Act, that the Governor shall direct that the department charged with the expenditure of any vote under the authority of the Governor shall prepare the appropriation account thereof.

Description
of Appropri-
ation Account.

55. An appropriation account of supply grants shall exhibit on the charge side thereof the sum or sums appropriated by Parliament for the service of the financial year to which the account relates; and on the discharge side thereof, the sum which may actually have come in course of payment within the same period, and no advance of the application of which an account may not have been rendered to, or allowed by, the accounting department, shall be included on the discharge side thereof.

Balance
Sheet if
thought ne-
cessary by the
Auditor, or a
statement
showing the
disposition of
the balance, to
accompany
the Appropri-
ation Account.

56. The department charged with the duty of preparing the appropriation account of a grant, shall, if required so to do by the Auditor, transmit to him, together with the annual appropriation account of such grant, a balance sheet so prepared as to show the debtor and creditor balances in the ledgers of such department on the day when the said appropriation account was closed, and to verify the balances appearing upon the annual appropriation account:

Provided always that the Auditor may, if he thinks fit, require the said department to transmit to him, in lieu of such balance sheet, a certified statement showing the actual disposition of the balances appearing upon the annual appropriation account on the last day of the period of such account.

The Approp-
riation Ac-
count to be
accompanied
by statement
explaining
disposal of
balance and
explanations
of Surplus
or Excess of Ex-
penditure.

57. Every appropriation account when rendered to the Auditor shall be accompanied by an explanation showing how the balance or balances on the grant or grants included in the previous account have been adjusted, and shall also contain an explanatory statement of any surplus or excess of expenditure over the grant or grants included in such account, and such statements, as well as the appropriation account, shall be signed by the accounting officer.

58. Every appropriation account shall be examined and reported on by the Auditor on behalf of Parliament, and in the examination of such accounts, the Auditor shall, subject to the proviso to section forty-three (3) hereof, ascertain, first, whether the payments which the accounting department has charged to the grants are supported by vouchers or proofs of payments, and, second, whether the money expended has been applied to the purpose or purposes for which such grant was intended to provide; and in reporting on such accounts, he shall call attention to every case in which it may appear to him that a grant has been exceeded, or that money received by a department from other sources than the grants for the year to which the account relates, has not been applied or accounted for according to the directions of Parliament, or that a sum charged against a grant is not supported by proof of payment, or that a payment so charged did not occur within the period of the account, or was for any other reason not properly charged against the grant.

In what manner the examination of the Appropriation Accounts shall be conducted by the Auditor.

59. The Auditor may, in such annual report, or in any special report which he may at any time think fit to make, recommend any plans and make any suggestions for the better collection and payment of the public moneys, and for more effectually and economically auditing and examining the public accounts and stores, and may generally report upon all matters relating to the public accounts, moneys and stores.

Suggestions by the Auditor.

60. If the Treasurer shall not, within the time prescribed by this Act, present to Parliament any report made by the Auditor on any of the appropriation accounts, or the annual account of revenue and expenditure, the Auditor shall forthwith transmit such report to the Speaker of the House of Assembly to be by him presented to the said House.

Duty of Auditor on failure of Government to submit Report and Appropriation Accounts.

61. As soon as any interest on, or any debentures or stock forming part of, the public debt of the Colony or any contribution towards the gradual extinction of such debt by annual drawings, becomes due and payable, the amount so due shall be paid into a separate deposit account and audited by the Auditor, and shall forthwith become a final charge to the vote entitled "Public Debt," anything in the preceding sections of this Act notwithstanding.

Separate Deposit Account of Interest or Sinking Fund contributions to be kept.

62. All interest on the public debt of the Colony, and all debentures and stock which may thus become due and payable, shall, when actually paid or redeemed, be charged together with the expenses of annual drawings, to the aforesaid deposit account.

Interest on Public Debt, etc., charged to Deposit Account.

PART VIII.

MISCELLANEOUS AND SUPPLEMENTAL.

(1) *Moneys Outside the Colony.*

63. The Auditor may make such regulations, not inconsistent with the provisions of this Act, as he considers necessary for

Governor may make financial arrangements.

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arrangements
outside Col-
ony.

the collection, receipt, custody, issue, expenditure, due accounting for, care, and management outside Cape Colony of any public moneys, and for the keeping of books and accounts and furnishing statements, returns, and vouchers relating to such collection, receipt, custody, issue, expenditure, accounting for, care, and management, and for the examination, inspection, record and audit of such books, accounts, statements, returns and vouchers : provided that all such regulations shall be approved by the Governor previous to the issue thereof and upon being so approved shall have the force of law, and the same shall be laid upon the Table of both Houses of Parliament within seven days after the beginning of the Session of Parliament next ensuing.

(2) *Funds for the Contingencies Account.*

Funds for
the Contingencies
Account.

64. Inasmuch as no fund has been created to meet any warrants issued by the Governor under the provisions of the Contingencies Account Act No. 14 of 1892, it shall be lawful for the Governor, subject to the Auditor certifying that there is an insufficiency of funds in the Exchequer to meet such warrants, to raise, by way of temporary loan, in such manner as may seem to him to be most expedient, an amount equivalent to the amount of such warrants. Notwithstanding anything to the contrary in any law, the Contingency Account Act, 1892, shall in respect of the aggregate amount of issues advanced on behalf of liabilities incurred on emergency without the previous authority of Parliament be read and construed as if the words one hundred thousand pounds in the second, third and fourth sections were omitted therefrom and the words three hundred thousand pounds inserted in their stead.

(3) *Penalties.*

Misconduct
by Account-
ing Officers
and others.

65. (1) Any accounting officer or person subject to the provisions of this Act who—

- (a) Applies, disposes of, or makes use of any moneys or stores which have come into his possession, or are under his control by reason or virtue of his office, service or employment, otherwise than as provided in this Act or the regulations ; or
- (b) Pays any such moneys into his private account at any bank,

shall be deemed to have converted such moneys or stores to his private use, and shall be liable upon conviction before any competent Court to imprisonment for a term, with or without hard labour, not exceeding three years.

(2) Any such accounting officer or person who wilfully damages or destroys any such stores shall be liable to imprisonment for a term not exceeding six months.

66. (1) When the Treasurer has given a certificate in writing under his hand declaring that for any reason mentioned in such certificate any document subscribed by any person should be accepted in lieu of any statutory declaration required by this Act or the regulations, the Governor may order that any document so subscribed shall be so accepted in lieu of such declaration.

Subscription to false document made in lieu of declaration.

(2) Any person who wilfully and corruptly makes and subscribes any such document, knowing the same to be untrue in any particular, shall be liable after conviction before any competent Court to imprisonment for a period not exceeding one year with or without hard labour.

67. Any person who is guilty of any wilful act of commission or omission contrary to any of the provisions of this Act, for which no penalty is expressly provided, shall be liable to a penalty not exceeding fifty pounds.

General Penalty.

68. Any person who wilfully destroys mutilates or alters any document, voucher, receipt, order or other paper with the object of deceiving, misleading or withholding information from the Treasurer, Auditor or any person acting under their directions shall be liable upon conviction before any competent Court to imprisonment for a period not exceeding one year with or without hard labour.

Mutilation or alteration of documents.

69. All penalties incurred under this Act may, in addition to any other method of recovery provided in this Act, be imposed and recovered after inquiry by the Treasurer either generally or for the purpose of any particular case, and when paid or recovered, shall be paid into the Consolidated Revenue Account.

Recovery of Penalties.

(4) *Regulations.*

70. (1) The Auditor is hereby authorised to make from time to time such regulations, not inconsistent with the provisions of this Act, as may appear to be necessary and expedient for the purposes of this Act and to enable him to exercise and perform the powers, authorities, and duties hereby imposed upon him, provided that all such regulations shall be approved by the Governor previous to the issue thereof, and upon being so approved, shall have the force of law, and the same shall be laid upon the table of both Houses of Parliament within seven days after the beginning of the session of Parliament next ensuing.

Auditor may make Regulations.

71. This Act may be cited for all purposes as the "Audit Act, 1906."

Short Title.

No. 15—1906.]

[August 17, 1906.

ACT

To 'Amend the Chinese Exclusion Act, 1904.

[Assented to 15th August, 1906.]

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

Grant to holder of certificate of exemption of permit to visit China and re-enter Colony.

1. Anything to the contrary in the Chinese Exclusion Act, 1904, notwithstanding, it shall be lawful for the holder of a Certificate of Exemption, granted by the Minister under and by virtue of Section 6 of the said Act; against whom no conviction is recorded which would render him liable to expulsion from this Colony under the said Act, to apply to the Minister or any officer authorized by him to receive applications under this Act for a permit to visit China or other eastern country from which he may originally have come; and, on such permit being granted and acted upon, the person to whom the same was issued may re-enter the Colony within such period and at such port or place as the Minister may have prescribed in such permit: provided that all and several the conditions under which permits may alone be granted hereunder shall have been complied with to the satisfaction of the Minister.

Regulations.

2. The Governor by Regulation shall, as soon as may be after the coming into effect of this Act, prescribe the mode in which applications for permits hereunder shall be made, and the conditions as to identification and any other matter under which permits may alone be issued.

Short Title.

3. This Act may be cited as "The Chinese Exclusion Amendment Act, 1906."

No. 16—1906.]

[Not yet promulgated.

ACT

To Amend and Extend the Provisions of Act No. 27 of 1893, entitled the "Animal Diseases Act, 1893."

[Assented to 16th August, 1906.]

Preamble.

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

Extended application of certain sections of Animal Diseases Act.

1. The "Animal Diseases Act, 1893," shall be read and construed as if the provisions of the third, fourth, fifth, sixth, seventh, eleventh, twelfth, and thirteenth sections thereof, regarding the importation, quarantine and removal of animals

applied *mutatis mutandis* to articles or things which either by contact with such animals or through any other means are or have been rendered capable of carrying the infection or contagion of disease amongst animals.

2. Notwithstanding anything to the contrary contained in Part II. of the said Act, it shall be lawful for the Minister, in the event of any animal being found affected with the disease of lungsickness, the diseases of glanders and farcy, or the disease of Tuberculosis, to perform any of the following acts, that is to say :

Powers of the Minister in case any animal is found affected with Lungsickness, Glanders, Farcy, or Tuberculosis.

(a) In the case of Lungsickness :

- (1) To cause the immediate destruction of the animal or animals found infected by the Board convened under section nine of the said Act, compensation being payable to the owner of an amount equal to one-half of the value of the animal before infection, such compensation to be assessed by the said Board and in no case to exceed forty pounds sterling for any one animal.
- (2) To cause all animals which have been in contact with infected animals and are liable to be infected to be inoculated or drenched under the supervision of a Government Veterinary Surgeon or other Officer thereto specially authorised in writing by the Minister, or other competent person authorised by the Board constituted under section nine of the said Act, and to be isolated under quarantine.

(b) In the case of Glanders or Farcy :

- (1) To cause the immediate destruction of the animal or animals found by the Board convened under section nine of the said Act to be visibly infected, compensation being payable to the owner of an amount not exceeding one-third of the value of the animal before infection, such compensation to be assessed by the said Board, and in no case to exceed £25 sterling for any one animal.
- (2) To cause all animals which have been in contact with infected animals, and are liable to be infected, to be tested with *mallein* by or under the supervision of a Government Veterinary Surgeon or other Officer thereto specially authorised in writing by the Minister, and to be isolated under quarantine.
- (3) Any of the incontact animals that react to the *mallein* test must be isolated under quarantine and destroyed or be kept in a special enclosure for a period of not less than six months.

(c) In the case of Tuberculosis :

- (1) To cause the immediate destruction or permanent isolation under quarantine of the animal or animals found by the Board convened under section nine of said Act to be visibly infected, compensation being payable to the owner for animals so destroyed of an amount not exceeding one-fourth of the value of the animal before infection, such compensation to be assessed by the said Board, and in no case to exceed £15 sterling for any one animal.
- (2) To cause all animals which have been in contact with infected animals, and are liable to be infected, to be tested with *tuberculin* by or under the supervision of a Government Veterinary Surgeon or other Officer thereto specially authorised in writing by the Minister, and to be isolated under quarantine.

Animals slaughtered under the provisions of this section shall be buried by or at the expense of the owner, and if not buried by the owner the expenses of burial shall be recoverable from such owner, in any Court having jurisdiction.

Provision in
lieu of Sec. 11,
Act 27 of 1893.

3. The eleventh section of Act No. 27 of 1893 is hereby repealed and the following provisions substituted in lieu thereof :—

Whenever it shall be proved to the satisfaction of any Resident Magistrate or any Government Veterinary Surgeon that any animal within the district is affected with any infectious disease, it shall be lawful for such Magistrate or any Government Veterinary Surgeon or other Officer thereto specially authorised in writing by the Minister upon notice to the occupier of the land on which such animal is, to declare such land or any portion thereof an infected area, and to prohibit the removal of any such animal as may be named in such notice from the land so declared an infected area for such period to be prescribed by the Minister as will enable the Governor, if he thinks fit, to issue the proclamation referred to in the next succeeding section, and such notice shall be published in some newspaper circulating in the district, and a copy thereof shall be posted at the Office of the Resident Magistrate, and from and after such notice and prohibition and during such period the owner of any such animal in such infected area who shall allow any such animal to stray or be removed into any uninfected area, shall be guilty of an offence against the provisions of this Act and liable to the penalties prescribed for the contravention of the same.

Rules and
Regulations.

4. It shall be lawful for the Governor, whenever he shall be satisfied that it is expedient to do so in order to prevent the spread of any infectious or contagious disease amongst animals,

to make, by Proclamation to be published in the *Gazette*, rules and regulations for all or any of the following purposes, that is to say:—

- (a) To prohibit or regulate the movement of persons and the removal of any article or thing whatsoever into the Colony from any place beyond the Colony, in respect of which there shall have been issued any Proclamation under the provisions of section five of Act No. 27 of 1893.
- (b) To prohibit or regulate the movement of persons and the removal of any article or thing from any area within the Colony proclaimed as infected with any contagious or infectious disease, or from place to place within such area.
- (c) For the removal, isolation, quarantine or treatment, whether by inoculation or otherwise, of any animal within the Colony, and for the disposal of any article or thing which there shall be reasonable grounds for believing capable of conveying any contagious or infectious disease.

Provided that in the case of lungsickness, glanders and tuberculosis, no restriction shall be placed on the movement of persons.

And the Governor may, by Proclamation, provide for penalties for the contravention of any Regulation made under the provisions of this Act, which shall not exceed twenty-five pounds sterling for any one penalty, or, in default of payment of such penalty to imprisonment, with or without hard labour, for a period not exceeding three months, and any person contravening any such Regulation shall be liable to a penalty not exceeding twenty-five pounds sterling, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

5. It shall be lawful for the Minister or any Officer thereto duly authorised by him in writing to enter at all reasonable times any land or premises for the purpose of carrying out all or any of the provisions of this Act. Powers of entry upon premises.

6. It shall be lawful for the Minister or Officer thereto duly authorised by him in writing to enter upon land being private property, being a suitable place pointed out to such officer by the owner or occupier, and to take temporary possession of such land for the purpose of quarantining animals under the provisions of this Act, and stamping out any contagious or infectious disease; and, for such temporary occupation and for any loss or damage resulting therefrom, there shall be paid to the proprietor such compensation as shall be mutually agreed upon, or, failing such agreement, as shall be determined by arbitration in accordance with the "Lands and Arbitrations Clauses Act, 1882." Power to take private land for quarantine purposes.

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No. 16—1906.

Definition of animal for purposes of certain Acts.

7. The term "animal" shall, for purposes of this Act and Act No. 27 of 1893, include such animals as are from time to time proclaimed to be animals for the purpose of the said Acts.

Short title.

8. This Act may be cited for all purposes as "The Animal Diseases Act Amendment Act, 1906," and shall be read as one with the "Animal Diseases Act, 1893."

No. 17—1906.]

[August 17, 1906.

ACT

To provide for the raising of a Loan of Fifty-seven thousand nine hundred pounds sterling for the purpose of prosecuting and improving the Harbour Works of East London and Mossel Bay, and to apply surpluses on certain works to meet the cost of and deficits on certain other works.

[Assented to 15th August, 1906.]

Preamble.

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

Power to raise Loan for £43,000.

1. For the purpose of providing capital for Stores Account for the East London Harbour Board and for the purpose of carrying out the works and services detailed in Schedule "A" hereunto annexed, it shall be lawful for the Governor to raise by Public Loan, either temporarily or by means of Consolidated or Colonial Stock in London or in the Colony, the sum of £43,000, provided that the sum so raised shall be used to cover expenditure either already made out of the said Harbour Boards Revenue, or still to be made for the services described in Schedule "A" hereunto annexed.

Annual Contribution to Sinking Fund.

2. The respective Harbour Boards shall, from and after the 1st day of January, 1906, pay out of their Revenue to the Sinking Fund Commissioners appointed under the provisions of Act No. 11 of 1897 an annual amount calculated at the rate of 1 per cent. on the amount authorised to be raised herein, which sum shall be credited to the Sinking Fund Account under Act No. 40 of 1895 and be applied towards the reduction of any portion of the existing Harbour Board Debt or in respect of any debt now or hereafter created either permanently or temporarily on behalf of the said Harbour Boards.

3. For the purpose of meeting the deficits of the East London Harbour Works as detailed in Schedule "B" hereunto annexed, it shall be lawful for the Governor to apply the surpluses, whether more or less as the case may be, on certain works detailed in the said Schedule as well as certain other surpluses surrendered by the Port Elizabeth Harbour Board, also detailed therein and for the purpose of meeting the balance of the deficits, it shall be lawful for the Governor to raise by Loan in the manner prescribed in Section 1 hereof the sum of £14,900.

Application of surpluses to cover deficits on certain works and power to raise loan of £14,900 to meet balance of deficits.

4. The Port Elizabeth Harbour Board Debt shall be reduced by the amount surrendered as detailed in Schedule "B" hereof which amount shall be added to the debt of the East London Harbour Board.

Transfer of certain debt from Port Elizabeth to East London Harbour Board.

5. It shall be lawful for the Harbour Board of East London to apply the amount received in respect of the insurance of a hopper barge which was wrecked towards the purchase of a rock cutting apparatus.

Purchase of rock cutting machine, East London, with certain insurance money.

6. The provisions of Sections 3 and 4 of "The Harbour Boards Loans Act," No. 33 of 1902, shall *mutatis mutandis* apply in respect of the sum herein authorised to be raised by loan.

Sec. 3 and 4 of Act 33 of 1902 to apply. Treasurer to notify that funds are available.

7. No expenditure under this Act shall be incurred for any new work until the Treasurer shall have notified, under his hand that the funds for such work are available.

8. This Act may be cited as the "Harbour Boards Loan Act, 1906."

Short Title

SCHEDULE "A."

Schedule "A."

1. <i>East London Harbour Board.</i>			
Extension of Quay Wall including cost of raising			
Loan	...	...	£15,750 0 0
Stores Reserve Account	...	22,000	0 0
			37,750 0 0
2. <i>Mossel Bay Harbour Board.</i>			
For completing Harbour Works including cost of raising Loan			
Loan	...	...	5,250 0 0
			£43,000 0 0

SCHEDULE "B."

Amounts overspent on authorised works :—				Estimated.		
				£	s.	d.
Act 27 of 1896.						
	New Dredger	...	...	193	8	3
	Sorting Sheds	...	...	213	17	4
	Additional Paraffin Storage...	...	...	10	14	1
	One Tug...	...	...	158	18	10
Act 34 of 1898.						
	Completion of Concrete Wharf	...	...	6,636	10	7
	Additional Landing and Shipping Plant	...	...	189	13	0
	Stationary Bucket Ladder Dredger	...	...	9,758	2	7
	Two Hopper Barges	...	...	3,116	2	9
	Widening Produce Wharf	...	...	69	4	3
	Electric Lighting Plant	...	...	147	13	1
Act 20 of 1900.						
	Produce Warehouse, Upper T'mal	...	...	11	4	5
	Aerial Tramway	...	...	2,305	15	5
	Warehouse and Jetty Alterations, Lower T'mal	...	...	43	9	4
Act 33 of 1902.						
	Dredger	...	...	542	3	7
	Two Hopper Barges	...	...	160	15	10
	Extension No. 2, Produce Wharf	...	...	238	7	1
	Hydraulic Cranes...	...	...	2,904	12	0
	Extension Ballast and Coal Wharf	...	...	629	0	9
Government Authority :						
	New Fire Float	...	...	955	11	2
				<hr/>		
				28,285	4	4
				<hr/>		

Less Surpluses to be applied to
reduction of the foregoing deficits :—

				Estimated.		
				£	s.	d.
Act 11 of 1894.						
	South Breakwater Head			589	1	0
	Resetting Capping	...	...	1,740	0	0
	Parapet	...	...	257	11	10
	East Pier	...	...	53	11	7
Act 34 of 1898.						
	Completion of Victoria Ship	...	...	1,275	9	1
	Two Rock Removing Stampers	...	...	6,677	0	0

Act 33 of 1902.		
1,000 Feet Wharf, East		
Bank	547	15 11
Transporters	390	6 10
Act 50 of 1905.		
Expenses raising loan, etc.	25	12 2
Surpluses surrendered by Port Elizabeth Harbour Board.		
Act 33 of 1902.		
Proceeds of Sale of Tug "Princess May"	2,500	0 0
Widening Humewood Road	43	19 9
Reclamation	23	15 4
		<hr/>
		14,124 3 6
		<hr/>
To be provided for in New Loan ...		14,161 0 10
Cost of raising Loan		738 19 2
		<hr/>
		£14,900 0 0
		<hr/> <hr/>

No. 18—1906.]

[August 21, 1906.]

ACT

To Authorise the Council of the Municipality of Walmer on behalf of the ratepayers of the said Municipality to conclude a certain Contract of guarantee with the Government in connection with the construction, equipment, working and maintenance of a certain line of Railway.

[Assented to 16th August, 1906.]

WHEREAS it is desirable that a line of Railway should be constructed, equipped, worked and maintained from a point on the existing Government Railway, known as the Port Elizabeth-Avontuur Railway, in the neighbourhood of the Town of Walmer to a terminus to be fixed by the Government at a point on the commonage of Walmer.

Preamble.

And whereas whilst it is expedient that the said line of railway be constructed, equipped, worked and maintained by the Government, it is at the same time necessary in order to induce the

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ACT, 1906.

No. 18—1906.

Government to undertake such construction, equipment, working and maintenance, that the Council of the Municipality of Walmer acting on behalf of the ratepayers of the said Municipality should enter into a contract with the Government guaranteeing certain payments in connection with the said line, for a term of ten years ;

And whereas it is desirable that the said Council should be authorised to enter into the said contract of guarantee, and to pay such sums as may from time to time become claimable thereunder to the Government either out of the ordinary rates of the Municipality or by means of a special rate to be imposed, levied and collected from time to time ;

And whereas at a meeting of ratepayers of the said Municipality held on the 21st day of February, 1906, a resolution was adopted authorising the said Council to enter into a contract of guarantee in connection with the said line, and to secure legal effect for such guarantee.

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

Municipal Council authorised to furnish guarantee of certain interest charges.

1. Notwithstanding the provisions of Act No. 45 of 1882, commonly called "The Municipal Act, 1882," and of any other law it shall be lawful for the Council of the Municipality of Walmer, on behalf of the ratepayers, to enter into and conclude a contract with the Government, guaranteeing, on the security of the Municipal funds, rates and property, the payment to the Government of :—

- (a) Interest at the rate of four per centum per annum on the capital cost of the construction and equipment by the Government of a line of railway from a point on the existing Government Railway, known as the Port Elizabeth-Avontuur Railway, in the neighbourhood of the Town of Walmer to a terminus to be fixed by the Government at a point on the commonage of Walmer for a period of ten years from the date of the opening for traffic of the said line, such capital cost to include :—
- (1) The acquisition of land, the erection of junction station, buildings, and all other appurtenances and appliances as are usual on similar lines on the Cape Government Railways ;
 - (2) The actual cost of all betterments or new works which it may be necessary to provide after the opening of the line, for safe and proper working ; and
 - (3) An additional sum not exceeding five per cent. of the aforesaid expenditure to cover the cost of raising loans and interest during construction.

THE WALMER RAILWAY MUNICIPAL GUARANTEE 5081
ACT, 1906.

No. 18—1906.
And loss of
Working Line
for 10 years.

- (b) The actual loss incurred by Government in the working of the said line during the said period of ten years. Provided that any profit in working the said railway which may be made in any one year ending on the 30th day of June shall be applied to the reduction of the liability in respect of interest charges as aforesaid; and that the nett shortfall only shall be the extent of the liability of the Municipality and ratepayers in any one year.

Provided, however, that adjustment in full be made for each year, taking into consideration any past surpluses of which the said Council shall not at such date have had the full benefit; and provided also that a final adjustment shall take place after the expiration of the said period of ten years.

2. For the purpose of giving effect to the said guarantee, the said Council is hereby authorised to pay from time to time such sums as may become due thereunder, either out of the ordinary funds of the Municipality or by means of a special rate not exceeding twopence in the pound, levied for the purpose annually or in such year or years as may be required.

Levy of
Special Rate
authorised.

3. Such special rate shall be assessed by such Council upon all property within the Municipal limits liable to assessment and shall be made, levied, collected and recovered in the same manner as other rates provided for by the said "Municipal Act, 1882."

Assessment
under Muni-
cipal Act.

4. The said Council shall cause to be kept separate accounts of expenditure and receipts arising or accruing by reason of the said contract of guarantee, and any refunds from Government or surplus funds arising from the levy of the special rate aforesaid in any year shall be devoted towards the discharge of liabilities under the said contract in the succeeding year or years; provided that at the conclusion of the aforesaid period of ten years any such refunds or surplus monies in the possession of the Council after discharging all liability under the said contract may be devoted to general Municipal purposes.

Separate
accounts to be
kept.

5. This Act may be cited for all purposes as "The Walmer Railway Municipal Guarantee Act, 1906."

Surplus may
be appropri-
ated.

Short title.

No. 19—1906.]

[August 21, 1906.

ACT

To Provide a Review in all cases of Sentences to Lashes by Visiting or Resident Magistrates.

[Assented to 16th August, 1906.]

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

Preamble.

No. 19—1906.

Review of sentences of lashes passed by Visiting Magistrates.

1. Whenever a convict or prisoner is sentenced by a Visiting Magistrate or Resident Magistrate under and by virtue of the provisions of the Convict Stations and Prisons Act, 1888, to any number of lashes, the proceedings, accompanied by such remarks as the Magistrate may desire to append, shall be forwarded as soon as possible to the Registrars of the Supreme Court, High Court, or Eastern Districts Court, as the case may be, for immediate submission to a Judge in Chambers, and the sentence shall not be carried out until and unless the reviewing Judge shall have certified the same, by his endorsement on the proceedings, to be in accordance with real and substantial justice; and pending the return of the proceedings to the Magistrate, and if so certified, the carrying out of the sentence, the convict or prisoner, as the case may be, shall remain in custody notwithstanding the completion of his term of imprisonment.

Short Title. 2. This Act may be cited as the "Lashes Review Act, 1906."

No. 20—1906.]

[August 21, 1906.]

ACT

For the Regulation of Servants Registry Offices.

[Assented to 18th August, 1906.]

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

Short Title. 1. This Act may be cited as "The Servants Registry Offices Act, 1906."

Interpretation clause. 2. In this Act "Magistrate" shall mean the Resident Magistrate or Assistant Resident Magistrate of the District.

"Licence holder" shall mean a person who holds a licence under this Act to keep and conduct a servants registry office.

"Servant" or "Servants" shall mean any person or persons engaged, seeking engagement for hire in any manual capacity, whether domestic, agricultural, pastoral, mechanical or otherwise howsoever, and shall include Governesses and Lady Helps.

"Servants Registry Office" or "Registry Office" shall mean any premises or office at which is carried on the business of procuring the engagements of servants for employers, or employment for servants, but does not include any association or institution not carried on for the purpose of profit or gain.

Licences for Registry Offices. 3. From and after the 1st day of October, 1906, it shall not be lawful for any person directly or indirectly to keep or conduct a Registry Office, or to in any way hold himself out to be a keeper or conductor thereof, or to be in charge or to recover any

charges, payment or remuneration for or in connection with the hiring of any servant unless he is the holder of a licence to be issued on the form set out in the First Schedule to this Act.

4. Every person desiring to obtain a licence under this Act shall ^{Mode of obtaining licence.}

(a) Make a written application therefor in the form set out in the Second Schedule to this Act to the Distributor of Stamps of his district ;

(b) Forward with such application a certificate of character in the form set out in the Third Schedule to this Act, signed by a Justice of the Peace, and by six ratepayers of the district for which the licence is desired.

5. The Magistrate if satisfied upon enquiry made and evidence ^{Discretion of Magistrate as to issuing licence.}—if any—adduced, that the premises or offices proposed to be used by the applicant are suitable for a Registry Office and are clean and in good repair, and that the applicant is a suitable person to conduct a Servants Registry Office, may issue or renew a licence to such person, but if he think otherwise he may decide not to issue or renew a licence to an applicant, in which event he shall give the applicant a written statement setting out his reasons for declining to issue or renew a licence, as the case may be, provided that the applicant may renew his application after six months.

6. Every licence unless sooner cancelled shall continue in force in respect of the premises for which it was issued or renewed only and not elsewhere, except with the consent of the Magistrate endorsed upon the licence, until the Thirtieth day of September after the date of issue or renewal thereof. ^{Date of expiration of licence.}

7. (1) The Magistrate shall keep a Register of all licence holders and of all endorsements, renewals, transfers, and cancellations of licences. ^{Register of licence holders.}

(2) A copy of any entry in such Register purporting to be signed by the Magistrate, shall be *prima facie* evidence of the truth of the matters stated in such copy.

8. Every licence holder shall keep the following records of his business :— ^{Records to be kept by licence holder}

(a) A book containing the names of every person who pays or is charged a payment or remuneration for or in connection with the hiring of servants, together with the date and the amount of the payments or remuneration ;

(b) A book in the form in the Fourth Schedule to this Act containing as to every engagement made at his Registry Office the particulars specified in such Schedule and the signature of such licence holder ; and

(c) The originals of all letters received for a period of one year from receipt thereof by the licence holder, relating to the hiring of servants.

No. 20—1906.

Records open
to inspection.

9. Such books and records shall be accurately kept from day to day, and shall at all reasonable times be open to inspection by any Police Inspector.

Particulars
to be given by
servants seek-
ing employ-
ment.

10. It shall be the duty of every servant when seeking engagement for hire in any capacity at a Registry Office truly to state :

- (a) His or her correct name in full ;
- (b) His or her private address ;
- (c) The name and address of his or her last employer.

Any servant found to have given false particulars shall be liable on conviction to a fine not exceeding five pounds sterling, or to imprisonment with or without hard labour for a period not exceeding fourteen days.

Powers of
entry.

11. For the purpose of the execution or enforcement of the provisions of this Act any Inspector of Police shall have power to enter at all reasonable times any licensed Registry Office.

Inspection
of entries by
employer or
servant.

12. Any employer or servant may, upon obtaining the consent in writing of any Police Inspector, at all reasonable times inspect and take copies of any entry relating to himself in any such books.

Licence
holder's name
to be posted
up.

13. Every licence holder shall at all times keep posted up in some conspicuous place in or on his Registry Office so as to be easily read by the public his name and the words "Licensed Servants Registry Office Keeper."

Transfer of
licence.

14. No licence holder shall transfer his licence to any other person, or directly or indirectly permit any other person to carry on business under colour of such licence except such transfer shall be endorsed upon such licence by the Magistrate, who shall have been satisfied as to the character of the person to whom the transfer is to be made. Should the Magistrate refuse to transfer such licence he shall give applicant a written statement of his reasons for such refusal.

Copy of
scale of
charges to be
posted up.

15. Every licence holder shall at all times keep posted up in some conspicuous place in his Registry Office so as to be easily read by persons using such office a printed copy of the scale of charges or remuneration for the time being chargeable by and payable to such licence holder in respect to the hiring of servants.

Penalty for
exceeding
scale.

16. (1) No licence holder shall directly or indirectly demand or receive from any person for or in respect of the hiring of any servant any greater or other rates of payment or remuneration than those specified in such scale, and any sum in any way received by any licence holder in breach of this section may in any court of competent jurisdiction be recovered back with full costs of suit by the person who paid it.

- (2) No licence holder shall directly or indirectly take or accept any goods or chattels in payment or as security

for the payment of such rates or remuneration, nor shall any licence holder receive or accept any reward or consideration in addition to the said rates.

17. It shall not be lawful for any person not being a licence holder to directly or indirectly hold himself out to be a licence holder, or to keep or conduct a registry office.

Non-licence holder keeping a Registry Office.

18. (1) The Governor may make regulations for the carrying into effect the provisions of this Act and for prescribing the maximum of scale payment or remuneration chargeable by and payable to licence holders either by employers or servants in respect of the hiring of servants either generally or in respect to any particular class of engagement or to the sex of the person engaged or to be engaged.

Regulations.

(2) All such regulations shall be published in the *Gazette*, and when so published shall have the force of law.

19. If any person who is a licence holder fails or neglects to comply with any of the provisions of this Act, or if any person, whether a licence holder or not, commits a breach of any of the provisions of this Act or obstructs any police officer or other person in the execution of his duty under this Act, or if any person who has been a licence holder keeps or conducts a Registry Office after the expiration of one month from the expiry of any licence at any time held by him, he shall, for every such offence, be liable on conviction to a penalty not exceeding five pounds sterling.

Penalties.

20. Every conviction of a licence-holder for an offence against this Act shall be endorsed upon his licence by the convicting court, and such court may on any conviction cancel the licence, and the licence shall in such case be delivered to the Magistrate.

Endorsement of convictions on licence.

21. Nothing in this Act contained shall prevent an employer of labour from paying any person not a licensed holder for obtaining servants for such employer.

Exemption.

FIRST SCHEDULE.

1st Schedule.

ANNUAL LICENCE TO KEEP A SERVANTS REGISTRY OFFICE.

I, the undersigned, being the Resident Magistrate, hereby licence A. B. of, to keep and have the conduct of a Servants Registry Office at the premises situate at, in the town of, subject to the provisions of the Servants Registry Offices Act, 1906. This licence, unless sooner cancelled, continues in force in the said premises (but not elsewhere) from the date hereof until the 30th September, 190

Dated this.....day of.....190....

Resident Magistrate.

FOURTH SCHEDULE.

SERVANTS REGISTRY OFFICES ACT, 1906.

BOOK OF ENGAGEMENTS.

Name and Address of Servant or Applicant for Employment as a Servant.	Name of Applicant making application for Employee.	Name of last Employer and last known address.	Date of Application.	Date of Engagement.	Address and Occupation.	Nature of Engagement.	Rate of Wages.	Terms of Engagement.	Signature of Licence Holder.

No. 21—1906.]

[August 21, 1906.

ACT

To Repeal Act No. 27, 1888, entitled “The South African Association Incorporation Act, 1888,” and to substitute another Act in lieu thereof.

[Assented to 18th August, 1906.]

WHEREAS it has been found expedient to alter and amend Act No. 27, 1888, entitled “The South African Association Incorporation Act, 1888” :

Preamble.

And whereas it is expedient to abolish the distinction heretofore existing between Members and Shareholders of the South African Association for the Administration and Settlement of Estates :

And whereas it is further expedient that the said Association should be empowered to amalgamate with, or acquire the business of other Companies or Institutions of a like nature :

And whereas it is further expedient to define more fully the territories within which the said Association may carry on business, and to empower it to continue, maintain, and carry on an agency at Port Elizabeth, and to make provision for conducting the business thereat :

And whereas it is further expedient to give to the Directors the power to fix the rate of interest to be paid by the said Association, and to accept moneys on deposit, and to give to them enlarged powers with regard to the investment of moneys :

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And whereas it is further expedient to make fresh provision regarding the transfer of shares and the disposing of certain shares and regarding the appointment of Auditors, of a General Manager and other officers :

And whereas it is further expedient to regulate anew the disqualification of Directors, the times of meeting of Shareholders and Directors, and the manner of serving notices, and to provide for a common seal :

And whereas for these purposes it is expedient to repeal the aforesaid Act and to re-enact such of the provisions thereof as it may be fitting to re-enact, with such alterations, amendments, or additions as are deemed desirable :

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

Act 27 of 1888 repealed.

1. "The South African Association Incorporation Act, 1888," is hereby repealed.

Incorporation and use of name of Association.

2. The said South African Association for the Administration and Settlement of Estates shall be and remain a body corporate having a common seal, and shall be known as "The South African Association," and by the said name shall have power to purchase, hold, and alienate movable and immovable property, enter into contracts, agreements, and deeds of all descriptions, and generally transact all the business of the Association.

Repeal not to affect rights or claims existing at time of taking effect of this Act.

3. Notwithstanding the repeal aforesaid, every right or claim of, or against the said Association, existing at the time of the taking effect of this Act, shall survive for or against the said Association, incorporated under this Act, and shall be judged of as if this Act had not been passed.

Where business of Association to be carried on; Port Elizabeth Agency.

4. The said Association shall be entitled to carry on its business in the Cape Colony, and furthermore in any other British Colony, Possession, or Territory in South Africa as may heretofore have been or may hereafter be determined by the Shareholders at a meeting duly convened; and shall further be empowered to continue, maintain, and carry on an agency at Port Elizabeth for the more convenient despatch of the business of the Association, subject to such bye-laws as have heretofore been, or may hereafter be, duly framed in that behalf: the Head Office of the said Association remaining situate at Cape Town.

Business and objects of Association.

5. The business of the said Association shall be the liquidation, administration, and settlement of such estates and other property as it shall be duly appointed to liquidate or administer, as executors, administrators, tutors, curators, trustees, liquidators, or agents, either under and by virtue of any last will or other testamentary disposition, or by virtue of any order or decree of any competent court, or any power of attorney or other valid instrument.

6. In all cases in which the said Association shall, by virtue of any agreement or at the desire of testators, upon undertaking the administration of any money, bonds, or other assets, have deducted from the gross amount or value thereof a commission by way of guarantee, it shall be bound to make good and pay any loss sustained by it on such moneys, bonds, or assets.

Effect of charging guarantee commission.

7. The said Association shall have the right and be allowed to pay interest half-yearly, at a rate to be fixed from time to time by the directors, on all moneys administered by or entrusted to it either as executors, administrators, guardians, trustees or curators; provided, however, that such rate shall not be less than that allowed by the Master of the Supreme Court in this Colony at the time such rate shall be fixed by the said directors; provided also that the said Association shall not be at liberty to invest the capital from which such interest is derived other than in the manner following, unless expressly permitted to the contrary in the instrument, if any, creating the trust:

Rate of interest allowed by Association and how capital may be invested.

- (1) In the purchase of or advance on the public stocks, funds or debentures of the Government of the United Kingdom of Great Britain and Ireland or the Colony of the Cape of Good Hope or any other British Colony, territory or possession in South Africa.
- (2) Upon the debentures or mortgages of any Divisional Council, Municipality or School Board in British South Africa duly authorised to borrow money.
- (3) Upon first mortgage of immovable property in South Africa.
- (4) In the purchase of immovable property, life policies or other securities, when necessary for the protection of the interests of the trust or trusts concerned.

8. In cases where the said Association administer moneys belonging to minors in whatever capacity it may be, of which moneys the whole annual interest shall not be required to be applied towards the maintenance of such minors, the said Association shall be at liberty, four months after the 30th day of April in any year, to add the balance of interest not so required to the respective capitals to bear interest from that date at such rate as the Board of Directors of the said Association may fix in the manner and on the terms provided for in the preceding section.

Special provision as to interest allowed to minors.

9. The Board of Directors of the said Association are hereby empowered to make advances of money, at such rate as may be agreed upon, against pledges of mortgage bonds, and also against promissory notes, provided such promissory notes are duly secured by pledge of shares of any of the accredited companies or associations of ~~this Colony or any other British Colony, Possession or Territory in South Africa~~, other than the said Association, or are duly secured by other good and sufficient securities, mining scrip being specially excluded; and provided further that no advance

Right to advance moneys on certain securities.

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made as aforesaid shall exceed one-half of the market value of the shares or securities, other than mortgage bonds, pledged for security thereof. Advances made against pledges of mortgage bonds shall not exceed two-thirds of the value of the landed property hypothecated under such mortgage bonds.

Right to accept moneys on either fixed or floating deposits.

10. The said directors are hereby also empowered to accept moneys on either fixed or floating deposits with the Association from persons desirous of so depositing the same, and to pay to such depositors interest on moneys deposited as aforesaid at such rate as may be fixed by the said directors from time to time: provided that such fixed and floating deposits shall at no time exceed fifty per cent. of the total amount of the Association's capital and reserve fund.

Directors authorized to invest in Debentures, etc.

11. The Board of Directors of the said Association shall also be allowed and authorized to invest the moneys under its administration and belonging to minors, fidei-commissary heirs, or any other person or persons whomsoever in the manner prescribed in section seven of this Act, unless expressly permitted to the contrary in the instrument creating the trust.

Investment of capital belonging to principals.

12. It shall be lawful for the said Association, in respect of all moneys administered by it as general or special agents, to invest the same at interest whenever practicable in the names of and for account of the persons to whom such moneys belong for their benefit, profit or loss in order that the said Association may be enabled at all times to close its accounts with such persons.

Right given to relinquish administration and to pay over moneys to Master of the Supreme Court.

13. Whenever the Board of Directors shall find it impossible to securely invest fidei-commissary inheritances or moneys of minors under the administration of the said Association, or shall deem it for the interest of the said Association to relinquish the administration of such inheritances or moneys, they shall be allowed, and are hereby empowered, with the leave of the Supreme Court, upon good cause shown and after due notice to persons interested, or their guardians or legal representatives, and to such other persons (if any) as the Court shall deem meet, to pay over the same to the Master ^{or assistant Master} of the said Court, who shall give his receipt therefor, and thereupon the administration thereof shall pass over to the said Master ^{or assistant Master}; provided further that the paying over of such moneys to the Master ^{or assistant Master} as aforesaid shall not relieve the said Association from any liability attaching to it for any act performed by it in the administration of such moneys.

Right given to take over bonds in estates.

14. In order to facilitate the liquidation and distribution of estates the Board of Directors of the said Association shall be allowed, and they are hereby empowered to take over and purchase such of the mortgage bonds of such estates as they shall deem fit at not less than their face value.

Capital stock of Association.

15. The capital stock of the said Association shall consist of the sum of twenty-nine thousand four hundred pounds sterling, which shall be divided into ~~one hundred and sixty-eight~~ ^{eight hundred and sixty-eight} shares of ~~one hundred and seventy-five~~ ^{one hundred and} pounds sterling each.

16. No shareholder shall be capable of holding more than one share, save and except any shareholder who shall on the taking effect of this Act be in possession of two or more shares. Number of shares a shareholder may hold.

17. No shareholder entitled as aforesaid to hold two shares shall be capable of holding more than one share at any time, after he shall sell or assign to any person or persons either or both of his said shares. Shareholders holding two shares and selling one not entitled thereafter to hold more than one share.

18. Any shareholder may sell or dispose of his share or shares to any person desirous of purchasing or acquiring the same, and transfer thereof shall be made by endorsement by the General Manager and Secretary, and by one of the directors, to that effect on the share certificate or certificates specifying the person to whom the same is transferred: provided, however, that no such endorsement shall be made or transfer be valid until the Board of Directors of the said Association shall have approved of the said transfer at a meeting of the said directors ~~held not less than ten days after notice in writing of the proposed transfer shall have been given to the shareholders;~~ and provided further that the transferor shall be deemed to remain the holder of such share until the said transfer shall have been approved by the directors as aforesaid. How shares may be sold.

19. In case any shareholder shall either in his private or partnership estate become insolvent or make an assignment to, or composition with his creditors, or any of them, such shareholder, or his trustee or assignee, shall be entitled any time during a term of three months from the date of the insolvency, assignment or composition to sell or assign the share of such shareholder to some person approved by the directors. Should the said share not be so disposed of within the aforesaid period, the certificate of such share shall be delivered to the directors, who shall then be entitled to sell or dispose of the said share as they shall see fit, and the net proceeds thereof, after deduction of commission and expenses, shall be paid to such shareholder, trustee or assignee, as the case may be, and such share shall be transferred in the manner prescribed in the last preceding section. How share of insolvent, etc., shareholder to be disposed of.

20. In case any shareholder shall die, then the executor or other legal representative of the estate of such deceased shareholder shall be bound within three months from the death of such shareholder either to sell or dispose of the share of such shareholder to some person approved of by the directors. Should the said share not be so disposed of within the aforesaid period the certificate of such share shall be delivered to the directors, who shall be then entitled to sell or dispose of the said share as they shall see fit, and the net proceeds thereof, after deduction of commission and expenses, shall be paid to the executor or other legal representative of such deceased shareholder, and such share shall be transferred in the manner prescribed in the eighteenth section of this Act. How deceased shareholder's share to be disposed of.

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Shareholder transferring share to be discharged from all liability.

21. Notwithstanding the provisions of Act 25 of 1892, every shareholder in the said Association whose share or shares shall have been sold or disposed of and the transfer thereof approved in manner aforesaid shall be absolutely discharged from all liability, claim, or demand whatsoever upon or in respect of the said share or shares previously held by him.

Time of General Meetings.

22. A general meeting of the shareholders of the said Association shall be held in the months of ~~January, April, July and October~~ in each year for the consideration of any business, of which eight days' notice shall have been given.

Special meetings, how called.

23. The directors shall call a special meeting of shareholders whenever required so to do by a requisition in writing signed by not less than 15 shareholders, setting forth the object for which such meeting is to be held, and the said directors shall within five days after receipt of such requisition call a meeting of shareholders, of which meeting and the object for which it is to be held eight days' notice in writing shall be given to the shareholders.

Directors may call special and emergency meetings.

24. The directors may of their own accord, at any time, upon a previous notice of eight days, as is in the last preceding section mentioned, call a special meeting of the shareholders of the Association for the purpose of considering and deciding upon any question or matter concerning the interests of the said Association, but in case of emergency the directors shall have the power to call such meeting on notice of forty-eight hours. *of shareholders **

What business may be considered at general meetings.

25. It shall not be competent at any ~~general~~ meeting held under the provisions of this Act, to consider any business other than that for the consideration of which such meeting shall have been convened.

Quorum of shareholders at meetings.

26. No meeting of shareholders shall be duly constituted or be competent to enter upon any question or business whatever unless twenty shareholders shall be present, and all questions at any meeting shall be decided by a majority of shareholders present.

Poll.

At any such meeting, unless a poll is demanded by at least five shareholders, a declaration by the President or other person acting as chairman (as hereinafter provided) that a resolution has been carried, or carried by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book of proceedings of the Association shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

If a poll is demanded as aforesaid it shall be taken at such time and place as the President, or chairman as aforesaid (as the case may be), directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand of a poll may be withdrawn. The right to demand a poll shall be open as aforesaid and available at any meeting of shareholders held under this Act.

27. Every meeting duly constituted may, upon question put and carried, be adjourned till some future day, to be fixed upon by such meeting. Meetings may be adjourned.

28. No shareholder shall be allowed to vote by proxy, and no shareholder present shall have more than one vote. Each shareholder to have one vote. No proxies allowed.

29. The President, hereinafter in the ~~thirty-first~~ section of this Act mentioned, shall, when present, ~~preside~~ at all meetings, and in his absence the director next in seniority present at the meeting who shall stand highest upon the list of such directors, shall take the chair; and whenever it shall happen that the votes of the shareholders shall, either on a show of hands or at a poll, be equally divided, then the director or shareholder presiding shall, besides his individual vote, also have a casting vote. Who to preside at meetings of shareholders.

30. The affairs of the said Association shall be entrusted to and carried on by five directors, being male shareholders of the Association residing in or within twenty-five miles of Cape Town; provided, however, that when by death or other reason, the seat of any director shall become vacant, the remaining directors shall have full power to carry on the business of the said Association, until the Board shall be again composed of five members; Number of directors.

31. The said ~~five~~ directors shall at the first meeting held by them after the ~~special~~ ^{annual} meeting of shareholders provided for in section forty-two of this Act, choose from among themselves a president, who shall preside at all their meetings; and in case of an equality of votes, the president shall, besides his individual vote, also have a casting vote; but in case of the president's absence, or in case he shall cease to be a director, the director next in seniority present at the meeting shall preside, and have a casting vote as aforesaid. President of Board of Directors, how elected.

32. The directors in office at the date of the taking effect of this Act shall be the first directors under this Act, and thenceforth until some other directors shall be appointed in their room and stead; provided that each of the said first directors under this Act shall within forty-eight hours after this Act shall have taken effect deposit the certificate of one of his shares in this Association with the General Manager and Secretary, to be held during such director's term of office, and any such director who, after having been called upon in writing by the said General Manager and Secretary, shall fail so to do shall be deemed to have vacated his office as such director. The director who has been longest in office since the date of his election or last re-election, as the case may be, and herein styled the senior director, shall go out of office on the ~~thirtieth day of April~~ in each year, and shall, unless re-elected, be replaced by another shareholder to be elected at the ~~General Meeting of Shareholders held in the month of April~~ ^{Annual Meeting of Shareholders held in the month of ~~April~~ ^{July}} in each year, provided that any director already elected or who may hereafter be elected under and by virtue of the thirty-ninth section of this Act, to supply any casual vacancy shall, for the purpose of this First Directors under this Act. Directors to deposit shares.

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section, be ranked in regard to seniority in the same place as that which was filled by the director by whom the vacancy was created. A director vacating office as aforesaid shall be eligible to be re-elected.

Who disqualified from being director. Directors to deposit shares with secretary.

33. No shareholder shall be capable of being a director who shall hold any office of profit under the Colonial Government, or who shall be an uncertificated insolvent; nor shall any two shareholders, carry on business as co-partners in any firm, or related to each other in or within the second degree of consanguinity or affinity, both be capable of being directors at the same time; and every director shall within forty-eight hours after his election deposit the certificate of one of his shares in the said Association with the General Manager and Secretary, to be held during such director's term of office, failing which his election shall be void.

No director to obtain loans.

34. No loan shall be granted by the directors to any member of the Board, personally, and no director applying for a loan for third parties shall be at liberty to vote on such loan.

Meetings of directors and quorum.

35. The directors shall meet once in each week and oftener, if necessary, at the office of the said Association in Cape Town for the despatch of business, and three directors shall form a quorum, and all question or matters which shall come before the directors shall be decided by a majority of votes of the directors present, *provided that should the shareholders resolve*

How deeds, etc., to be executed and cheques signed.

36. All deeds, powers, inventories, contracts, instruments, or other documents other than receipts shall be signed and executed by one of the directors for the time being, together with the General Manager and Secretary; but all liquidation and distribution or other accounts shall be signed by the General Manager and Secretary, or in his absence by such member of the staff as the Directors may appoint, and every such deed, power, inventory, account, contract or instrument, or other document, shall be as valid and effectual to all intents and purposes as if the same had been made and executed by all the directors for the time being; provided, however, that all cheques or drafts shall be signed by the General Manager and Secretary, or in his absence by the officer appointed by the directors to act for him, and shall be countersigned by one of the directors. Cheques or drafts drawn against the funds of the ~~the aforesaid Port Elizabeth~~ ^{any} agency, or received by the ~~the said~~ ^{any} agency in favour or on behalf of the said Association, shall be signed and countersigned, or endorsed, as the case may be, in such manner and by such persons as may be provided by bye-laws heretofore duly framed, or hereafter to be duly framed, in that behalf.

Disqualifications for office of director.

37. A director shall vacate his seat if he shall cease to be a shareholder, or if he shall cede or pledge his ^{qualification} shares, or shall become insolvent or assign his estate, or make a composition with his creditors, or any of them, or if he shall be absent from the meetings of the Board of Directors for ~~four consecutive~~ ^{one} months, unless he

shall be absent in the interests and on behalf of the Association or unless he shall obtain special leave of absence from the ~~shareholders~~, and his office shall cease and become vacant; provided that it shall not be competent for any director to sell or in any manner dispose of his ^{qualification} shares ~~so as to cease to be a shareholder~~ ^{or any of them} until he shall have obtained the consent so to do of a meeting of the shareholders specially called for the purpose, anything in the eighteenth section of this Act contained notwithstanding.

38. In case any director shall become mentally incapacitated, or in case the conduct of any director shall at any time be such that his continuance in office shall appear to, at least, fifteen of the shareholders of the said Association to be prejudicial to the interests of the said Association, and notice thereof shall by them be given to the directors, in writing, the directors shall forthwith call a meeting of the shareholders for the purpose of determining whether such director shall continue in office, upon eight days' notice being given by the said directors to the said director, and to the shareholders severally, such notice to set forth the purpose for which such meeting is called; and it shall and may be lawful for the shareholders at such meeting by a majority of three-fourths of the votes of those present to remove such director from his office, subject nevertheless to the provisions as to a poll, if duly demanded, contained in section twenty-six hereof.

Mental incapacity or misconduct of directors, how dealt with.

39. In case any director shall die or desire to resign or shall vacate his said office, or shall be removed as aforesaid, or be or become disqualified under or by virtue of the thirty-second, thirty-third, thirty-seventh, or thirty-eighth sections of this Act, the surviving or other directors shall forthwith call a special meeting of the shareholders for the purpose of electing a director in his place, of which meeting and of the purpose for which such meeting is called at least eight days' previous notice shall be given by the directors to the shareholders severally; and it shall and may be lawful for the shareholders present at such meeting to elect a director in his place and stead, who shall continue in office until the expiration of the period for which such director so dying, resigning, being removed or being disqualified has been elected, and no longer; provided, however, that no shareholder shall be elected as a director unless he shall have been duly nominated and seconded in writing, such writing to be delivered to the General Manager and Secretary, and unless at least eight days shall have elapsed after the date of such nomination, such nomination to be mentioned in the notice to shareholders calling the meeting for the purpose of electing such director; ~~provided further that no director shall be allowed to resign or be capable of resigning until the shareholders at some general or special meeting shall have consented thereto.~~

Mode of filling up vacancies caused by death, etc., of director.

40. The capital stock and funds of the said Association shall be vested in the directors for the benefit of the said Association, to be by the said directors laid out and invested from time to time in the manner following

Capital stock, etc., how to be invested.

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- (1) In the purchase of or advance on the public stocks, funds, or debentures of the Government of the United Kingdom of Great Britain and Ireland, or the Colony of the Cape of Good Hope, or any other British Colony, Possession or Territory in South Africa.
- (2) Upon the debentures or mortgages of any Divisional Council, Municipality, or duly incorporated body in British South Africa duly authorized to borrow money.
- (3) Upon first mortgage of immovable property in British South Africa.
- (4) On deposit or current account, with or without interest in any bank or joint stock company or society carrying on business in the United Kingdom or British South Africa.
- (5) In the purchase of immovable property, life policies, or other securities for the protection of the interests of the Association hereby incorporated.
- (6) In manner prescribed in section nine of this Act, but specially excluding funds referred to in sections seven or eleven of this Act, unless the persons appointing the Association expressly desire to the contrary.

Directors and officers responsible for losses in certain cases.

41. All losses sustained by the said Association shall in the first instance be borne by the funds of the Association, but if it shall appear that such losses have been occasioned by the wilful or culpable neglect, or mala-fides of one or more of the directors or officers of the said Association, such losses shall be made good to the said Association by such director or directors, officer or officers.

Annual statement of accounts to be submitted to shareholders.

42. The directors shall call an ^{annual} special meeting of shareholders to be held in the month of June or July in each year, of which meeting, and of the purpose for which such meeting is called, eight days' notice shall be given to the shareholders severally, and the directors shall lay before such meeting for its approval: first, a balance-sheet of the books of the said Association; secondly, an abstract from the balance-sheet showing under appropriate headings the gross liabilities of the said Association, as also the capital and interests due to and the other assets of the said Association or under its administration; and thirdly, a detailed account of profit and loss during the past year; all which accounts shall be made up and balanced up to the last day of April in each year, and shall previous to such meeting be examined and compared by the auditor or auditors for the time being with the books of the said Association, and with the bonds and other securities in the hands of the directors, and shall by such auditor or auditors be attested as correct, and shall lie open for the inspection of the shareholders three days before such meeting. A copy of such balance-sheet, duly audited and signed, shall be sent to each shareholder, and shall be published in at least one local newspaper not later than eight days prior to the meeting of the shareholders held in terms of this section.

43. As soon as the accounts in the last preceding section mentioned shall have been approved of by the meeting in the said section mentioned, the directors shall appropriate and divide the net profits of the said Association for the preceding year as exhibited in such accounts, whereof at least one-fifth part shall be added to the reserve fund, so long as such reserve fund shall be less than £100,000, to meet any loss that may be sustained by the said Association and the remaining part or so much thereof as may be deemed expedient may be divided among the shareholders in proportion to the shares possessed by each :

Mode of dividing profits and provision for reserve fund.

Provided, however, that should any loss have been sustained whereby the said reserve fund shall be absorbed and the capital stock be reduced below the aforesaid sum of £29,400, then no dividend shall be paid, so long as the capital stock shall remain less than the sum of £29,400.

44. It shall and may be lawful for the directors to purchase any share or shares which shall be offered, and to hold such share or shares in the said Association for the benefit of the said Association; and the said Association shall be entitled in respect of such share or shares to the same benefit and profits as any shareholder is and shall be in respect of any share or shares held by him. And every such purchase of a share by the said directors shall be reported to the ~~general~~ meeting of shareholders held next after such purchase, and every share so purchased shall be disposed of in such manner as such ~~general~~ meeting or any subsequent general meeting shall determine. Provided, however, that the Association shall at no time hold more than three of its shares, and provided further that no share or shares purchased by the Association as aforesaid shall be held by it for a period of more than one year from the date of the purchase thereof.

Directors may purchase shares in Association for same.

45. The shareholders assembled at the ~~general~~ meeting to be held in the month of ~~April~~ ^{June or} in each year shall elect two persons not being directors to serve as auditors for the ensuing year. Auditors before being elected shall be nominated in writing by two or more shareholders, and such nominations shall be handed to the General Manager and Secretary at least fourteen days before the ~~general~~ meeting of shareholders aforesaid. The Auditors shall have the right of access at all reasonable times to the books, accounts and vouchers, bonds and other securities of the Association, and shall be entitled to require from the directors and officers of the Association such information and explanations as may be necessary for the performance of their duties as auditors, and the auditors shall sign a certificate at the foot of the balance-sheet stating whether or not all their requirements as auditors have been complied with, and shall make a report to the shareholders on the accounts examined by them, and on every balance-sheet laid before the shareholders ~~in general~~ ^{at the annual} meeting, during their tenure of office, and in such report shall state whether

Election of auditors.

in their opinion the balance sheet referred to in the report is properly drawn up, so as to exhibit a true and correct statement of the affairs of the company as shown by the books. Such report must be read ~~in general~~ ^{at the annual} meeting of the shareholders.

Directors
appoint General
Manager and other
officers.

46. The directors may from time to time appoint a General Manager and Secretary, and all such other officers, clerks or other employees as the directors shall deem necessary for the proper management and carrying on of the business of the said Association and of the said Port Elizabeth agency, at such salary as they may fix from time to time, and may suspend or dismiss such General Manager and Secretary, officers, clerks, or employees, or any of them, from time to time as they may think proper.

Remuneration
of direc-
tors and au-
ditors, how
determined.
List of share-
holders to be
laid before
every general
meeting.

47. The shareholders may, at the annual meeting to be held by virtue of the forty-second section determine the amount of remuneration which shall be paid to the directors and auditors.

48. An alphabetical list of the names, addresses and residences of all the shareholders in the capital stock shall be made out and laid upon the table at every ~~general~~ meeting of the shareholders of the said Association, which list shall be filed and kept by the General Manager and Secretary at the Office in Cape Town, where any shareholder shall have the liberty to inspect the same.

Distinction
between
shareholders
and members
abolished.

49. The distinction heretofore existing between members and shareholders of the said Association shall be and is hereby abolished, and both members and shareholders shall be and are hereby included in the term shareholders, and such last-named shareholders shall be deemed and taken to be substituted for and in place of both members and shareholders as heretofore existing and understood, and shall participate in proportion to their shares in any dividends or profits from time to time available for distribution.

What fees
directors
authorized to
charge for ad-
ministering
estates, etc.

50. It shall be lawful for the directors, acting for and on behalf of the said Association to charge the estates and properties administered by them with such fees and charges as shall be agreed upon, and when no fees or charges are agreed upon, then with such fees and charges as shall be fixed by the tariff of charges contained in the bye-laws for the time being; provided, however, that the first tariff of charges shall be that set forth in the schedule to this Act marked A, it being, however, in the power of the shareholders of the said Association at any meeting for that purpose assembled to make all such alterations and reductions in such charges as they shall from time to time see fit, and such alterations, reductions shall then be considered as substituted for and taking the place of the charges set forth in the schedule to this Act; provided, however, that such revised tariff be published in the *Gazette* of this Colony, as in the fifty-second section mentioned; provided, further, that nothing in this Act contained shall be construed so as to affect the liability of the said Association with regard to moneys placed under its administration before the passing of this Act.

51. The said directors by and in the name of the General Manager and Secretary for time being of the South African Association shall and may prosecute, defend or continue any action for or in respect of any sum or sums of money, dues, titles, claims or demands whatsoever of or relating to the affairs of the said Association or any person or persons for whom the said Association shall act as agents, executors, or administrators, or order the discontinuance or nonsuit thereof, and shall and may compromise or submit to arbitration the matters in question, or otherwise act in any manner as they shall think fit and conducive to the benefit of the said Association, and shall and may subject to the provisions of the Ordinances Nos. 40 and 73, or of any law or Act which may hereafter be enacted or then be in force in that behalf, prosecute any criminal action for any crime or offence committed against or with intent to defraud the said Association, and no action or other proceeding shall abate, discontinue or be rendered ineffectual by reason of the death, removal, or resignation of such General Manager and Secretary, but the General Manager and Secretary for the time being shall always be and be deemed to be prosecutor in any such action or proceedings as the case may be.

How Association to sue and be sued.

52. The directors are empowered and required to frame and establish all such bye-laws, rules or regulations as shall be necessary for the conduct of the said Association, and the management thereof, and for regulating the administration of the estates, securities, moneys and other properties placed under their administration, provided that such bye-laws, rules and regulations shall not be contrary to this or any other Act; provided further, however, that all such bye-laws, rules and regulations shall be laid before the next ensuing ~~general~~ meeting of the shareholders for their confirmation, disallowance or amendment; and in the event of such bye-laws, rules and regulations being confirmed with or without amendment, the same shall continue in force until they shall be repealed or amended by any subsequent ~~general~~ meeting, of which meeting and the object thereof, not less than fourteen days' previous notice shall be given to the shareholders, which notice the said directors may give when and as often as they shall think fit, and which notice the said directors shall be bound to give when and as often as any three shareholders shall in writing inform the General Manager and Secretary of the said Association of their intention to move, at the next ~~general~~ meeting competent to entertain the question, that such bye-laws, rules and regulations or any of them which such shareholders specify, shall be repealed or amended. And as often as any such meeting shall repeal or amend any bye-law, rule or regulation, the same shall be repealed or amended accordingly. And all such bye-laws, rules and regulations as shall in any way relate to the public business of the said Association shall, within three weeks after the same shall have been passed or amended, be published in the *Gazette*.

Bye-laws, how to be framed and come into force.

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ACT, 1906.

No. 21—1906.

and when so published shall have the same force and effect as if herein inserted: Provided that all bye-laws, rules and regulations heretofore duly published in the *Gazette* and in force at the time of the taking effect of this Act shall have the same force and effect as if they had been inserted herein.

May act as
insurance
agents.

53. The said Association may act as agents of one or more fire insurance companies for the purpose of insuring buildings on land mortgaged to the said Association, or any of their clients against loss by fire, and shall for this purpose keep a separate book of accounts, showing the commissions earned by them as agents of the said insurance company or companies aforesaid.

Notices to
shareholders,
how to be
given.

54. Any notice required by this Act to be given by the directors to the shareholders may be so given by sending the same to the shareholder through the General Post Office, addressed to such shareholder at his registered address at the Head Office; and every shareholder shall name an address in this Colony to be registered as his address for the purpose of the service of such notices and in case he shall fail to name such address he shall be deemed to have waived service of the notices so long as he shall have no such registered address as is hereinbefore provided.

Shareholders
may amalga-
mate with or
purchase
business of
similar insti-
tution.

55. The shareholders are hereby empowered at a meeting of which at least fourteen days' notice, setting forth the purpose for which such meeting is called, shall have been given by the directors, to agree to amalgamate with or acquire by purchase or otherwise and carry on the business of any other company or institution carrying on business of a like nature to that carried on by the Association, or which may be within the scope or any of the objects of the said Association: provided that ~~no such amalgamation or acquiring shall be valid unless three-fourths of the shareholders present at such meeting approve of same, subject nevertheless to the provisions as to a poll, if duly demanded, contained in section twenty-six hereof.~~

Duration of
Association.

56. The Association hereby incorporated shall continue to exist so long as there shall be thirty shareholders; but it shall and may be lawful for the whole of the shareholders residing in this Colony at any time by their unanimous vote at a special meeting duly held, and whereof one month's notice shall have been given by the directors to the shareholders aforesaid, to declare that the said Association shall be dissolved, whereupon the same shall be dissolved accordingly in such manner that the said Association shall not afterwards enter upon the administration of any estate or property; or should the shareholders be at any time reduced to twenty-nine or less, and three months thereafter elapse without the election of any new shareholders, so as to compose thirty shareholders at the least, the said Association shall be deemed to be in like manner dissolved; provided nevertheless in either event that the shareholders of the Association for the time being by their directors shall continue to administer such estates as they shall

have previously entered upon until the same shall be finally settled; and provided that the capital stock of the said Association shall remain vested in the directors then being, or thereafter to be elected by the shareholders, until such estates and property shall be finally administered and settled, whereupon such directors shall liquidate the affairs of the said Association and distribute the remaining assets, if any, *pro rata* among the shareholders.

This Act may be cited for all purposes as “The South African Association Incorporation Act, 1906.” Short Title
of Act.

SCHEDULE A.

Schedule A

The Association by the foregoing Act incorporated shall be authorized to make the following charges unless it be otherwise agreed upon:

In Estates of Deceased persons:

5 (Five) per cent. on the proceeds of movable property, book debts, interest collected, house-rent, and other receipts, not otherwise herein provided for.

2½ (Two and a half) per cent. on bonds, shares, and other securities, and on cash found in the estate.

2½ (Two and a half) per cent. on the proceeds of immovable property sold, and of life policies recovered.

1½ (One and a half) per cent. on the value of immovable property bequeathed, and 2½ (two and a half) per cent. on the appraised value of immovable and movable property, taken over by the surviving spouse, or any of the heirs.

2½ (Two and a half) per cent. for guaranteeing capitals administered by said Association as fidei-commissary inheritance, or otherwise, in cases as mentioned in section six of this Act where testators or others have desired such guarantee to be given, such guarantee commissions to be deducted from the capital guaranteed.

When appointed as executors with the surviving spouse, or conjointly with any other person or persons, the said Association shall be entitled to one moiety of the above charges.

In Guardianships, Fidei-commissa, Trust Moneys and Curatorships:—

5 (Five) per cent. on receipts of interest, dividends, house-rents or other income.

2½ (Two and a half) per cent. on property or moneys taken over from executors, guardians, or others, by the said Association, and administered by them, such charge to be deducted from the capital: provided that no such charge shall be made if the Association has already charged a commission for guaranteeing the identical capital as hereinbefore provided under the charges in the estates of deceased persons.

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- $2\frac{1}{2}$ (Two and a half) per cent. for transcribing inheritances, legacies, fidei-commissary inheritances, donations, and other bequests of whatever nature, from liquidation accounts of estates administered in this office, to the separate accounts of the parties concerned, such charge to be deducted from the capital: provided that no such charge shall be made if the Association has already charged a commission for guaranteeing the identical capital as hereinbefore provided under the charges in the estates of deceased persons.
- 1 (One) per cent. on the appraised value of entailed immovable property to be a charge against the income of such property or the estate from which it is derived.

When the said Association act as agents :

- $1\frac{1}{2}$ (One and a half) per cent. on the receipt of moneys not being rents, interest, or book-debts, provided that no such charge be made upon the receipt of the same capital more than once.
- 5 (Five) per cent. on the receipt of rents, interest, dividends, and book-debts.
- $2\frac{1}{2}$ (Two and a half) per cent. upon cash advances.
- $1\frac{1}{2}$ (One and a half) per cent. on the amount of all bonds, debentures or other securities placed under the administration of the said Association, if such bonds, debentures or other securities are withdrawn within one year after the administration shall have been entered upon, and not otherwise, provided no commission shall have been previously charged on the capitals of such bonds or debentures or other securities.

In other matters, not herein otherwise provided for, the said Association shall be entitled to charge their constituents in conformity with the Commercial Tariff for the time being established and published by the Chamber of Commerce of Cape Town.

No. 22—1906.]

[August 21, 1906.

ACT

To Apply a Sum of Money for the Service of the
Year ending 30th June, 1907.

[Assented to 18th August, 1906.]

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

Public Revenue to be charged with £6,233,191.

1. The public revenue of the Colony is hereby charged towards the service of the year ending the 30th June, 1907, with a sum of Six Millions Two Hundred and Thirty-three Thousand One Hundred and Ninety-one pounds Sterling, in addition to the sum of One Million pounds Sterling provided for by Act No. 4 of 1906.

2. The money granted by this Act shall be applied to the purposes and services expressed in the Schedule annexed hereto, and more particularly specified and set forth in the Estimates and Supplementary Estimates of the Expenditure for the year ending 30th June, 1907, with the notes to such Estimates, submitted to and approved by Parliament.

How to be applied.

3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act, and the aforesaid Schedule, Estimates and Supplementary Estimates.

Not to be applied except as granted.

4. This Act may be cited for all purposes as the "Appropriation Act, 1906."

Short Title.

SCHEDULE.

Schedule.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Ministerial Department of Prime Minister ...	113,072	46,835	159,907	154,907
II. Ministerial Department of Colonial Secretary ...	646,944	994,927	1,641,871	1,635,553
III. Ministerial Department of Treasurer	619,133	1,092,933	1,712,066	1,063,240
IV. Ministerial Department of Attorney-General ...	442,159	82,493	524,652	505,652
V. Ministerial Department of Commissioner of Public Works ...	73,391	164,933	238,324	236,824
VI. Ministerial Department of Secretary for Agriculture ...	158,707	121,904	280,611	279,111
	<u>2,053,406</u>	<u>2,504,025</u>	<u>4,557,431</u>	<u>3,875,287</u>
Railways, excluding Relaying and Regrading and Redemption Charges ...	378,757	3,766,617	4,145,374	2,988,514
Railways, Relaying and Regrading ...	...	116,890	116,890	116,890
Railways, Redemption Charges under Act 42 of 1902 ...	...	252,500	252,500	252,500
Grand Totals ...	<u>2,432,163</u>	<u>6,640,032</u>	<u>9,072,195</u>	<u>7,233,191</u>
Less amount provided for by Act No. 4 of 1906 ...	...	...	...	<u>1,000,000</u>
Total required to be Voted	...	...	...	<u>6,233,191</u>

No. 23—1906.]

[August 21, 1906.]

ACT

To Amend the Vagrancy and Trespass Law and to declare Ownership in certain Wild Animals.

[Assented to 18th August, 1906.]

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

Trespassing upon enclosed Camp, Kraal or Land.

1. Any person trespassing upon or found within any enclosed Camp, Kraal, or land without the permission of the owner or lessee thereof shall be deemed to be guilty of an offence and shall upon conviction be liable to the penalties provided by the fourth section of Act 23 of 1879, entitled the Vagrancy Act, 1879.

Exception.

2. No person shall be deemed to be guilty of a breach of the provisions of section one of this Act who passes through any enclosed Camp, Kraal or land along any public road traversing such Camp, Kraal or land or uses any right of way to which he may be entitled there through, provided that nothing in this section shall be taken to exempt any person from prosecution under section one of this Act, who leaves such road and trespasses upon land within such Camp, Kraal or enclosed place not constituting such road, unless such person or persons is driving stock, in which case he shall not be criminally prosecuted so long as he remains within one hundred yards on either side of the road which traverses such camp or land, or within ten yards on either side of the road which traverses such cultivated land.

Visits to servants and employees of occupier of land.

3. No person shall visit the servants or employees of any owner or occupier of land without his permission if such owner or occupier have notified his said servants or employees to that effect beforehand, and any person found within any hut or place where such servants reside on such farm or land without permission of the owner or lessee after fourteen days shall have elapsed subsequent to the notification by him to his servants, shall be deemed to be guilty of an offence and shall be liable on conviction to the penalties provided by the fourth section of Act 23 of 1879 entitled the Vagrancy Act, 1879.

Sections one and three may be applied to land vested in Government.

4. It shall be lawful for the Governor from time to time by Proclamation to apply the provisions of sections one and three of this Act, or either of them, to lands, or any portion thereof, vested in the Government for Railway purposes, and to prescribe the person by whom, and the mode in which, notices shall be given and permits shall be applied for and granted.

Ownership of wild animals.

5. All game or wild animals preserved or enclosed by any owner or lessee within any Camp, Kraal or place shall be deemed at law to be the property of such owner or lessee so long as such game

remains within such Camp, Kraal or place, but no such owner or lessee shall have the right to follow up such game as his property in case it escapes from such enclosure aforesaid, and provided that any such owner or lessee shall be subject to the game laws.

6. Any person cutting or destroying or wilfully damaging, but not in the assertion of a right, any wire or other fence enclosing or dividing any Camp, Kraal or land without permission or direction of the owner or lessee or occupier of the land shall be deemed to be guilty of an offence and shall on conviction be liable to a penalty not exceeding fifty pounds sterling (£50) or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding six months.

Destruction
of wire fence.

7. No prosecution for any offence under the provisions of this Act shall take place if the owner or lessee or occupier aforesaid desires a withdrawal of the charges.

Withdrawal
of charge.

8. This Act may be cited as "The Trespassers Act, 1906."

Short title.

No. 24—1906.]

[August 21, 1906.]

ACT

To Authorize the Council of the Municipality of Durbanville on behalf of the Ratepayers of the said Municipality to conclude a certain Contract of Guarantee with the Government in connection with the construction, equipment, working and maintenance of a certain line of Railway.

do.

[Assented to 18th August, 1906.]

WHEREAS it is desirable and expedient that a line of Railway should be constructed, equipped, worked and maintained from a point of junction with the existing line of Railway of the Colonial Government at or in the neighbourhood of Bellville Junction in the Cape Division to a terminus in the Municipality of Durbanville in the Cape Division :

Preamble.

And whereas whilst it is expedient that the said line of Railway be constructed, equipped, worked and maintained by the Colonial Government, it is also necessary, in order to induce the said Government to undertake such construction, equipment, working and maintenance, that the said Council of the Municipality of Durbanville, acting on behalf of the Ratepayers of the said Municipality, should enter into and conclude a Contract with the said Government, guaranteeing certain payments in connection with the said line of Railway for a term of ten years :

And whereas it is desirable and expedient that the said Council be authorised to enter into and conclude the said Contract of Guarantee, and to pay such sum or sums of money as may from time to time become due and payable thereunder to the said Government either out of the ordinary funds of the said Municipality or by means of a special rate or rates to be imposed, assessed, levied, and collected from time to time :

And whereas at a duly convened meeting of the Ratepayers of the said Municipality a resolution was adopted authorising the said Council to obtain the necessary power to enter into and conclude the said Contract of Guarantee :

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

Municipal Council authorised to furnish guarantee of certain interest charges.

1. Notwithstanding the provisions of Act No. 45 of 1882, commonly called "The Municipal Act, 1882," and of any other law, it shall be lawful for the Council of the Municipality of Durbanville to enter into and conclude a contract with the Colonial Government, guaranteeing, on the security of the Municipal funds, rates and property, the payment to the Government of :—

- (a) Interest at the rate of four per centum per annum on the capital cost of the construction and equipment by the Colonial Government of a line of Railway from a point at or in the neighbourhood of the Bellville Junction in the Cape Division to a terminus in the Municipality of Durbanville also in the Cape Division for a period of ten years from the date of the opening for traffic of the said line, such capital cost to include :—
1. The acquisition of land, the erection of station buildings and all other appurtenances and appliances as are usual on similar lines on the Cape Government Railways.
 2. The actual cost of all betterments or new works which it may be necessary to provide after the opening of the line for safe and proper working, and
 3. An additional sum not exceeding five per centum of the expenditure to cover the cost of raising loans and interest during construction ;

- (b) The actual loss incurred by Government in the working of the said line during the said period of ten years ; Provided that any profit in working the said Railway which may be made in any one year ending on the 30th day of June shall be applied to the reduction of the liability in respect of interest charges as aforesaid, and that the nett shortfall only shall be the extent of the liability of the Municipality and Ratepayers in any one year. Provided, however, that adjustment be

And loss of working line for 10 years.

made from time to time, the period of the first adjustment to be within three years from the date of the opening of the said Railway, and thereafter annually, taking into consideration any past surplus of which the said Council shall not at such date have had the full benefit; and provided also that a final adjustment shall take place after the expiration of the said period of ten years.

2. For the purpose of giving effect to the said guarantee, the said Council is hereby authorised to pay from time to time such sum or sums as may become due thereunder, either out of the ordinary funds of the Council or by means of a special rate or rates not exceeding twopence in the pound, levied for the purpose annually or in such year or years as may be required.

Council authorised to pay sums becoming due either out of ordinary funds or by means of special rate.

3. The Council is hereby authorised to assess and levy annually or in such year or years as may be required such special or other rate or rates not exceeding twopence in the pound upon the property within the limits of the Municipality of Durbanville which is liable to assessment, and to make, levy, collect and recover and administer such rate or rates in the same manner as other rates provided for by "The Municipal Act, 1882."

Levy, assessment, &c., of Special rate or rates authorised.

4. The said Council shall cause to be kept separate accounts of expenditure and receipts arising or accruing by reason of the said contract of guarantee, and any refunds from Government or surplus funds arising from the levy of the special rate or rates aforesaid in any year shall be devoted towards the discharge of liabilities under the said contract in the succeeding year or years; provided that at the conclusion of the aforesaid period of ten years any such refunds or surplus monies in the possession of the Council after discharging all liability under the said contract may be devoted to general Municipal purposes.

Separate accounts to be kept.

Surplus may be appropriated.

5. This Act may be cited for all purposes as "The Durbanville Railway Municipal Guarantee Act, 1906."

Short Title.

No. 25—1906.]

[August 21, 1906.

ACT

To Amend the School Board Act, 1905.

[Assented to 21st August, 1906.]

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

Preamble.

1. All elections for members of School Boards held prior to the promulgation of this Act and not judicially set aside, are hereby declared to be valid and binding, and all School Boards constituted upon such elections are hereby declared to be legally constituted Boards.

Elections not judicially set aside declared valid.

No. 25—1906.

Repeal of repugnant provisions of Act 35 of 1905.

2. So much of Act 35 of 1905, entitled the School Board Act, 1905, as is repugnant to or inconsistent with the provisions of this Act is, to the extent of such repugnancy or inconsistency, hereby repealed.

Voters Roll for School Board elections.

3. From and after the promulgation of this Act the current Divisional Council Voters' Roll, framed under the provisions of Act 40 of 1889, shall be the Voters' Roll for School Board Elections in all divisional areas, and in the case of magisterial areas that portion of the Divisional Council Voters' Roll which applies to a field-cornetcy or field-cornetcies constituting or coterminous with such magisterial areas shall be the School Board Voters' Roll for the said magisterial area, provided that where no Divisional Council Voters' Roll exists in any area which is constituted a School Board area the current Parliamentary Voters' Roll of the said area or District coterminous with such area shall be the Voters' Roll for the election of such School Board, and the said voters shall be entitled to vote for election of members of the Board.

Case of a Municipal area being constituted a School Board area.

4. Where any Municipal area is constituted a School Board area under the provisions of the School Board Act of 1905, that portion of the Divisional Council Voters' Roll which applies to the area constituting the municipal area aforesaid shall be the School Board Voters' Roll for the municipal area and the said voters shall be entitled to vote for the election of members of the Board.

Female Voters.

5. Any female over the age of 21 who possesses landed property appearing on the Divisional Council books in her name, shall be entitled to obtain from any Divisional Council Secretary a certificate free of charge, signed by the said Secretary, showing that the said property is situate within any ward in the division under the jurisdiction of the Divisional Council applied to, and on production of such certificate, which shall be retained by the polling officer, any polling officer shall allow the said female to vote at an election for School Board members if he is satisfied that the property so certified to is situate within the Ward for which such polling officer is conducting the election and that the said female is personally occupying the said property.

Polling and Returning Officer.

6. Anything to the contrary in section forty-one of Act 35 of 1905 notwithstanding, it shall be lawful for the School Board to appoint a Polling and Returning Officer who shall conduct the Elections under Regulations framed by the Department as provided for in section forty-two of Act 35 of 1905, and provided further that wherever a poll is demanded at the time of nomination by or on behalf of any candidate, a voting paper containing the names of all the nominated candidates shall be issued to each elector, and the Polling and Returning Officer shall receive the paper again from the elector by post or by hand.

7. Nothing in this Act contained shall be taken to repeal the provisions of section seventy-four of the said Act of 1905.

Saving Clause in respect of section seventy-four of Act 35 of 1905.

8. This Act may be cited as "The School Board Act Amendment Act, 1906."

Short Title.

No. 26—1906.]

[August 21, 1906.]

ACT

To Enable the Mayor, Councillors and Townsmen of East London to obtain a Supply of Water from the Wolf River in King William's Town Division and for other purposes.

[Assented to 21st August, 1906.]

WHEREAS it is desirable that the supply of good water to the inhabitants within the Municipality of East London should be supplemented and that provision should be made for the supply of water to any local authority or person outside the limits of the Municipality who may be desirous of taking such supply and who can conveniently be supplied by the Council of such Municipality from the works authorised by this Act; and whereas the Council have caused surveys to be made and are advised that such supply can be obtained by impounding water in and taking the same from the Wolf River at places within the Division of King William's Town; and whereas it is expedient that the Mayor, Councillors and Townsmen of East London should be authorised to construct and maintain such reservoirs, lines of pipes and other waterworks as may be necessary for impounding such water and for the purpose of conveying the same to the Municipality and elsewhere for distribution; and whereas it is expedient that the Council should have power to construct a road between the proposed site for the reservoir on the Wolf River and the Main Road to Middledrift; and whereas it is expedient that necessary powers and rights over or to or in respect of Crown and other lands in the vicinity of the waterworks and the sources of water supply, and in connection with the supply of water and its protection from pollution, and with regard to regulating the supply of water to those entitled to the same should be conferred upon the said Council; and whereas it is expedient that no sales of Crown land situate within the catchment area hereinafter defined should hereafter be made and that no persons to whom Crown Land shall hereafter be sold or leased should acquire any right to compensation in respect of the construction of the waterworks; and whereas it is expedient that the Council should be authorised to borrow sums not exceeding in all £320,000 for the purpose of defraying the costs of the works

Preamble.

5110 THE EAST LONDON ADDITIONAL WATER SUPPLY
ACT, 1906.

No. 26--1906.

aforesaid and that they be authorised to levy special rates for the purpose of defraying the interest on all sums so borrowed and for providing a Sinking Fund for the redemption of the sums borrowed: Be it enacted by the Governor of the Cape of Good Hope by and with the consent of the Legislative Council and the House of Assembly in manner following to wit :—

Definitions.

1. In this Act unless the context otherwise requires :—

The word “Municipality” means the Municipality of East London.

The word “Council” means the Council of the Municipality of East London.

The expression “Town Clerk” means the Town Clerk of East London.

The expression “Local Authority” means :—

(1) Any Divisional Council.

(2) The Council or Board of Commissioners of any Municipality Borough or Corporate town.

(3) The Board of Management of any community in which the “Villages’ Management Act, 1881,” or portion of that Act is in operation.

(4) The persons appointed in terms of Section 13 of the Public Health Amendment Act, 1897, to be a local authority.

The word “district” means the area within the local limits of and subject to the jurisdiction of a local authority.

The word “person” includes any body of persons.

The word “waterworks” includes reservoirs, dams, cisterns, tanks, embankments, filters, settling or coagulating pools, aqueducts, cuts, sluices, mains, pipes, stand-pipes, valves, junctions, intakes, weirs, outfalls, discharge pipes, culverts, bridges, roads, approaches, ways, gauges, meters, engines, lands, buildings and things for supplying or used in connection with the supply of water.

The expression “deposited plans” means the plans deposited with the Clerk to the Honourable the House of Assembly in terms of the Standing Rules and Orders of the House of Assembly.

The word “road” includes any road, street, square or thoroughfare.

Appropriation of water of Wolf River.

2. Subject to the provisions of this Act the Council may from time to time appropriate, take, collect, impound and use the waters of the Wolf River in the Division of King William’s Town at and above the place indicated on the deposited plans for the purpose of securing an adequate supply of water for the inhabitants of the Municipality for the shipping visiting or being at the Port of East London and for such local authorities and persons who may desire such a supply and can be conveniently supplied by the Council.

3. For the purpose of collecting and impounding such water the Council may subject to the provisions of this Act make, construct and maintain at the places shown upon the deposited plans or within the lines of deviation shown thereon embankments, reservoirs and dams and use all other reasonable means to that end.

Construction of reservoirs authorised.

4. For the purpose of the construction and maintenance of the works on the Wolf River the Council is authorised subject to the provisions of this Act to construct a road between the Wolf Reservoir site and the main road to Middledrift as shown on the deposited plans and sections. And such road may at any time be taken over free of cost by the Governor or the Divisional Council of King William's Town for use as a public thoroughfare. Until such taking over as aforesaid, the said road may at all times be freely used by the public at their own risk.

Construction of roads authorised.

5. Subject to the provisions of this Act the Council may divert the water so collected and impounded and convey the same by a line or lines of pipes and other waterworks to the Municipality and elsewhere within the lines of deviation shown on the deposited plans, and may construct such distributing reservoirs, filter beds and other waterworks necessary in the opinion of the Council to carry out the purposes and terms of this Act or give effect thereto.

Construction of pipes and other waterworks authorised.

The line of pipes shall commence at or within 500 yards of the Reservoir Dam on the Wolf River, in the King William's Town Division, situate some 5 miles above the junction of the Wolf and Keiskama Rivers, and running within the limits of deviation shown on the plans follows closely the course of the Wolf River to a point near the main road to Middledrift about half-a-mile beyond the confluence of the Wolf and Keiskama Rivers. Therefrom the pipe line continues within the limits of deviation shown on the plans to skirt the main road to Middledrift as far as its last crossing of the Keiskama River, thence after traversing the Burnshill Commonage it enters the Debe River valley at Makabalekele Neck. The line then bearing eastwards passes up the Debe valley through Dodana's Location and after traversing Debe Neck continues on almost the same straight easterly course through Kama's Location passing through the King William's Town Commonage just south of that town and north of its Location, thence through Tzatzoe's Location, Breidbach Commonage and Nowawe's Location. The pipe line here enters the East London Division, traverses the Potsdam Commonage and thence passing along the strip of Government Reserve skirting the Railway between Amalinda and the Cambridge Commonage to the Summers Pride Distribution Reservoir site. From the said Distributing Reservoir a low pressure service main shall be laid through the Amalinda Commonage to its junction with the existing Amalinda supply main about a quarter of a mile below the Amalinda Reservoir. An intermediate pressure service main shall be laid from the said Distributing Reservoir through the

Amalinda, Cambridge, and East London Commonages to its termination at the existing East London Southernwood Filters, and a high pressure service main shall be laid between the same points passing through the last mentioned Commonages and the Town of Cambridge. Provided, however, that notwithstanding anything to the contrary in this Act contained, the Council shall not enter upon, occupy, enclose, take or use any portion of the area within the limits of the Municipalities of Cambridge or King William's Town without the consent of the Council of Cambridge or King William's Town as the case may be.

Consent of
Commissioner
of Public
Works neces-
sary before
pipes laid on
roads or across
bridges or
rivers.

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

Extension
of works.

7. The Council may if necessary at any time, subject to the approval of the Commissioner of Public Works, raise and widen the reservoirs and dams and duplicate or otherwise from time to time increase the waterworks so as to increase their capacity for impounding, diverting, carrying and distributing the water. Provided that the regular, uniform, and continuous flow of the compensation water, in the next succeeding section of the Act referred to shall not in any way be impeded or lessened.

As to com-
pensation
water.

8. Pending the completion of the Wolf Impounding Reservoir, the Council shall be entitled to appropriate, take or use any water they may require subject to the following restriction. They shall allow to pass and flow down the bed of the said Wolf River below and within five hundred yards of the proposed dam site two thirds of a million gallons every day of twenty-four hours when the flow of the river is in excess of this amount, but when the flow of water in the said river shall be less than at the rate of two thirds of a million gallons per day of twenty-four hours, the Council shall not be entitled to draw any water therefrom, only during such time the flow is in excess of such rate the Council may take all or such part of the excess as they may require. On the completion of the said Wolf Impounding Reservoir the Council shall be entitled to appropriate, take or use any water they may require, subject to the discharge in a regular, uniform and continuous flow throughout the twenty-four hours of every day out of such reservoir into the bed of the said Wolf River below the reservoir and within five hundred yards of the outlet of such reservoir a quantity of water at the rate of one half of a million gallons per day of twenty-four hours (hereinafter referred to as compensation water). Provided that during the first filling of the reservoir the Council shall discharge out of such reservoir

the compensation water as hereinbefore provided in respect of such reservoir so long only as there shall remain in such reservoir sufficient water to enable them to comply with this provision.

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

Gauges for measuring compensation water.

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

Settlement of disputes as to gauges.

11. If the Council fail to send down or deliver the said compensation water the Council shall be liable to make compensation for any loss, damage or injury sustained by any owner or other person interested unless such loss or damage or injury shall be proved to have arisen by act of God or other unavoidable cause.

Penalty.

12. The area in and near the Wolf River shown on the deposited plans and contained within a boundary line commencing from the before mentioned Wolf reservoir dam site, thence passing through Mount MacDonald along the waterparting of the Wolf and Amatola through Amatola Peak substantially along the boundary of the Victoria East and King William's Town Divisions to the Hogsback Trigonometrical Station and along the Wolf ridge forming the waterparting between the Wolf and Gulu Rivers to Wolf Peak and thence returning to the first mentioned dam site, is hereby defined and declared to be the catchment area of the Wolf river reservoir.

Wolf River catchment area defined.

13. After the passing of this Act it shall not be lawful to make any conditional or other sales of any Crown lands situate within the catchment area hereinbefore defined.

Prohibition of alienation of Crown lands within catchment area.

14. No person to whom any Crown land shall be hereafter sold or leased shall thereby acquire any water or right of water for the interference with or lessening of which by the works hereby authorised he shall be entitled to claim any recompense or compensation nor shall he be entitled to any share of the compensation water hereinbefore referred to.

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

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Power of
entry on
lands gene-
rally.

15. The Council may for the purposes of this Act and giving effect to its provisions enter upon, occupy, enclose, take and use any land belonging to His Majesty the King commonly called "Crown Lands" or any land set apart as "Commonage" lands, and also to enter upon, occupy, enclose, take and use any land the private property of any person or persons whomsoever which may be required for the construction or maintenance of the waterworks authorised by this Act and may agree as hereinafter provided for the purchase, or hire of such private land or the acquisition of any servitude thereover, or may take, carry away or use for the purposes of the waterworks any stone, clay, gravel or other material, and may break up or excavate any land for the purpose of laying down, repairing, inspecting, maintaining, or removing, or otherwise dealing with any reservoir or reservoirs, pipe or pipes or other works, and may either compensate the owners of such lands as hereinafter provided, or enter into any contract relative to obtaining such lands or materials, or for laying down any pipe or pipes or other works upon such terms and conditions as may be mutually agreed to ; provided always that the rights of the Council in so far as any portions of the Commonages of the Municipalities of King William's Town and Cambridge, and the streets of Cambridge are concerned, shall be restricted to way-leave in terms of section twenty-two of this Act and a servitude in respect of the laying of water mains.

Acquisition
of Crown and
other lands.

16. Subject to the provisions of this Act, the Council may acquire and take possession of the land, in extent about 475 acres, comprised within that portion of the Catchment area of the Wolf River and adjoining ground which lies around the proposed site of the Wolf Reservoir and which, on the deposited plans, is shown as included within a red line and hereinafter called the Wolf Reservoir Reserve, whether such land shall belong to His Majesty the King and commonly called Crown Lands or be set apart as Commonage or shall belong to private parties.

Restrictions
on acquisition
of Crown
Lands.

17. The power relative to Crown Land including any Native or other Reserve or Commonage vested in the Crown conferred by the two preceding Sections of this Act shall be exercised only with the previous sanction of the Governor who subject to the provisions of the next succeeding section may impose such conditions and limitations as to extent or otherwise and as to the payment of reasonable compensation in respect of any interference with rights, privileges or interests of Natives or others occupying any such Crown Land as to the Governor may seem necessary.

Compensa-
tion Clause.

18. If, in the exercise of any of the powers conferred by this Act, any loss or damage shall be caused or accrue to any person owning or occupying any land affected by such exercise, the Council shall make compensation to such person, and the amount of such compensation shall, failing mutual agreement, be settled by arbitration in manner hereinafter set forth, provided that:

- (1) Where any such compensation is claimable in respect of water or the use of water, the arbitrator, in assessing the amount of such loss or damage as aforesaid, shall take into consideration the Compensation water hereinbefore referred to.
- (2) The Council shall, if and when required thereto by any owner or occupier of land situate within the Wolf Reservoir Reserve, provide such person with similar land of equal value and extent situate in the vicinity thereof, and the value of such land so provided shall be taken into consideration in assessing the amount of loss or damage sustained by such person. If any question or dispute shall arise between the Council and such person as to any land so provided, such question or dispute shall be finally decided by the Secretary to the Native Affairs Department, or any person appointed by him for that purpose.
- (3) The Council is hereby empowered and authorized to purchase or otherwise obtain land within the District of King William's Town for the purposes of this Act.

19. The Governor may give and grant to the Mayor, Councilors and Townsmen of East London upon such conditions as to him may seem meet and either in whole or in part such Crown lands as are situate at or in the vicinity of the site of the reservoir upon the Wolf River or are situate within the catchment area aforesaid.

Authority to Governor to grant title to Council.

20. The Council are hereby further empowered after giving ten days' notice to the local authority, if any, to lay down pipes or to construct conduits under or along any public road or under or along any ground set apart in the diagram or conditions of sale of any land as a road, without making or being liable to make any compensation in respect thereof.

Power to lay down pipes and conduits.

21. Notwithstanding anything in this Act to the contrary the areas of demarcated and undemarcated forests situated within the catchment, pipe track and other areas embraced in the scheme for the supply of water from the Wolf River to East London, shall remain under the sole control of the Forest Department, and the rights of Government, under the Forest Acts for the time being in force and the regulations promulgated thereunder, including the right to afforest, to graze cattle, fell timber, construct saw mills and dwelling houses, forests, railways, tram lines, road, tracks and paths and to undertake such other measures as may be considered necessary for the successful working of Crown Forests shall continue and be in no way interfered with, and the Council shall undertake no additional works in any of the demarcated or undemarcated areas aforesaid, except with the previous sanction and under the directions of the Chief Conservator of Forests: provided, however, that the Government

Crown Forests not to be interfered with or taken without consent of Chief Conservator of Forests.

shall protect any works, constructed by the Council under the provisions of this Act, from injury or damage directly resulting from any of the operations of the Forest Department; and shall allow the Council to fell and clear such portion of any forests as may be required to be submerged by any reservoir as also a distance not exceeding one hundred yards upwards from the top water level of each dam in order to prevent pollution from vegetation, together with such extent of forest it may be necessary to clear for the construction of roads, tramways and pipe lines, and shall permit the free quarrying of stone and sand for use in the construction of the works; and provided further that all timber felled by the Council must be paid for at Government tariff rates.

Rights of
way and
access.

22. The Council or any member thereof or any person or persons acting on their behalf or by their order or direction may at all times and with or without wagons, carts or carriages or other vehicles, horses or animals and with or without all implements, materials and machinery as may be requisite and necessary have free access and right of way to, over under and along the line of works and to and from all other property of the Council acquired or to be acquired under the provisions of this Act for the purpose of inspecting, adding to, repairing, relaying or supervising the said works or for any other purpose whatsoever that may be deemed expedient by the Council in or about carrying out the purposes of this Act provided however that such right of way shall not exceed a space of ten feet on each side of the line of works, except at spots where the lie or configuration of the ground renders a greater width indispensable for the purposes of transport.

Repair of
damage
caused to
roads by
construction
of works.

23. After laying, constructing, repairing, altering or replacing any waterworks in any road the Council shall duly fill in any excavation made and shall consolidate and level the surface and restore the road as speedily as possible, and as nearly as may be to its condition prior to entry thereon and shall maintain the area so affected by its works against subsidence for a period of six months thereafter, provided always that where necessary and practicable the Council shall make suitable deviations for traffic while the work is in progress.

Council
liable for
damage to
roads or
property by
leakage or
bursting of
pipes or
through
negligence.

24. The Council shall at all times make good any damage done to any road or property by the leaking or bursting of any of its water pipes and shall be liable for all damages, loss or injury sustained by any person or public body in consequence of any neglect or default in carrying out at any time the works or operations authorised by this Act.

Construction
of Water-
works, Tele-
phones, and
Telegraphs
authorised.

25. The Council is hereby further authorised and empowered to construct maintain and work for the purposes of the said waterworks and for no other purposes a telegraph and telephone line or either of them along or near the said line of works subject

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

26. The Council may enter into any contract or contracts with any person for the performance of the whole or any portion of the works authorised by this Act. Contracts for works authorised.

27. The Council may supply water by agreement in bulk or otherwise, and for domestic or other purposes, to any local authority or person outside the Municipality, any part of whose district or premises is situate within ten miles of the line of pipes or aqueducts on such terms and conditions in all respects, and for such period as the Council and such local authority or person may from time to time agree; Provided that nothing in this section shall authorise the Council to supply water within, or for use within the limits controlled by any local authority except with the consent of such authority nor shall the Council under any such agreement supply water so as to interfere with their giving a proper supply for all purposes to persons within the Municipality of East London and the Municipality of Cambridge in the event of the Council entering into an agreement to supply the latter Municipality with water. Power of Corporation to supply water to local authorities and others.

28. Nothing in this Act contained shall be construed as entitling the Council to enter upon or carry out any works upon, over or under any land or building vested in the Colonial Government and appropriated for railway purposes except with the consent of the Commissioner of Public Works first had and obtained under such reasonable conditions and terms as may be imposed by him, provided always that the Council shall at all times have a right of access to the works after the construction thereof for the purpose of inspection and effecting any necessary repairs. Consent for entry upon Crown Lands.

29. All works carried out and things done in pursuance of this Act under, upon or over such Government property, excepting urgent repairs, shall be carried on and done by the Council at its own expense under the supervision of an officer to be appointed by the Commissioner of Public Works to whom the Council shall pay the cost of such supervision. Conditions upon which works to be carried out on Government property.

30. No local authority shall be entitled to enter into any such agreement as is in section 27 referred to unless with the approval of the Governor and upon such approval being obtained, sections 18 and 19 of the Public Health Amendment Act 1897 shall apply to such authority who shall thereupon have the powers thereby given to an urban local authority in addition to any powers which such local authority may have by virtue of the provisions of the Statute under which it is constituted. Approval of Governor required to agreement.

31. In any agreement which the Council may make with such local authority it shall be lawful to stipulate that the powers by the said sections 18 and 19 of the Public Health Amendment Local authority may delegate its powers.

Act 1897 may be exercised by the Council for and on behalf of such authority subject to such terms and conditions as may be agreed ; and any compensation payable in consequence of the exercise of such powers shall failing mutual agreement be ascertained in manner hereinafter provided.

Arbitration
Clause,

32. Any person or persons entitled to compensation under the terms of this Act shall be bound and obliged to send in to the Town Clerk his, her or their claim or claims for the purchase amount, hire, recompense or compensation which he, she or they shall claim to be entitled to for such land or water or right of water or right of way or any stone, gravel or other material required or taken or which shall be required or taken for the purposes of this Act, within six months after such taking as aforesaid and for that purpose copies of the deposited plans shall lie at the office in East London of the Town Clerk during his usual business hours for and during the period aforesaid for the inspection of any person or persons who shall be interested therein. After which said period no further or any claim or claims which shall not have been sent in in manner hereinbefore provided for shall be recognised nor shall such claimants be entitled to recover the amount of their claims or any portion thereof from the Council by any means or proceeding whatever. And in case the Council shall not consent or agree to pay the amount of such or any claim or claims then the Council shall cause to be served upon the person or persons whose claims they shall reject a written notice offering as recompense or compensation whatever sums of money they shall deem sufficient and requiring such persons to state in writing to the Council within a certain limited time to be specified in the said notice not being less than fourteen (14) clear days after the service of such notice whether he is willing to accept the sum mentioned or not and if such person should refuse the sum offered or neglect to reply to the said notice then the Council shall by another notice in writing call upon such person or persons to refer to arbitration the amount of recompense or compensation to be paid him or them by the Council and for that purpose to transmit to the Council within a reasonable time to be specified in the last mentioned notice the name of some person whom he, she or they shall elect to be an arbitrator and the Council upon receiving the name of the person so selected shall nominate a second arbitrator, and the said two arbitrators shall before proceeding in the arbitration choose a third arbitrator, the said three arbitrators to sit together, and the Council shall cause a Deed of Submission to be prepared which shall be signed by or on behalf of the Council and by the person claiming such recompense or compensation as aforesaid and which shall clearly set forth the matter to be determined by the arbitrators and the award of the arbitrators or a majority of them shall be binding and conclusive and may be pleaded in bar

to any action or proceeding at law brought for or on account of the matter referred to their arbitration. In fixing the amount to be paid for property to be expropriated the Arbitrators shall do so upon the basis of its average market value, as near as can be ascertained for the twelve months preceding the notice of expropriation, adding in consideration of the compulsory nature of the expropriation, not more than 15 per cent. of such value, and the amount of compensation for damage, wayleave and right of access shall be determined upon the basis of actual injury to be sustained and loss to be inflicted by the presence and use of the works. And if any person as aforesaid claiming such recompense or compensation for land or materials shall neglect or refuse to name some person to be such arbitrator as aforesaid or to sign the Deed of Submission then the Council may lodge in some Joint Stock Bank in East London the sum of money offered by them as aforesaid in their first notice in this section mentioned for or on account of and at the risk of such person as aforesaid who shall at all times be entitled to draw the same out of the said Bank as his absolute property and the Council upon so lodging the said sum shall be authorised and entitled to take and use the land or materials required without being subject to pay or make any further recompense or compensation whatever in respect thereof as freely as if the said sum had been agreed upon between the parties as the sum to be paid or which had been awarded by the arbitrators under the provisions of this section and as if all acts by law required for vesting in the Council a sufficient title to the use of or property in the land or materials aforesaid had been duly done and approved.

33. In case any minor or other person under Guardianship or Curatorship shall be entitled to compensation under the terms of this Act then the Guardian or Curator as the case may be shall be authorised in his capacity as such Guardian or Curator to treat and agree with the Council in respect thereto and to execute any contract that may be needful for carrying out any agreement which may be made and in case of non-agreement to refer the matter in difference to arbitration as in the last preceding Section mentioned. But all moneys which shall either by agreement or arbitration be payable by the Council for or on account of any land or materials in this Section mentioned shall be paid by the Council to the Master of the Supreme Court administering the Guardians Fund who is hereby authorised to receive the same to the credit of the minor or other person entitled to such money and if in any case any person of full age shall by way of *fidei commissary* limitation or any limitation of a like nature be entitled to a life or other limited interest in any such land aforesaid in which a minor or other person as aforesaid under Guardianship or Curatorship shall be also interested in

In case lands, etc., of minors and persons under Curatorship required to be taken.

remainder or expectancy then the whole of the money as fixed by contract or appraisal or by arbitration shall be paid as aforesaid to the Master of the Supreme Court, and the person who was entitled to the life or other limited interest therein shall be entitled to draw interest on the sum so paid in provided however if any such person shall desire to have his share of such money apportioned and paid out it shall be lawful for him to apply by motion to the Supreme Court for an apportionment of such sum and such Court shall in a summary manner upon hearing the parties interested apportion the said sum and order the share of the applicant to be paid out to him leaving the share of the minor or other person under disability in the hands of the said Master to be administered in like manner as moneys in the Guardians Fund the property of minors or persons under disability are therein administered subject however at all times to such orders as the Supreme Court aforesaid may upon motion of any person having an interest, see fit to make with regard to such money. And in case the Council shall require to take or use any land or materials of which the owner or owners shall be absent from the Colony or whose place of residence, agent or representative shall be unknown to or not be discoverable by the Council then it shall be lawful for the Council and it is hereby authorised to cause a notice to be inserted in the *Gazette* and in one or more local newspapers for four or more consecutive weeks describing as accurately as may be the land or materials which are required to be used, taken and calling on the owner or owners of the said land or materials if known to take notice that the Council is ready and willing to treat with the owner or owners or any person duly authorised by him or them for the recompense or compensation to be made by the Council for the said land or materials and requiring such owner or owners to apply within six months from the date of such notice which shall be the day of its first publication to the Council stating the recompense or compensation claimed and if the owner or owners shall not apply within the said period then the like proceedings in regard to the agreement for or otherwise determining the recompense or compensation to be respectively given and received, shall in all respects be had and taken, which are prescribed in the last preceding section, precisely as if the said owner or owners had been from the first in actual possession, and in case the owner or owners shall not apply to the Council within the said period then it shall be lawful for the Council to appoint some competent person to appraise the value of the land or materials, and such person shall make oath before some Justice of the Peace that he hath, to the best of his judgment, fairly appraised such value, and thereupon it shall be lawful for the Council to pay whatever sum such person shall have valued such land or materials in question into the Guardians Fund to the

credit of the party or parties entitled thereto subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th July 1833 in regard to moneys placed in the said Fund belonging to persons absent from the Colony and the Council upon so paying the said sum shall be authorised and entitled to take or use the land or materials in question without being subject to pay or make any further recompense or compensation whatever in respect thereof as freely as if the said sum had been agreed upon between the said parties as the sum to be paid and as if all Acts required by Law for vesting in the Council sufficient title to the use of or property in the land or materials as aforesaid had been duly done and performed.

34. Any person or persons who shall wilfully injure damage obstruct or interrupt any portion of the waterworks or line of telegraph or telephone or shall obstruct, hinder or prevent the forming, construction, completing or maintaining thereof or any of them shall upon conviction be liable to forfeit for the use of the Council for each offence a sum not exceeding £100 or be imprisoned with or without hard labour for any period not exceeding six calendar months or to both fine and imprisonment and any such offender may be prosecuted in the Court of the Resident Magistrate for the District in which the offence is committed provided that nothing in this section contained shall be held or taken to exempt such person or persons from any civil or criminal liability for any of the aforesaid Acts to which he would have been subject if this Act had not been passed but no person shall be prosecuted criminally under this Act and any other Law for or in regard to one and the same offence.

Penalties
for injuries to
works.

35. No person shall wash any clothes, wool or hides or other thing whatsoever in the Wolf River or any tributary thereof at any place within the catchment area, or in any dam or reservoir belonging to the Council, or place or throw or permit or allow to run off or drain into the said river its tributaries or any dam or reservoir or allow to be placed or suffer to remain upon the banks of the said river tributaries or reservoir any rubbish, dirt or filth or any noisome thing, whereby the water therein shall or may be defiled, contaminated or polluted; or establish any Woolwashery, Laundry, Tannery, Cattle or Sheep Dipping Tank or Manufactory of any description within the catchment area from which any refuse-liquid or otherwise or any injurious contaminating matter of any kind whatever either by itself or in conjunction with other matter might corrupt or impair, or tend to corrupt impair pollute contaminate or defile the waters. Nor shall any person bathe or wash in any dam or reservoir belonging to the Council or in the Wolf River or its tributaries within the catchment area or suffer or permit any dog or other animal

Penalties
for polluting
water.

to enter therein, but nothing herein contained shall be taken to hinder or prevent the owner or occupier of any land situate within the catchment area from irrigating such land or watering his stock, horses, cattle, sheep and goats, at or in any part of the Wolf River or its tributaries within that portion of the catchment area which is not included in the Wolf Reservoir Reserve. Any person or persons contravening this section may be prosecuted before the Court of the Resident Magistrate for the District in which the offence is committed, and shall for every offence on being convicted thereof forfeit for the use of the Council a sum not exceeding twenty pounds (£20) and in default of payment of such fine to imprisonment with or without hard labour for any period not exceeding thirty days.

Tariff of charges and Bye-laws.

36. All the powers granted to the Council by Sections 13 and 14 of Act No. 22 of 1899 are hereby granted to the Council in connection with the works and water supply authorised by this Act and subject to any alterations that may from time to time be made all existing regulations and bye-laws relating to the supply of water and all charges at present in force shall be of like force regarding the works to be constructed by virtue of this Act and the supply of water by the proposed works as though the same were framed and published by authority of this Act.

Power to raise money for works.

37. The Council may from time to time either separately or in conjunction with any other loan or loans the Council may be empowered to raise, borrow by the issue of debentures, debenture stock or otherwise at interest and upon such terms and conditions as it may deem expedient such sum or sums of money not exceeding in the whole the sum of £320,000 as may be required for the purposes of this Act provided always that notwithstanding anything to the contrary contained in the East London Municipality Act 1880 or any other law it shall not hereafter be necessary for the Council to register any Mortgage in security of any loan which it is empowered to raise unless by the conditions of the loan such registration be required.

Provision for payment of interest and Sinking Fund.

38. In order to pay the interest on any loan raised under the authority of this Act or of the Acts Nos. 15 of 1882 and 22 of 1899, and to provide for an annual contribution, to establish a Sinking Fund for the payment thereof and for all other claims under this Act the Council may impose, levy and collect a sufficient annual rate or assessment over and above what the Council is already empowered to impose and levy upon the immovable property within the limits of the said Municipality, other than such property as may be specially exempted under section 4 of Act No. 36 of 1891, and every rate and assessment so imposed, and made by the Council, shall be of the same force and effect and levied in the same manner as if it had been a rate imposed upon owners of immovable property under the provisions of the Act No. 23 of 1880 or the Act No. 12 of

1881 so far as the same are applicable. And all rates so imposed or assessed under the provisions of this Act shall be and be deemed to be a charge upon the property so assessed, and be recoverable against the present or any future owner or occupier thereof.

39. The amounts for assessment entered on the assessment roll in force within the Municipality for each and every year shall be the amounts on which the rates shall be levied for the purposes of this Act so far as the properties included in such assessment roll are concerned, but for any or all properties not included in such assessment roll, and for all properties not liable to assessment under the said Act No. 23 of 1880, or the said Act No. 12 of 1881 the value shall be made and determined by some competent person appointed by the said Council in the same manner in all respects and subject to the same provisions with regard to the hearing and determining of objections to such value as is provided for by the said Act No. 23 of 1880 as amended by Act No. 12 of 1881 or any Regulations framed thereunder in regard to the valuation and assessment of such immovable property as under that Act is liable to be valued and assessed for rating purposes.

Assessment roll of Municipality to be assessment roll for this Act.

40. Every such rate or assessment made and assessed under the provisions of this Act shall be independent of and in addition to the rate or rates assessed under any other Act having reference to the Municipality of East London and the provisions of Section 8 of Act No. 12 of 1881 shall in no way be applicable thereto and shall become due and payable upon some certain day to be fixed by the Council of which day and of the amount of the rate or assessment so to become payable not less than fourteen days' notice shall be given and such notice shall be published by causing the same to be inserted in one or more of the newspapers published within the said Municipality and causing a copy of the same to be affixed in some conspicuous place at or near the Town Office. And upon failure of payment of every such rate or assessment as aforesaid by the owner or occupier of the property in respect of which the same shall have been levied or assessed within the space of three months from the certain day aforesaid then and in that case the owner or occupier aforesaid shall be charged with and be liable for interest at the rate of six per cent. per annum calculated from the date on which such rate becomes due and payable upon such rate or assessment as aforesaid and such interest shall be recovered and collected in like manner as in the next following Section of this Act provided for the recovery and collection of such rate or assessment aforesaid.

When rates to be payable.

41. As soon as any rate shall be assessed as aforesaid the same (and any interest due thereon as in the last preceding Section of this Act mentioned) shall be collected in the same manner as any rates duly levied under the provisions of the said Act No. 23 of 1880 or the said Act No. 12 of 1881 and shall on non-payment

How rates to be collected.

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thereof be recoverable as a separate and distinct rate by action in the Resident Magistrate's Court having jurisdiction.

Public Bodies Debts Act, 1867, to apply. Accounts to be kept.

42. All monies borrowed and debts lawfully incurred by the Council under the provisions or for the purposes of this Act shall be subject to the Public Bodies Debts Act, 1867.

43. The Council shall keep or cause to be kept separate and distinct accounts of all monies borrowed under this Act and of the expenditure of such monies but all revenues arising from the water works authorised by this Act and any other works connected with the water supply of East London or district shall be kept in one account and apportioned or dealt with at the end of the Municipal year in such manner as the Council may deem fit.

This Act not to affect the rights of the Council under other Acts.

44. Nothing in this Act contained shall be taken to deprive the Council of any rights and privileges it may possess or of which it may be entitled to avail itself under the provisions of any existing law or statute.

Penalties to be paid to Council.

45. The amount of all fines and penalties imposed by this Act or any Bye-laws or regulations made thereunder shall when recovered be paid to the Council for Municipal purposes.

Expenses of Act.

46. The costs, charges and expenses attending or incident to the obtaining and passing of this Act shall in the first place be paid by the Council out of public funds or rates in the hands of the Council and thereafter be chargeable against moneys borrowed for the purposes of this Act.

Short Title.

47. This Act may be cited as "The East London Additional Water Supply Act 1906."

No. 27—1906.]

[August 21, 1906.

ACT

To Provide for and regulate the Slaughtering of Cattle and the Sale of Butchers' Meat.

[Assented to 21st August, 1906.]

Preamble.

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

Interpretation Clause.

1. In this Act the following terms shall have the meanings hereunder assigned to them :—

"Urban Local Authority" shall mean

(a) The Council or Board of Commissioners of the Municipality, Borough or Corporate Town in the Divisions of the Cape, Port Elizabeth, and East London, and in such other Division as the Governor may from time to time proclaim, after obtaining the concurrence of the Divisional Council concerned.

- (b) The Board of Management of any community in which the Villages Management Act, 1881, or portion of that Act, is in operation.
- (c) A Local Authority appointed under section thirteen of "The Public Health Amendment Act, 1897."

"Local Authority" shall mean any urban local authority and shall include

- (a) The Council of any Divisional Council established under "The Divisional Councils Act, 1889."
- (b) The Board of Health established under "The Public Health Extension Act, 1884."

"Public slaughterhouse" shall mean and include the buildings and places commonly called slaughterhouses or abattoirs, and also knackers' yards and any building or place used for slaughtering or for dressing or preparing or storing the carcasses of cattle, horses or animals of any description, and any stock-yard kraals, grazing grounds, markets or places used for public sale of bulls, cows, oxen, calves, heifers, sheep, goats, pigs, or the carcasses, meat or offal of any of these animals, connected with a slaughterhouse and established and maintained by one or more Local Authorities under this Act for the use of the public, subject to any regulations at the time lawfully in force under this Act.

"Animal" shall mean and include any ox, bull, cow, calf, heifer, sheep, goat, hog, sow, or pig.

"Food" shall mean "food intended for the food of man."

"Medical Officer of Health for the Colony" shall mean the Officer appointed under "The Public Health Amendment Act, 1897."

2. Every urban local authority may from time to time make, alter, or revoke bye-laws or regulations for all or any of the following purposes; provided that in so doing such local authority shall comply with the requirements of the law under which the Board of Commissioners, Council or Board of Management, constituting such local authority is established, in regard to the making, altering or revoking of bye-laws or regulations:

Certain Regulations may be made by Urban Local Authorities.

- (1) For regulating and prescribing the use of public slaughterhouses, and for fixing the charges to be made therefor.
- (2) For prohibiting any slaughtering of animals intended for sale as food to be done elsewhere than in such public slaughterhouses, on or after a date to be mentioned in such regulation, but not earlier than three months after the coming into force of such regulation.
- (3) For providing for the inspection and passing by persons duly authorised by the local authority of all carcasses of animals and meat intended for sale as food within the area of such local authority before or at the time of removal into such area from any place beyond the limits

of the said local authority; and for marking and branding such as is so passed after inspection as fit for food, and for prohibiting and preventing the introduction within such area for sale as food of any carcasses or meat not so marked or branded.

- (4) For the purpose of ensuring the proper carrying out of any matter or thing done or required to be done by any local authority or person under the provisions of this Act, and generally for the better carrying out of this Act.

Provided that no bye-laws or regulations shall be made, or if made under any other Act shall continue, which shall prevent the sale of South African meat within urban areas by farmers thereunto specially authorized by Acts of Parliament on the ground that the animals whose meat is sold have not been slaughtered within the Municipal area.

Regulations to be approved by Governor and published.

3. After any bye-law or regulation has been made or amended by any urban local authority, it shall be submitted to the Governor for his approval, and if approved, shall be published in the *Gazette*, and thereupon such bye-law or amended bye-law or regulation shall have the force of law in the district.

Local Authorities may combine for certain purposes.

4. Subject to the provisions of this Act, and notwithstanding anything to the contrary in any other Act contained, it shall be lawful for any two or more local authorities to enter into an agreement between themselves to combine, co-operate or contract for the carrying out, either jointly or by one or more of the contracting local authorities for and on behalf of the others, of any scheme for the acquirement, provision, maintenance and use, either within or without the districts of such local authorities, of public slaughterhouses and all matters or things in connection therewith, including the inspection and marking or branding of meat for sale within all or any of the said districts.

Under deed of agreement.

5. Every such agreement, as aforesaid, shall be embodied in a deed to be entered into and subscribed to by the contracting Local Authorities, and shall, *inter alia*, by its provisions as far as may be possible lay down and define :—

- (a) The date upon which such agreement shall come into force and effect; the period for which such agreement shall endure; the terms and conditions upon which any of the parties thereto may withdraw therefrom, or upon which any other Local Authority may become a party thereto, or under which such agreement may be within the period of the currency of such agreement entirely terminated;
- (b) The amount of any moneys, funds, lands, buildings, plant, materials or other property or things to be contributed, transferred or lent by each or any of the contracting Local Authorities, and the payment, if any, to be made

to any such Local Authority in respect of any such lands, buildings, plant, materials or other property or things contributed, transferred or lent by such Local Authority ;

- (c) The annual or other charges, if any, to be borne by, and the revenue, profit or gain, if any, payable to or receivable by each such Local Authority ;
- (d) The appointment between the contracting Local Authorities of any profits, losses, assets or liabilities made or incurred in the course of carrying out, maintenance or use of any scheme, undertaking, work, matter or thing under such agreement ;
- (e) The amount of any loan, and the conditions under which loans may be raised, for the purpose of carrying out any such scheme, work, undertaking, matter or thing provided for in such agreement ;
- (f) The manner and conditions under which any scheme, work, undertaking, matter or thing under such agreement shall be managed, the measure of control to be exercised and the manner of exercising such control by each or any of the contracting Local Authorities ;
- (g) The use to be made of and the rights, powers, advantages and duties to be enjoyed or exercised in regard to any scheme, work, undertaking, matter or thing under such agreement by each of the contracting Local Authorities and by the inhabitants of the district of each such Local Authority ; and the manner of fixing charges, if any, to be paid by any Local Authority or person in regard thereto ; and
- (h) Any other arrangement, condition or undertaking essential to the just and proper carrying out of such agreement :

Provided that before any such agreement shall come into operation or effect it shall have first received the sanction of the Minister and shall have been duly advertised for a period of at least three months in the *Gazette* and any one or more newspapers, if any, circulating in the district of each such contracting Local Authority ; and, provided, further, that the terms, conditions, arrangements, undertakings or any other matters or things provided for in such agreement may from time to time and with the consent of each of the contracting Local Authorities be altered, modified or cancelled, subject always to the provisions contained in the last preceding proviso being conformed to before any such alteration, modification or cancellation shall come into operation, force or effect.

And provided further that the Minister shall be satisfied that every public slaughter-house under any such scheme is suitable as regards construction, position, water supply, drainage and in any other respect he may deem necessary.

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Governor
may proclaim
regulations.

6. Upon any one or more local authorities undertaking any scheme as aforesaid, it shall be lawful for the Governor to proclaim regulations to be in force within the district of any or all of the contracting local authorities for any or all of the purposes mentioned in section two of this Act; provided that before proclaiming any such regulation, the Governor shall take the advice of such local authorities and of the Medical Officer of Health for the Colony, as to the desirability and suitability of any such regulations.

How such
regulations to
be published.

7. Every such regulation shall be published in the *Gazette* and one or more newspapers circulating in the district in which it is proposed such regulations shall be in force for a period of at least one month before the date on which it is intended to proclaim such regulation; and any person objecting to such regulation shall notify the Minister of his objection before such date.

Powers of
Local Author-
ities.

8. For the purpose of carrying out the provisions of this Act, every such contracting Local Authority shall possess and may exercise any of the powers conferred upon it under "The Municipal Act, 1882," "The Villages Management Act, 1881," "The Divisional Councils Act, 1889," or any other Act, under which such Local Authority has been constituted, in regard to the raising of loans, giving of security, entering into contracts, or any other matter necessary to the proper carrying out of the provisions of this Act.

How expen-
diture may be
charged.

9. Any expenditure incurred by any Local Authority in the performance of any undertaking, work or thing provided for under this Act, may be lawfully chargeable by such Local Authority against its ordinary revenue.

Local Au-
thorities need
not partici-
pate equally.

10. In any combination, co-operation or contract between Local Authorities, for the carrying out of any scheme under the provisions of this Act, it shall not be necessary for each of the contracting Local Authorities to participate equally or to the same extent in any such scheme.

Governor
may require
certain Urban
Local Author-
ities to pro-
vide slaugh-
ter-houses.

11. Whenever it shall be made to appear to the Governor that any area under the jurisdiction of any Urban local authority having a population of 5,000 inhabitants or upwards or any area included in the Division of the Cape, Port Elizabeth and East London is not sufficiently provided with proper means for slaughtering animals for the requirements of such area, or that the bye-laws or regulations, if any, regulating the supervision or use of any slaughter-houses in such area are in any respect insufficient in the interest of the health of the inhabitants, it shall be lawful for the Governor to require such Urban local authority to provide such public slaughter-houses as he may deem necessary for the requirements of such area within a reasonable specified time: provided that no such order shall issue unless the Governor shall be satisfied of the necessity thereof from the report of a Commission appointed as hereinafter provided.

12. If any Urban Local Authority shall, without good or sufficient cause fail or neglect to comply with any order as aforesaid, after receipt thereof, within the time specified therein, it shall be lawful for the Governor to appoint any person or persons to provide such public slaughterhouses or do anything necessary thereto, and any expenditure incurred in so doing shall be payable by and recoverable in any competent Court from the Urban Local Authority in default provided that such expenditure shall not exceed the amount of the ordinary revenue of such Local Authority during the previous year; and it shall further be lawful for the Governor to proclaim such bye-laws or regulations as he may deem fit for any of the purposes mentioned in section two of this Act to be in force within the said area, and such bye-laws or regulations shall after publication in the *Gazette* have the force of law in such area.

When Urban Local Authority fails to comply with such orders.

13. It shall be lawful for the Governor at any time to appoint a Commission, of which the Resident Magistrate for the District shall be a member to inquire into and report to him on any matter affecting anything which under this Act the Governor is empowered to do.

Appointment of Commission.

14. Any Local Authority under this Act shall for the purposes of the Act be deemed to be a "Local Authority" under the provisions of the "Local Works Loans Act, 1882," and any amendment thereof.

Local Authority to be deemed such for purpose of "Local Works Loans Act, 1882."

15. The Minister may, whenever he shall deem necessary, require returns or information to be furnished by any Local Authority or person in regard to any matter connected with the working or carrying out of any agreement or scheme under this Act.

Minister may require information.

16. The Medical Officer of Health for the Colony, or any person duly authorised by him, may at any time inspect any slaughterhouses or any matter or thing connected therewith.

Medical Officer of Health may inspect.

17. Every person convicted of an offence against this Act, or any bye-law or regulation made or enforced under this Act, or failing or refusing to carry out or do anything required by him to be done under this Act, or under any bye-law or regulation framed under this Act, shall be liable to a penalty not exceeding £20, or to imprisonment with or without hard labour for any period not exceeding three months, or, in the case of a continuing offence, to a daily penalty not exceeding Forty Shillings.

General Penalties.

18. The provisions of this Act shall come into operation at such time as the Governor shall by Proclamation declare.

When Act to take effect.

19. This Act may be cited for all purposes as "The Public Health (Slaughter-houses) Act, 1906."

Short Title.

No. 28—1906.]

[August 21, 1906.]

ACT

To Provide for the Appropriation of Certain Lands granted for Burial Purposes to Purposes other than Burial.

[Assented to 21st August, 1906.]

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

Land specified in schedule may be appropriated for establishment of public gardens, &c.

1. It shall be lawful for the grantees respectively of the lands specified and described in the Schedule hereto to appropriate and apply such lands to purposes other than burial purposes provided that such purposes shall be restricted to

(a) the erection of religious, charitable, or educational institutions, and

(b) the establishment of open spaces or gardens, to be preserved and maintained for the benefit and enjoyment of the public, and provided further that the playing of any games or sports shall not be allowed on any of the lands as specified in the Schedule to this Act.

Land appropriated by grantee to be under control of grantee.

Any land appropriated hereunder by the grantee thereof shall be under the general control and management of the grantee, or may by him be transferred to the control of the Municipality of Cape Town on condition that the said Municipality shall preserve and maintain the said land as prescribed in sub-section (b) of this section.

If any land not appropriated hereunder within one year Government may revoke title thereto.

2. In case any land, or portion thereof, shall remain, after the expiration of one year from the date of this Act, unappropriated thereunder, it shall be lawful for the Governor by Proclamation to declare the grantee to be divested of all right, title or interest to or in the land so unappropriated; and the Governor shall transfer such land to the control of the Municipality of Cape Town on condition that the said Municipality shall preserve and maintain the said land as is prescribed in sub-section (b) of section one of this Act.

Remains removed at cost of Government, or Municipality.

Provided that after such appropriation or transfer any remains, headstones or memorial stones to persons buried in such cemetery may be removed to other Burial Grounds at the cost of the Government or Municipality as the case may be: and provided further that a list of such headstones or memorial stones with the particulars thereon shall be made and lie open for public inspection at least six months after such removal.

List of headstones for inspection.

How remains, etc., are to be dealt with.

3. In case of the erection of religious, charitable, or educational institutions, under section one of this Act, the remains, headstones, or memorial stones to persons buried in such cemetery shall be dealt with in the same manner as is provided for in the last preceding section.

4. For the purpose of rendering effective the exercise of control and management by any grantee under this Act it shall be lawful for the Governor to make such Regulations as may be expedient.

Governor
may make
regulations.

5. In this Act "grantee" means the person or body being the successors of the original grantees respectively.

Interpreta-
tion.

6. This Act may be cited as the "Disused Cemeteries Appropriation Act, 1906."

Short title.

SCHEDULE.

Schedule.

DESCRIPTIONS OF DISUSED CEMETERIES, SOMERSET ROAD, CAPETOWN.

"A" Granted to the Capetown Town Church Council of D.R. Church on the 2nd July, 1755, and bounded as follows:—

- On the N.W. by continuation of Chiappini Street.
- On the N.E. by "C."
- On the S.E. by "B."
- On the S.W. by Somerset Road.

"B" Granted to the Collegie of Kerkeraden on the 8th April, 1801, and bounded as follows:—

- On the N.W. by "A."
- On the N.E. by "C."
- On the S.E. by Buitengracht Street,
- On the S.W. by Somerset Road.

"C" Granted to the Collegie of Kerkeraden on the 9th February, 1802, and bounded as follows:—

- On the N.W. by continuation of Chiappini Street.
- On the N.E. by Prestwich Street and land set aside for Labourers' Barracks.
- On the S.E. by Buitengracht Street.
- On the S.W. by "B" and "A."

"D" Transferred by Burgher Senate to Sir John Wylde and others as Trustees for the erection of an English Episcopal Church on the 23rd October, 1827, and bounded as follows:—

- On the N.W. by Alfred Street.
- On the N.E. by "F."
- On the S.E. by continuation of Chiappini Street.
- On the S.W. by Somerset Road.

"E" Municipality to Trustees St. George's Church, on the 7th September, 1832, and bounded as follows:—

- On the N.W. by "I."
- On the N.E. by Prestwich Street.
- On the S.E. by Liddle Street.
- On the S.W. by Somerset Road.

“F” Municipality to Church Wardens of Scottish Church, on the 15th March, 1833, and bounded as follows :—

On the N.W. by Alfred Street.
 On the N.E. by Prestwich Street.
 On the S.E. by continuation of Chiappini Street.
 On the S.W. by “D” and “H.”

“G” Municipality to the Churchwardens of the Lutheran Church on the 15th March, 1833, and bounded as follows :—

On the N.W. by Napier Street.
 On the N.E. by Hospital Street.
 On the S.E. by Alfred Street.
 On the S.W. by Prestwich Street.

“H” Granted to the Rev. Dr. P. R. Griffith on the 1st June, 1840, and bounded as follows :—

On the N.W. by Alfred Street.
 On the N.E. by “F.”
 On the S.E. by remainder of “D.”
 On the S.W. by Somerset Road.

“I” Granted to the Rev. Vogelgezang on the 1st June, 1840, and bounded as follows :—

On the N.W. by Ebenezer Road.
 On the N.E. by Prestwich Street.
 On the S.E. by “E.”
 On the S.W. by Somerset Road.

No. 29—1906.]

[August 21, 1906.

ACT

To Further Amend the Law for the Better Administration of Justice and to terminate Certain Prosecutions, Sentences and Disqualifications for Treason and other Offences.

[Assented to 21st August, 1906.]

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

Amendment of section two of Act 35 of 1904. 1. Sub-section (1) of section two of Act 35 of 1904, entitled the “Better Administration of Justice Act, 1904,” shall be read as if the word “three” were inserted therein, in place of the word “two” occurring in the said sub-section.

2. Section three of Act 35 of 1904 is hereby repealed.
3. Sections four, five, six and seven of this Act shall only come into force from and after 1st July, 1907.
4. Sections fifteen, sixteen and seventeen of Act 35 of 1896 are hereby repealed.
5. The High Court of Griqualand shall consist of and be holden before one of the Puisne Judges of the Supreme Court, who shall be thereto duly assigned and appointed by the Governor, and the law relating to the powers vested in certain cases in a single Judge shall apply equally to the said High Court.
6. The words "or High Court of Griqualand" occurring in section twenty-one of the said Act 35 of 1896 are hereby repealed.
7. The Judge President of the High Court of Griqualand shall be entitled to retire on pension from and after 1st July, 1907, as if he had reached the age of retirement provided for by law judges of the Supreme Court.
8. All current sentences of disfranchisement imposed under and by virtue of the "Indemnity and Special Tribunals Act No. 6 of 1900," and all such current sentences imposed under and by virtue of section six of Act No. 35 of 1904, entitled the "Better Administration of Justice Act, 1904," are hereby remitted.
9. From and after the date of the promulgation of this Act any disqualification which, under any law, shall have attached to any person as a consequence of any conviction for high treason or offence of a political character by any Court Martial or Military Court whose sentence was validated by the "Indemnity and Special Tribunals Act, No. 6 of 1900," or by the "General Indemnity Act, No. 4 of 1902," or any other court of law, or as a consequence of any conviction for high treason or offence of a political character by any of the Special Tribunals established under the authority of the said Act, No. 6 of 1900, or by any Court under the authority of the "Better Administration of Justice Act, No. 35 of 1904," shall forthwith determine and be at an end. Provided that nothing in this section shall be taken to repeal the provisions of the "War Losses Additional Compensation Act, No. 17 of 1902."
10. Section seven of the said Act 35 of 1904 is hereby repealed, and, from and after the promulgation of this Act, no further prosecutions shall take place in regard to the late rebellion.
11. Notwithstanding anything to the contrary contained in section nine of Act 35 of 1904, the Chief Magistrate or Assistant Chief Magistrates of the Transkeian Territories shall be empowered and have jurisdiction to hear and decide suits of divorce and separation as provided by Governor's Proclamations 110 and 112 of 1879, and 140 of 1885, precisely as if section nine of Act 35 of 1904 had not been enacted.
12. This Act may be cited as the "Better Administration of Justice and Remission of Treason Penalties Act, 1906."

Repeal of part of section three of Act 35 of 1904.

Coming into effect of sections four, five, six and seven of this Act.

Repeal of sections fifteen and seventeen of Act 35 of 1896.

Single Judge for High Court of Griqualand.

Amendment of section twenty-one of Act 35 of 1896.

Retirement of Judge President of High Court.

Remission of sentences of disfranchisement and sentences under section six of Act 35, 1904.

Disqualifications consequent upon certain convictions ended.

Repeal of section seven of Act 35 of 1904.

Jurisdiction of Magistrates of Transkeian Territories in divorce cases.

Short Title.

No. 30—1906.]

ACT

To Amend the Law placing restrictions on Immigration and providing for the Removal from the Colony of Prohibited Immigrants.

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

Repeal. 1. Act 47 of 1902, entitled “The Immigration Act, 1902,” is hereby repealed, but such repeal shall not affect any acts or things done or commenced, any rights, privileges or protection acquired, any penalties or liabilities incurred, any disability or disqualification existing, any offences committed or any proceedings taken at the commencement of this Act.

Interpretation. 2. In the construction of this Act the following expressions shall, unless the contrary intention appears, bear the meanings hereby respectively assigned to them, that is to say:—

“Ship” shall include any ship, vessel or boat or description thereof used in navigation.

“Master” shall include any person other than a pilot in charge or command of any ship.

“Immigrant” shall mean and include any person who arriving from without this Colony enters or claims to enter by land or sea.

Prohibition of immigration of certain persons. 3. Subject to the provisions of this Act, it shall be unlawful for any immigrant who is or appears to be of any one of the following classes to enter this Colony by land or sea; and every such immigrant shall be termed a “prohibited immigrant”:—

(a) Any person who, when asked to do so by any duly authorized officer, shall be unable through deficient education to himself write out and sign in the characters of any European language an application to the satisfaction of the Minister; provided that for the purposes of this sub-section Piddish shall be accepted as a European language.

(b) Any person who is not in possession of visible means of support or is likely to become a public charge.

(c) Any person who has been convicted of any of the following offences, that is to say, murder, rape, theft, fraud, perjury, forgery or other infamous crime, and who by reason of the circumstances connected with such offence is deemed by the Minister to be an undesirable.

(d) Any person who is a lunatic within the meaning of the second section of the Lunacy Act, 1897.

- (e) Any person, male or female, who lives or has lived on, or knowingly receives or has received any part of the proceeds of prostitution.
- (f) Any person who from information officially received by the Minister from any Secretary of State or from any Colonial Minister or through diplomatic channels from any Minister of any foreign country is deemed by the Minister to be an undesirable.

But, in the case of an immigrant, who proves that he is seeking admission to this Colony solely to avoid persecution or punishment on religious or political grounds, or for an offence of a political character, or persecution, involving danger of imprisonment, or danger to life or limb, on account of religious belief, leave to land shall not be refused on the ground merely of want of visible means of support, or the probability of his becoming a public charge, provided that such immigrant shall only be permitted to land on receiving a licence under the hand of the Minister.

4. The provisions of the preceding section shall not apply to any immigrant who is of any of the following classes:—

Exemption
of certain persons.

- (a) Members of His Majesty's Naval and Military forces.
- (b) The officers and crew of any public ship of any foreign State.
- (c) Any person who is duly accredited to the Colony by or under the authority of His Majesty, or of the Government of any foreign State, with his wife, family and servants.
- (d) Any person who has served in any of His Majesty's Volunteer forces in South Africa, and has received a good discharge and who does not come under sub-sections (c), (d), (e), or (f) of the preceding section.
- (e) The wife and any child under the age of 16 years of any person who is permitted to immigrate into the Colony under the provisions of this Act.
- (f)
 - (a) Persons born in South Africa.
 - (b) Persons of European birth domiciled in South Africa who do not come under sub-sections (c) and (e) of the preceding section.
- (g) Any Asiatic who having, when lawfully resident within the Colony, obtained from the Minister a permit issued under such Regulations as shall be proclaimed thereof by the Governor, authorizing him to temporarily absent himself from the Colony, returns in accordance with the terms and conditions of such permit.
- (h) European persons who are agricultural or domestic servants, skilled artisans, mechanics, workmen or miners, immigrating under any scheme approved by the Governor, upon being satisfied that there is no sufficient

No. 30—1906.

supply available of the class of labour required at an adequate rate of remuneration in this Colony, and are able to produce a certificate signed by the Agent-General of the Colony in England or officer appointed by the Governor in England or elsewhere to grant certificates for the purposes of the Act, certifying that the person named therein has been engaged to serve, immediately on arrival in the Colony, an employer therein of repute at an adequate remuneration and for a reasonable period of time.

Removal of prohibited immigrants.

5. Any person found to have immigrated at any time into this Colony by land or sea in violation of the provisions of this Act or of "The Immigration Act, 1902," shall be liable to a penalty of £50 or in the alternative to three months' imprisonment with or without hard labour, and to be removed at any time from within the limits of the Colony and to be detained in such custody as may by regulation be prescribed pending such removal.

Liability of master of ship for landing prohibited immigrants.

6. Any master of any ship who knowingly directly or indirectly allows any immigrant to leave his ship, whereby such immigrant contravenes any provisions of the Act, and the owners of any such ship which any such immigrant so leaves shall be jointly and severally liable to a penalty of £100, and to a further penalty of £20 for each such immigrant landed in excess of the number of five. Such ship may be refused a clearance till such penalty has been paid, and may in default of payment by or on behalf of the master or owners and by order of the Supreme Court be attached and declared executable in satisfaction of any writ issued for the recovery of any such penalty; provided that in lieu of granting such order, it shall be lawful for the Court to accept such security for the payment of such penalty as may appear to be adequate.

Penalties for assisting illegal immigration, for false statements, &c.

7. Any person aiding or assisting any person in any manner whatsoever in the contravention of any provision of this Act, or of the regulations framed thereunder or making any false declaration in order to obtain for himself or another person any certificate or other recommendation for the purposes of this Act, or entering into any contract for the purposes of any evasion of the provisions of this Act, shall be liable to a fine not exceeding £100, or to imprisonment with or without hard labour for a period not exceeding six months.

Regulations.

8. It shall be lawful for the Governor from time to time by Proclamation to make regulations in order to prevent any immigration into this Colony contrary to and in violation of the provisions of this Act, and to appoint officers within and beyond the limits of the Colony to carry out such regulations, and to provide for the removal from within the territorial limits of the Colony of any persons who are, under and by virtue of the

provisions of this Act, prohibited from immigrating thereto, and settling therein, and to provide for the temporary custody, control and accommodation of such persons pending their removal as aforesaid; and to provide for the importation, reception, accommodation, maintenance, registration, distribution and contractual engagements of persons immigrating under any scheme approved by the Governor under subsection (h) of section four of this Act; and to provide for the issue of certificates and other documents under such regulations and the payment of fees therefor; and to provide for the passage of prohibited immigrants through the Colony or for their temporary residence therein and to provide for and prescribe the deposits of security for their journey through the Colony or leaving it within the period allowed to them; and generally in furtherance of the objects and intents of this Act.

9. It shall be lawful for the Governor to prescribe penalties for the contravention of any regulation made by him under this Act, provided that no penalty in respect of any one contravention shall exceed a fine of £100, or in default of payment thereof, imprisonment with or without hard labour for a period exceeding 12 months or to imprisonment with or without hard labour and without the option of a fine for a period exceeding 12 months.

Penalties for breach of Regulations.

10. This Act may be cited as "The Immigration Act, 1906."

Short Title.

No. 31 of 1906.]

[August 21, 1906.]

ACT

To Apply a sum not exceeding Sixty-five thousand three hundred and sixty-two pounds fourteen shillings sterling, for the purpose of meeting and covering certain Unauthorized Expenditure.

[Assented to 21st August, 1906.]

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

Preamble.

1. The public revenue of this Colony is hereby charged with the sum not exceeding Sixty-five thousand three hundred and sixty-two pounds fourteen shillings sterling, to meet unauthorized expenditure beyond the amounts voted or appropriated for the service of the financial year ended the 30th June, 1905, described on page 265 of the "Report of the Controller and Auditor-General, with Statements of the Revenue and Expenditure and Appropriation Accounts of the Colony of the Cape of Good Hope for the financial year 1904-1905" [G. 1-'06].

Revenue charged with £65,362 14s. unauthorized expenditure, year ended, June, 1905.

2. This Act may be cited as the "Unauthorized Expenditure Act, 1906."

Short Title.

No. 32—1906.]

[August 21, 1906.

ACT

To Consolidate and Amend the Law relating to
Irrigation and the utilization of Streams.

[Assented to 21st August, 1906.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the "Irrigation Act, 1906." Short title.
2. The laws specified in Schedule A to this Act are hereby repealed to the extent mentioned in the schedule. Provided that: Repeal of Acts in schedule.
 - (1) Nothing in this Act shall alter or affect things done, rights acquired, or liabilities incurred, by virtue of any Act so repealed.

- (2) Regulations issued under any Act so repealed shall remain in force until they are revoked or replaced by regulations under this Act.
- (3) An Irrigation District, Irrigation Board, Water Court District, or Water Court constituted under any Act so repealed shall be deemed to be respectively an Irrigation District, Irrigation Board, Water Court District, or Water Court, constituted by and for the purposes of this Act and with the powers given in this Act only.

Definitions.

3. For the purposes of this Act the following words shall, save where the context clearly indicates otherwise, have the meanings hereby respectively assigned to them, namely :

- (a) "Minister" means the Minister to whom the Governor has assigned the administration of this Act.
- (b) "Stream" means either a "Perennial Stream" or an "Intermittent Stream," according as it may be declared by the decision of a Water Court obtained in manner hereinafter provided.
- (c) "Perennial Stream" means a natural stream which in ordinary seasons flows for the greater part of the year in a known and defined channel, and the water whereof is capable of being applied to the common use of the riparian proprietors. Provided that a stream which in part only of its course satisfies these conditions shall be deemed to be a perennial stream in so far only as regards such part.
- (d) "Intermittent Stream" means a stream which is not a perennial stream, and into which the natural surface drainage waters flow from the lands of more than one riparian property. Provided that a stream shall not be deemed to be an intermittent stream above the highest point of its course at which the natural surface drainage waters from the lands of more than one riparian property unite, or for such lower portions of its course as satisfy the conditions of a perennial stream.
- (e) "Owner" means a person who is registered as owner of land in the deeds registry, or in whom land is vested by Act of Parliament. Provided that :
 - (1) If such person is dead or a minor, or insolvent, or of unsound mind, or has assigned his estate under deed of assignment, his executor, tutor or guardian, liquidator or trustee, curator, or assignee, as the case may be, shall be deemed to be the owner.
 - (2) If several persons are jointly appointed executors, guardians, tutors, curators, liquidators, assignees or trustees, they shall be accounted as one owner.
 - (3) Any person lawfully occupying land under a lease or licence under the provisions of any of the Acts

Nos. 19 of 1864, 4 of 1870, 10 of 1877, 33 of 1879, 37 of 1882, 26 of 1891, or 40 of 1895, shall be deemed to be the owner thereof.

- (4) Each co-proprietor of land held in undivided shares who in fact occupies a separate and defined portion of the land shall be deemed to be the owner in respect of that portion; and each such separate portion shall be deemed to be a separate property.
- (5) The Minister shall be deemed to be the owner of unoccupied Crown Land.
- (f) Subject to all existing rights under agreement or order of a Superior Court affecting the sub-divided land herein referred to 'Riparian Land' or 'Riparian Property' with reference to a stream means land held under an original grant or under a deed of transfer of such grant, through which land or on and along the boundary of at least part of which land the stream passes, or a sub-division of such land even if the stream does not pass through or on and along any part of the boundary of the sub-division: and 'Riparian Owner' means the owner of such land.
- (g) "District" means
- (1) in Part III, a River District;
 - (2) in Part IV, an Irrigation District; and
 - (3) in Part V, a Water Court District.
- (h) "Board" means
- (1) in Part III, a River Board; and
 - (2) in Part IV, an Irrigation Board.
- (i) "Government Irrigation Work" means a work constructed or maintained by or under the control of the Government for purposes of irrigation, or proposed to be so constructed or maintained.
- (j) "Person" includes the Government, Municipality, Village Management Board, Divisional Council, River or Irrigation Board, and any other association, company, or body of persons corporate or incorporate.
- (k) "Regulation" means a regulation proclaimed and in force under this Act.
- (l) "Director" means the officer appointed by the Governor to advise and assist the Minister in matters relating to irrigation.
- (m) "Superior Court" means the Supreme Court, Eastern Districts Court, High Court of Griqualand and Circuit Courts within their respective areas of jurisdiction.

PART II.—UTILIZATION OF STREAMS.

Exclusive use by owner of water rising on his land.

4. Every person is entitled to the exclusive and unlimited use and enjoyment of all water rising on his own land: provided that nothing in this section contained shall affect the right of a riparian owner to a reasonable share of water which, rising on the land of an upper proprietor, flows down for the greater part of the year beyond such land in a known and defined channel and has for a period of at least thirty years been used by such riparian owner or shall affect any other existing rights.

Ownership of natural surface water.

5. Water that falls on or natural surface drainage water that flows on to any land shall be the sole and undisputed property of the owner of such land, until it leaves such land or joins some stream on such land.

Use of water of perennial streams.

6. Every riparian owner is, subject to all existing rights of other persons and to the provisions of this Act, entitled to a reasonable use for purposes of irrigation of the water of a perennial stream with reference to which his property is riparian. Provided that nothing in this section shall affect the right of a riparian owner to the reasonable use of water of such stream for domestic and drinking purposes.

Rights of riparian proprietors to water of intermittent streams.

7. Subject to the existing rights of others, every riparian proprietor is entitled to use the water of an intermittent stream flowing on to or over his property, by diverting it on to his riparian land for the irrigation thereof; and he shall, moreover, be entitled to impound and store such water for the said purpose and for domestic, agricultural, manufacturing and drinking purposes: provided, however, that if, at any time, any riparian proprietor along a stream shall consider that an upper riparian proprietor is impounding or storing a greater quantity of the water of such stream than he could reasonably be expected to use for the purposes stated, it shall be competent for such first-mentioned proprietor to apply to the Water Court for an order declaring the quantity of water which, in the opinion of such Court, such upper proprietor requires to impound or store for the said purposes: and, thereafter, such upper proprietor shall not be entitled to impound or store any greater quantity of water than that authorized by such order.

Saving section.

8. Nothing in the preceding section shall:

- (a) Compel any person who, previous to the passing of this Act, has constructed or had in course of construction works for the useful employment of the water of any intermittent stream, to allow to flow down past his works water which he could beneficially use by means of and for the purposes of his work, and which he was entitled so to use;
- (b) Prevent any person from doing anything necessary to prevent the erosion of land;

- (c) Prevent any person who, prior to the commencement of this Act, has used and was entitled to use the water of an intermittent stream for irrigating a non-riparian property, from continuing such use.

And any special regulations drafted hereafter under the preceding section shall not interfere with the enjoyment of the exemptions in this section mentioned.

9. The Water Court shall be entitled to grant permits, subject to regulations and the provisions of this Act, for the use on non-riparian land of the surplus water of an intermittent stream after the requirements provided for in the seventh and eighth sections have been satisfied on the riparian land; and every person to whom a permit has been granted shall be entitled to use such water to the extent and subject to the conditions stated in the permit; and no person shall interfere with the use of such water as authorized by such permit.

Permits for use of surplus water of intermittent stream.

10. If during any period of the year all the water of a perennial stream cannot be utilized within the catchment area of every stream in or into which such water naturally flows, the Water Court may on application in accordance with regulations and subject to appeal within three months to a Superior Court having jurisdiction authorize the diversion of the surplus water during such period either on to non-riparian properties within such catchment area or across the watershed of the stream, into any other catchment area in which the surplus water can be usefully employed for irrigation. Provided that the diversion shall not deprive any riparian owner of water for irrigating land which he has at the time under irrigation or which he might reasonably be expected to bring under irrigation thereafter; and that in authorizing any diversion of water the Water Court shall give a preference to non-riparian properties in the same catchment area the owners of which may make application for the same.

Diversion of surplus water of perennial stream across watershed.

11. The said Water Court shall determine the point at which the diversion aforesaid shall take place and the line of passage for the conveyance of the water authorized to be diverted and the nature of the works to be constructed for that purpose; and shall likewise, if required, determine the amount of compensation, if any, to be paid to the proprietor or proprietors in or over whose property such diversion and conveyance shall take place.

Point of diversion, line of passage amount of compensation to be determined by Water Court.

12. Where, owing to the variation in its course from natural causes, a stream which constitutes the boundary of two or more properties riparian thereto ceases to flow between or separate such properties and is diverted to a new course traversing the land of one or more owners, the boundaries of the respective properties shall remain as theretofore, but the changes in the course of the stream shall not deprive the owner of the property or properties so cut off from the stream of his riparian rights, which shall be judged of as if the stream continued to constitute the boundary

River boundaries.

of such property or properties, and every such last mentioned owner shall be entitled to apply to the Water Court of the district in which his property is situate, at any time within ten years from the date of such change in the course of the stream to prescribe such point or points on the new course of such stream as to the said Court may appear necessary, with right of access thereto along a convenient line to be determined by such Court, to enable such owner to take water from such stream for domestic purposes and to water his stock.

Accretions and changes of course of river owing thereto.

13. Accretions formed by any stream which add gradually and imperceptibly to a riparian property belong to the riparian proprietor of the bank to which such accretions are added, and the provisions of the preceding section shall not apply where the stream changes its course but still continues to flow in the same bed, although in a different channel. In such a case the land in the river left vacant by the change shall belong to the owner of the bank adjacent to the ground so left vacant.

Diversions from natural causes.

14. When a diversion, as specified in section twelve, takes place from natural causes to the detriment of one or more owners riparian to any stream, it shall be lawful for the owner or owners prejudiced by the diversion to apply within one year after the said diversion has taken place to the Water Court of the district as hereinafter provided for permission to construct such works as in the opinion of the Water Court may be necessary for the restoration of the stream to its old channel, and within such period of time as the Water Court may decide, and the Water Court in making such decision shall prescribe the time within which such works shall be completed.

Surveys and investigations.

15. The Minister may, subject to the provisions of this Act, take such action as is necessary for any of the following purposes, defraying the cost out of such funds as Parliament may from time to time provide for the purpose:—

- (a) The establishment of gauge posts for recording the variations in the level of water in the principal streams, and of weirs and other appliances for measuring the discharge or volume of water corresponding to the readings on the gauge posts.
- (b) The preparation of a map of a stream showing the course and gradient of the stream, the points at which water is diverted for irrigation or other purposes, and the area irrigated by the water diverted at each point; and the preparation of a statement of such facts connected with the use made of the water diverted at each point as he may deem to be of public interest.
- (c) The collection of facts and the prosecution of surveys in a systematic manner, in order to determine how and where the water of a stream can be profitably utilised for irrigation purposes; and the determination with

- accuracy sufficient for the purpose of framing a rough or preliminary estimate of cost, of the best location for any suitable work.
- (d) The preparation of detailed surveys, plans, and estimates for a Government irrigation work.
 - (e) Engineering assistance, as in this Act provided, to Water Courts, River Boards, and persons in dispute as to the use of water.
 - (f) The provision, to such persons as he shall decide to be *bona-fide* farmers, of engineering assistance (on a scale of charges and under conditions to be fixed by him from time to time) for the preparation of surveys or of plans and estimates for irrigation works.
 - (g) The examination of the lands, detailed plans, specifications, estimates, and reports connected with any proposed utilisation of the water of any stream, with a view to advising on the irrigational features of the proposed scheme, provided that such plans, specifications, estimates, and reports shall be prepared in accordance with any regulations under this Act.
 - (h) The examination of the lands, plans, specifications, estimates, and reports connected with any irrigation scheme for which application has been made for a Government loan; with a view to advising on the expediency, or otherwise, of granting a loan for the scheme.
 - (i) Investigations as to :—
 - (i) The working and results of the law with regard to irrigation.
 - (ii.) The use and value of water in and for purposes of irrigation.
 - (iii.) The use and local suitability of different kinds of power and machinery for lifting water for irrigation purposes.

PART III.—RIVER DISTRICTS AND BOARDS.

16. Any three or more riparian owners who, being entitled to use the water of a stream or streams, deem it expedient that there should be a combined system of control over such stream or streams, may present a petition in writing to the Minister praying that an area containing the stream or streams, together with the properties riparian thereto, may be constituted a River District: provided that the persons signing the petition be owners of not less than one tenth part in area of the riparian land irrigated from, or of the properties riparian to, the stream or streams within the limits of the proposed district. The petition shall state the limits of every stream proposed to be included in the district, and shall be supported by such evidence as the Minister may require. The fact of the petition having been

Petition for
constitution
of river dis-
trict.

received, together with a copy or a summary thereof, shall forthwith be notified by the Minister in the *Gazette* and in some newspaper circulating within the proposed district.

Inquiry by
Engineer.

17. The Minister shall cause an Engineer to make such inquiry into the subject-matter of the petition as the Minister deems necessary. The Engineer shall, if possible in the course of the inquiry, determine the approximate extent to which the volume of water ordinarily flowing during the irrigating seasons in the streams proposed to be included in the district is utilized for irrigation; and if in his opinion not less than three fourths of that volume is already utilized for irrigation, he shall if possible further determine the approximate extent of land irrigated from the streams on each property in the proposed district, and on any other property which in his opinion should be included in the district. Due notice of the inquiry shall be published in the *Gazette*, and in some newspaper circulating within the proposed district, and in such other manner as the Minister may direct.

Power to
proclaim dis-
trict and sub-
districts, to
alter bound-
aries and to
revoke pro-
clamation.

18. (1) The Engineer shall, as soon as may be, report the result of his inquiry to the Minister, who, if he thinks fit, may vary the limits of the proposed district. The Minister shall then satisfy himself that the owners of more than two-thirds of the total area of the properties riparian to the streams within the proposed district or the owners of more than two-thirds of the riparian lands irrigated from the streams within such properties, are in favour of the creation of the district, such owners in each case moreover to represent more than two-thirds of the total number of owners; and in either event the Governor may proclaim the area to be a River District with, if he thinks fit, separate and defined sub-districts, and such proclamation shall be taken as evidence that it has been legally issued under this Act. Provided that no tributary stream shall be included in a River District containing the stream of which it is a tributary, unless the owners of more than two-thirds of the total area of the properties riparian to the tributary stream, within the limits of the proposed district, or of more than two-thirds of the riparian lands irrigated from it within those limits, are in favour of the inclusion, such owners in each case to represent more than two-thirds of the total number of the owners.

(2) The Governor may alter the boundaries of the River District and of the sub-districts; and he may revoke the proclamation with the consent given in manner prescribed by regulations, of the persons entitled to vote at an election under this Part, or if the Board appointed for the district under this Part has not for the space of one year held a meeting attended by a quorum of its members. Provided that the boundaries of the district shall not be altered so as to include additional properties unless inquiry has been made by an Engineer and the

consent of the owners as well obtained as if the properties were to be proclaimed a district.

(3) If the proclamation is revoked the Minister may apply to the Supreme Court for directions as to the winding up of the affairs of the Board, and the Court may make such order in the matter as it thinks fit.

19. The superintendence of all acts relating to the conservancy of the streams in a River District, and to the storage, diversion, and use of the water therein, shall, subject to existing legal rights and the provisions of this Act, be vested in a Board to be called a River Board. The Board shall be a body-corporate and shall have such name as may be given to it by a proclamation of the Governor; and by that name shall sue and be sued, hold property, and have perpetual succession and a common seal.

Management of district by Board; its name and status.

20. A River Board shall consist of such number of members, not less than three and not more than eleven, as the Governor may fix by proclamation. Provided that if the district is divided into sub-districts the proclamation shall fix the number of members by whom each sub-district shall be represented on the Board.

Power to fix number of members.

21. (1) In elections for a River Board the right of a person to vote, and the number of his votes, shall depend upon—

Basis of voting; rateable area and property valuation.

- (a) the rateable area of his property, if the rateable areas of the district have been determined;
- (b) the possession of riparian property and its valuation respectively, if the rateable areas have not been determined.

(2) The rateable areas for the purposes of this Part shall be those shown in the schedule prepared by the Board under section thirty-four. Provided that if the schedule has not been prepared, and the approximate extent of land irrigated in each property within the district has been determined by the Engineer under section seventeen, such approximate extent shall be deemed to be the rateable area of the property until the schedule is prepared.

(3) The valuation of a property for the purpose of this Part shall be the latest valuation of the property for Divisional Council purposes in pounds sterling.

22. (1) Where the rateable areas of a River District have been determined, every owner of property of which the rateable area is not less than one morgen may vote at an election of members of the Board. Provided that:

Qualification of voters and scale of voting by rateable area.

- (i) If a property is owned jointly by two or more persons each of whom does not in fact occupy a separate and defined portion of the property, then if the total number of morgen in the rateable area of the property is not less than the total number of such persons, each of them may vote in respect of a rateable area equal to the total rateable area of the property divided by the

number of persons ; otherwise only so many of them may vote as there are morgen in the property and the owners shall determine amongst themselves and appoint in writing such of them as are thus capable of voting.

- (ii) If the property is owned by Government or a corporate body, the person duly authorised under a special power of attorney from the Minister or body respectively shall be entitled to vote in respect of that property, and he shall vote as if he were the owner and on the same scale.
- (iii) A person entitled to vote in respect of property situated in a sub-district shall in respect of that property vote at the election of members for that sub-district only.
- (iv) No person shall be entitled to vote if and while his rates under this Part are due and in arrear for three months or more.

(2) Every person exercising his right to vote in accordance with sub-section (1) shall vote upon the following scale :—If the rateable area in respect of which he is entitled to vote be not more than five morgen in extent, he shall have one vote in respect of each vacancy required to be filled by the election, and for every additional five morgen, or part thereof, up to fifty morgen and thereafter for every additional twenty-five morgen, an additional vote in respect of each vacancy.

Qualification
and scale of
voting by
property
valuation.

23. (1) Where the rateable areas of a River District have not been determined, every owner of property riparian to a stream in the district may vote, at an election of members of the Board. Provided that :

- (i) If the property is owned jointly by two or more persons, then, if the total valuation of the property divided by a hundred is not less than the total number of such persons, each of them shall be entitled to vote on the basis of a property valuation arrived at by taking the total valuation of the whole joint property and dividing it by the number of owners ; otherwise only so many of them may vote as there are hundreds of pounds in the property valuation and the owners shall determine amongst themselves and appoint, in writing, such of them as are thus capable of voting.
- (ii) Provisos (ii) and (iii) of section twenty-two shall apply to this section also.

(2) Every person exercising his right to vote in accordance with sub-section (1) shall vote upon the following scale :—If the valuation of the property in respect of which he is entitled to vote does not exceed five hundred pounds, he shall have one vote in respect of each vacancy required to be filled by the election ; and for every additional five hundred pounds or part thereof he shall have an additional vote in respect of each vacancy.

24. A list to be called the River Voters' List shall, in manner prescribed by regulations, be prepared and annually revised, showing the names of all persons entitled to vote at an election, with the number of votes which each voter is entitled to give for any candidate; and the latest existing list shall be conclusive proof as to whether a person is entitled to vote. A copy of the list shall lie in the secretary's office and may be inspected free of charge by any person interested.

River Voters List.

25. Every person entitled to vote at an election of members of a River Board shall be eligible for election as a member of the Board, unless he is a contractor under any subsisting contract with the Board exceeding ten pounds in amount, or is interested in such contract, and has not received special authority to enter into the contract, or, while holding the contract, to be nominated as a candidate; such authority to be given at a meeting of voters of the district in manner prescribed by regulations.

Qualification of members of Board.

26. (1) The term of office of the members of a River Board shall be three years from the day of the publication of the notice of their election, and at the expiry of that period the members shall go out of office and a like number of members shall be elected in their place: provided that a member going out of office shall be eligible for re-election, if otherwise qualified: and provided further that if at the expiration of the term of office of any Board the new Board shall not have been elected, the outgoing Board shall continue to have full power and authority, until their successors have been duly elected.

Vacation of office by members.

(2) If a member of a River Board dies or resigns, or in writing refuses to act, or ceases to be eligible for election as a member of the Board, or absents himself from four consecutive meetings of the Board without having previously obtained the leave of the Board, his office shall become vacant.

27. (1) A Board shall not be deemed to be incomplete by reason of the neglect of the district to elect the fixed number of members, or by reason of any vacancy so long as there is a sufficient number of members to form a quorum.

Effect of informalities.

(2) All acts done in good faith by a River Board, or by a committee of the Board or by a person acting as a member of the Board, shall, although it may afterwards be discovered that there was some defect in the appointment of the Board, committee, or person, or that the Board, committee, or person was disqualified, be as valid as if the Board, committee, or person had been and was duly appointed and qualified.

28. The duties and powers of the Board shall, subject to the provisions of this Act, include the following:—

Powers and duties of Board.

- (a) To exercise general supervision over the streams in the district, and where necessary to cleanse, deepen, widen, straighten or otherwise improve them; to protect the sources of their water supply; to prevent waste and

any unlawful act which might diminish that supply ; by lawful process to prevent or stop any unlawful diversion or storage of the water and to remove any obstruction in the course of a stream ; to order the removal of any work or obstruction constructed or placed, without due authority, in the course of a stream after such stream has been included in the district, and if necessary to remove such work or obstruction, and to recover the cost of removal by civil process. Provided that the Board shall have no power to institute or defend any action involving a declaration of rights without the consent of two-thirds of the riparian owners within the district present at a meeting specially called for that purpose.

- (b) To assist the Minister in giving effect within the district to the provisions of clauses (a), (b), (c) and (i) of section fifteen.
- (c) To investigate and record, in accordance with regulations, the quantity or share of water which, at different stages of flow in every stream in the district, every person having any rights in respect of the water in the stream is entitled to use, and the times at which such quantity or share may be taken, where these have already been legally fixed and defined.
- (d) To supervise the distribution and use of water from the streams in the district in accordance with established rights.

Application
to Water
Court against
order of
Board.

29. Nothing in the last preceding section shall prevent a person aggrieved by an order or act of a River Board from making, in manner prescribed by regulations, application for relief to a Water Court or other competent court, and the Board shall not proceed to deepen, widen, straighten or otherwise interfere with the course of a stream, or remove any obstruction which was placed in it before the inclusion of such stream in the district, after protest against such work or proposed act of the Board by any owner whose property will be affected thereby, pending an application for relief by such owner : provided that the Court shall not entertain the application unless it be presented within three months next after the making of the order or the doing of the act.

Special
River Board.

30. Whenever it shall be made to appear that the order or act of any River Board is liable to infringe or detrimentally affect rights to property within the District of some other River Board or Boards, or whenever it may appear necessary that some act should be performed relating to more than one River District, the Governor may appoint a Special River Board for the investigation and consideration of the matters in question. Such Special River Board shall consist of an equal number of mem-

bers, nominated by each Ordinary River Board concerned, and of one member to be appointed by the Governor, provided that in no case shall the total membership of a Special River Board exceed seven. The powers and duties of a Special River Board shall be those of Ordinary River Boards, and shall be governed by the provisions relating thereto, according to regulations to be framed for the purpose, applied to the specific purpose for which such Special River Board is appointed, and any person aggrieved by any order or act of a Special River Board may make application for relief to a Special Water Court constituted by the Governor or to other Competent Court in manner prescribed by regulations and within the period referred to in section twenty-nine.

31. A Board shall not remove or otherwise interfere with any mill-dam, weir, or other obstruction whereby the level of the water is raised for milling or other purpose of profit so as to affect injuriously the supply of water, otherwise than with the consent of the owner and occupier of such mill-dam, weir, or other obstruction, until its right to do so has been determined by a competent court, and until compensation has been made to all persons entitled thereto. Provided that this section shall not apply to a work or obstruction constructed or placed without due authority in the course of a stream after the stream has been included in the district.

Removal of
obstruction
from stream.

32. The Minister may nominate an Engineer who shall be entitled to sit, but not to vote, at meetings of the Board, and to assist the Board with his advice upon any technical matter relating to any question under discussion by the Board; and any notice which under this Act should be sent by the secretary to the members of the Board shall also be sent to the Engineer.

Nomination
of Engineer to
assist Board.

33. A member of a River Board shall not receive any salary, allowance, fee or reward for, on account of, or by reason of his office as a member; nor shall he enter into a contract with the Board exceeding ten pounds in amount, or be directly or indirectly interested in any such contract, unless he has received special authority in manner prescribed in section twenty-five. Any person contravening this section shall be liable on conviction in a Court of Resident Magistrate to a penalty not exceeding one hundred pounds. Provided that this section shall not prevent a member from receiving in accordance with regulations an allowance on account of expenses necessarily incurred by him in the performance of his duties as a member.

Condition
of allowance
to and con-
tract with
member.

34. The Board, as soon as possible after its election, shall, in manner prescribed by regulations, prepare a schedule of the rateable area of each property in the district, and may thereafter alter the schedule in manner similarly prescribed. In fixing the rateable area, the Board shall have regard to the share or volume of water of the streams within the district which the owner

Schedule of
rateable areas

has a right to use on the property, and to the number of morgen which could ordinarily and with due precaution against waste be efficiently irrigated in the course of a year by that share or volume, irrespective of the number of morgen actually irrigated; or failing this, the Board shall have regard to the average number of morgen annually irrigated on the property from the streams as ascertained approximately by measurement or inquiry. Provided that a riparian owner of property in the district, not irrigated by the water of any stream in the district, who wishes to become a voter at an election for the Board, may do so by giving not less than one month's notice in writing to the secretary of the Board, and by consenting in writing to pay rates for a term of three years after the election on a rateable area which shall not be less than five morgen or more than twenty-five morgen; and upon such consent he shall become liable to pay rates on that rateable area.

Levy of rates.

35. (1) A River Board may with the consent of the ratepayers given at a meeting specially convened for the purpose levy rates, to be called River Rates, for defraying all expenses incurred or to be incurred by the Board; and such rates shall be levied upon and in respect of every property having a rateable area in the district, and shall be payable by the owner of the property.

(2) The rates shall be assessed by the Board, at a uniform sum per morgen of rateable area. Provided that such sum shall not exceed an amount to be fixed by regulations, except upon special authority given at a meeting of voters of the district; and that the majority required for such authority shall be at least two-thirds of the votes given at the meeting, and that the voting shall be upon the same scale as for the election of a single member of the Board.

River Assessment Roll.

36. After each assessment of rates, the secretary of the Board shall prepare a River Assessment Roll specifying the name of each person liable to pay rates, the property in respect of which the rate is levied, the number of morgen in the rateable area, the rate assessed, and the amount due in respect thereof, with such other particulars as may be required by regulations, and a copy of the roll shall lie in the secretary's office, and may be inspected free of charge by any person interested.

Payment and recovery of rates.

37. (1) The rates shall be due and payable at the office of the Board on a day to be appointed by the Board, of which at least one month's notice shall be given; provided that notice shall not be given until the River Assessment Roll is available for inspection.

(2) If within one month from the day appointed the rates have not been so paid, the Board may, without further demand, sue for and recover them as a debt by action in the Court of the Resident Magistrate of the District in which the defendant resides, or, if the amount is beyond the jurisdiction of that Court, in a competent court.

(3) The river rates shall be a charge on the property in respect of which they are levied; and in the event of a change of ownership, any rates due or unpaid shall be a debt due by the incoming owner, and be recoverable in a competent court.

38. A River Board shall keep true and particular accounts of all monies received and expended by it, and shall render the accounts to the Controller and Auditor-General, by whom they shall be audited.

Accounts of Board.

39. A River Board may with the consent of three-fourths of the owners of rateable property in the district who shall be owners of not less than two-thirds of the rateable area therein present a petition in writing to the Governor praying that it be vested with all or any of the powers of an Irrigation Board, and thereupon the Governor, after notice given and inquiry made in manner prescribed in section forty-four, may issue a proclamation vesting the Board with such powers and imposing upon it such duties of an Irrigation Board as he thinks fit.

Vesting Board with powers of Irrigation Board.

40. The Minister may pay any expenses incurred by a River Board for the purposes of this Act during a period of twelve months from the creation of the district. Provided that:

Power to pay Boards' expenses for first year

- (1) The total amount so paid by the Minister shall not in respect of any one Board exceed one hundred pounds.
- (2) An estimate of the expenditure which the Board proposes to incur shall first be approved by the Minister, and the actual expenditure shall not exceed such estimate except with the previous approval of the Minister.

41. (1) A River Board may make by-laws not inconsistent with the provisions of this Act for—

Power to make by-laws: their validity and publication.

- (a) the regulation of its own proceedings and those of its officers;
- (b) for the supervision of the diversion, distribution and use of water under its control;
- (c) the assessment and collection of river rates;
- (d) the regulation of any matter committed by this Act to its charge and control.

(2) A by-law under subsection (1) shall not be valid until it has been approved by the Governor and published in the *Gazette*; and shall not be so approved until the expiration of at least one month after notice of the intention to apply for the approval has been given by the Board in some newspaper circulating within the district.

(3) The Board shall supply copies of all by-laws in force to any applicant on payment of a sum not exceeding sixpence for each copy, and copies of all such by-laws shall be kept in a conspicuous place in the office of the Board.

42. The Governor may proclaim regulations prescribing, defining, and regulating any of the following matters:—

Power to proclaim regulations.

- (a) the nomination of candidates and the election of members of a River Board, and the mode of procedure and of voting thereat ;
 - (b) the appointment of returning officers for elections ;
 - (c) the powers and duties of a returning officer in connection with an election, and with the first meeting of a Board ;
 - (d) the appointment by the Board of its Chairman, and the duration of his office ;
 - (e) the filling of casual vacancies in a Board or in the office of Chairman ; and the number of members required to form a quorum ;
 - (f) the procedure at meetings of a Board ;
 - (g) the appointment of a secretary and other officers or servants of a Board, and the powers, duties, salaries or emoluments of such secretary, officers, or servants ;
 - (h) the delegation by a Board of any of its powers to committees ; and the constitution, powers, and procedure of such committees.
 - (i) the manner of calling and the procedure at a meeting of voters of the district ;
 - (j) the service of notices under this Part ;
 - (k) the proceedings of any person, who, under this Part is required or empowered to take action in any matter ;
 - (l) the persons by whom, and the place or manner at or in which, shall be done anything for which provision is made in this Part ;
 - (m) any matter authorised or required by this Part to be done or provided for or decided by or according to regulations ;
- and generally for—
- (n) giving effect to the provisions of this Part.

PART IV.—IRRIGATION DISTRICTS AND BOARDS

Petition for
constitution
of irrigation
district.

43. Any three or more owners of lands situate within an area for which, in the opinion of such owners, it is expedient that there should be a combined system of irrigation, and that recourse should be had to artificial means of storing or supplying water, may present a petition, in writing, to the Minister, praying that the area be constituted an Irrigation District: provided that the persons signing the petition be owners of not less than one-tenth part of the land within that area. The petition shall state the boundaries and approximate extent of the proposed irrigation district, and the nature of the works proposed to be executed, and shall be supported by such evidence as the Minister may require. The fact of the petition having been presented, together with a copy or a summary thereof, shall be forthwith notified by the petitioners in the *Gazette* and in some newspaper circulating within the proposed district.

44. The Minister shall cause an Engineer to make such inquiry into the subject matter of the petition as the Minister deems necessary: provided that due notice of the inquiry shall be published in the *Gazette*, and in a newspaper circulating within the proposed district, and in such other manner as the Minister may direct.

Inquiry by
Engineer.

45. The Engineer shall, in the course of the inquiry, determine the approximate extent of land irrigable by the proposed works on each property in the proposed district, and on any other property which, in his opinion, should be included therein. The approximate extent so determined shall, for the purposes of this Part, be the irrigable area of each property until the schedule of irrigable areas has been prepared under section forty-six.

Provisional
determina-
tion of irri-
gable areas.

46. (1) The Engineer shall, as soon as may be, report the result of his inquiries to the Minister, who, if satisfied thereby, may, if he thinks fit, vary the limits of the proposed district, and shall then satisfy himself that the owners of not less than two-thirds of the total extent of the irrigable areas within the proposed district are in favour of the creation of the district; and in that event the Governor may proclaim the area to be an Irrigation District, with, if he thinks fit, separate and defined sub-districts. The issue of the proclamation shall be taken as evidence that it has been legally issued under this Act.

Power to
proclaim dis-
trict and sub-
districts. to
alter bounda-
ries and to
revoke pro-
clamation.

(2) The Governor may alter the boundaries of the Irrigation District and of the sub-districts; and he may revoke the proclamation with the consent, given in manner prescribed by regulations, of the persons entitled to vote at an election under this Part, or if the Board appointed for the district under this Part has not for the space of one year held a meeting attended by a quorum of its members. Provided that the boundaries of the district shall not be altered so as to include additional properties unless inquiry has been made by an Engineer and the consent of owners obtained as if the properties were to be proclaimed a district.

(3) If the proclamation is revoked, the Minister may apply to the Supreme Court for directions as to the winding up of the affairs of the Board; and the Court may make such order in the matter as it thinks fit.

47. (1) In every district there shall be vested in a Board, to be called an Irrigation Board, the performance and superintendence of all acts, matters and things relating to the purchase or construction, and to the maintenance by the Board, of such reservoirs, channels or other works of irrigation or drainage as are necessary for the proper irrigation of the irrigable areas and for the drainage of the respective properties in the district, and as are common to two or more owners of those properties, and of all matters and things relative to the administration, working, control and use of the works and of the water stored or diverted thereby.

Managem-
ent of dis-
trict by
Board: its
powers and
duties name
and status.

It shall be the duty of the Board to purchase or construct, and to maintain, the works necessary for such irrigation and drainage; to obtain or conserve the supply of water required therefor; and to arrange for the equitable distribution of the water stored or diverted by the Board's irrigation works.

(2) The Board shall be a body-corporate, and shall have such name as may be given to it by a proclamation of the Governor published in the *Gazette*, and by that name shall sue and be sued, hold property, and have perpetual succession and a common seal.

Power to
fix number of
members.

48. An Irrigation Board shall consist of such number of members, not less than three and not more than seven, as the Governor may fix by proclamation, provided that if the district is divided into sub-districts the proclamation shall fix the number of members by whom each sub-district shall be represented on the Board.

Qualifica-
tion of voters
and scale of
voting.

49. (1) Every person who is liable to be rated under section fifty-six shall be entitled to vote at an election of members of the Irrigation Board. Provided that:

- (i) If a property is owned jointly by two or more persons each of whom does not in fact occupy a separate and defined portion of the property, then if the total number of morgen in the irrigable area of the property is not less than the total number of such persons, each of them may vote in respect of an irrigable area equal to the total irrigable area of the property divided by the number of persons; otherwise only so many of them may vote as there are morgen in the property and as have been appointed by a document signed by a majority of the persons.
- (ii) If the property is owned by Government or a corporate body, the person duly authorised under a special power of attorney from the Minister or body respectively shall be entitled to vote in respect of that property, and he shall vote as if he were the owner and on the same scale.
- (iii) A person entitled to vote in respect of property situated in a sub-district shall in respect of such property vote at the election of the members for that sub-district only.
- (iv) No person shall be entitled to vote if and while his rates under this Part are due and in arrear for three months or more.

(2) Every person exercising his right to vote under subsection (1) shall vote upon the following scale:—If the irrigable area in respect of which he is entitled to vote be not more than five morgen in extent, he shall have one vote in respect of each vacancy required to be filled by the election; and for

every additional five morgen, or part thereof, an additional vote in respect of each vacancy ; but no voter may give more than ten votes for any single candidate.

50. A list to be called the Irrigation Voters' List shall in manner prescribed by regulations be prepared and annually revised, showing the names of all persons entitled to vote at an election, with the number of votes which each voter is entitled to give for any candidate ; and the latest existing list shall be conclusive proof as to whether any person is entitled to vote. A copy of the list shall lie in the secretary's office and may be inspected free of charge by any person interested.

Irrigation
Voters' List.

51. Every person entitled to vote at an election of members of an Irrigation Board shall be eligible for election as a member of the Board unless he is a contractor under any subsisting contract with the Board, exceeding ten pounds in amount, or is interested in such contract, and has not received special authority to enter into the contract, or, while holding the contract, to be nominated as a candidate ; such authority to be given at a meeting of voters of the district in manner prescribed by regulations.

Qualification
of members of
Board.

52. (1) The term of office of the members of an Irrigation Board shall be three years from the day of the publication of the notice of their election, and at the expiry of that period the members shall go out of office and a like number of members shall be elected in their place : provided that a member going out of office shall be eligible for re-election, if otherwise qualified and provided further that if at the expiration of the term of office of any Board, the new Board shall not have been elected, the outgoing Board shall continue to have full power and authority until their successors have been duly elected.

Vacation of
office.

(2) If a member of an Irrigation Board dies or resigns, or in writing refuses to act, or ceases to be eligible for election as a member of the Board or absents himself from four consecutive meetings of the Board without having previously obtained the leave of the Board, his office shall become vacant.

53. (1) A Board shall not be deemed to be incomplete by reason of the neglect of the district to elect the fixed number of members, nor by reason of any vacancy, so long as there is a sufficient number of members to form a quorum.

Effect of in-
formalities.

(2) All acts done in good faith by an Irrigation Board, or by a committee of the Board, or by a person acting as a member of the Board, shall, although it may afterwards be discovered that there was some defect in the appointment of the Board, committee or person, or that the Board, committee, or person was disqualified, be as valid as if such Board, committee, or person had been and was duly appointed and qualified.

No. 32—1906.

Conditions of allowance to and contract with member.

54. A member of an Irrigation Board shall not receive any salary, allowance, fee or reward for, on account of or by reason of his office as member; nor shall he enter into a contract with the Board exceeding ten pounds in amount, or be directly or indirectly interested in any such contract, unless he has received special authority in manner prescribed in section fifty-one. Any person contravening this section shall be liable on conviction to a penalty not exceeding one hundred pounds. Provided that this section shall not prevent a member from receiving in accordance with regulations an allowance on account of expenses necessarily incurred by him in the performance of his duties as a member.

Schedule of irrigable areas.

55. The Board as soon as possible after its election shall prepare, in manner prescribed by regulations, a schedule of the irrigable area of each property within the district; and may thereafter alter the schedule in manner similarly prescribed.

Levy of rates.

56. (1) An Irrigation Board may levy rates to be called Irrigation Rates, for defraying all expenses incurred or to be incurred by the Board; and such rates shall be levied upon and in respect of every property having an irrigable area in the district and shall be payable by the owner of the property.

(2) The rates shall be assessed annually by the Board at a uniform sum per morgen of irrigable area.

(3) The last preceding sub-section shall not prevent a Board from entering into an agreement with two or more owners of properties containing irrigable areas in the district, for the raising of a loan on the security of the rates of the district with the object of constructing an irrigation or drainage work for the sole benefit of such owners; and from levying on the irrigable areas of such properties an additional rate sufficient to cover the annual charge upon the loan.

Irrigation Assessment Roll.

57. After the annual assessment of rates the secretary of the Board shall, in accordance with regulations, prepare an Irrigation Assessment Roll specifying the name of each person liable to pay rates, the property in respect of which the rate is levied, the number of morgen in the irrigable area, the rate assessed, and the amount due in respect thereof, with such other particulars as the regulations may require, and a copy of the roll shall lie in the secretary's office, and may be inspected free of charge by any person interested.

Payment and recovery of rates.

58. (1) The irrigation rates shall be due and payable at the office of the Board on a day to be appointed by the Board, of which at least one month's notice shall be given; provided that the notice shall not be given until the Irrigation Assessment Roll is available for inspection.

(2) If within one month from the day appointed the rates have not been so paid, the Board may, without further demand, sue for and recover them as a debt by action in the Court of the Resident Magistrate of the District in which the defendant

resides, or if the amount is beyond the jurisdiction of that Court, in any other competent court; and, may by such means as the Board thinks fit, stop water flowing from any irrigation work of the Board into the land or premises in respect of which the rates are in arrear.

(3) The irrigation rates shall be a charge on the property in respect of which they are levied; and in the event of a change of ownership, any rates due or unpaid shall be a debt due by the incoming owner and be recoverable in a competent court.

59. (1) An Irrigation Board may raise by way of loan any money that is required by the Board for the purposes of this Act. Provided that when such loan is raised otherwise than under Part VII., it shall be raised in manner prescribed by regulations. Power to borrow

(2) Before a proposal for the raising of a loan is laid before any meeting of the Board, not less than twenty-one days' notice of the proposal shall be given to each member; and no loan shall be raised except under a resolution of the Board at which there are present not less than two-thirds of the members.

60. An Irrigation Board shall keep true and particular accounts of all monies received and expended by it, and shall render the accounts to the Controller and Auditor-General, by whom they shall be audited. Accounts of Board.

61. An Irrigation Board may, with the consent of two-thirds of the owners of the rateable property within the area of such Board, present a petition, in writing, to the Governor praying that it be vested with any or all of the powers of a River Board, and thereupon the Governor, after notice given and inquiry made in manner prescribed in section seventeen, may issue a proclamation vesting the Board with such powers and imposing upon it such duties of a River Board as he thinks fit. Vesting Board with powers of River Board.

62. (1) An Irrigation Board may make by-laws not inconsistent with the provisions of this Act for:— Power to make by-laws; their validity and publication.

(a) the regulation of its own proceedings and those of its officers;

(b) the regulation of the flow of water in and of the distribution and use of water from and in the Board's channels and other works, and the closure of such channels and works at certain times and seasons, whether for the purpose of repairs or for the benefit of the adjoining lands or for any other reason;

(c) the regulation of any matter committed by this Act to its charge and control.

(2) A by-law under subsection (1) shall not be valid until it has been approved by the Governor and published in the *Gazette*; and it shall not be so approved until the expiration of at least one month after notice of the intention to apply for

the approval has been given by the Board in some newspaper circulating within the district.

(3) The Board shall supply copies of all by-laws in force to any applicant on payment of a sum not exceeding six pence for each copy, and copies of all such by-laws shall be kept in a conspicuous place in the office of the Board.

Power to
proclaim
Regulations.

63. The Governor may proclaim regulations prescribing, defining, and regulating any of the following matters:—

- (a) the nomination of candidates and the election of members of an Irrigation Board, and the mode of procedure and of voting thereat;
 - (b) the appointment of returning officers for elections;
 - (c) the powers and duties of a returning officer in connection with an election and with the first meeting of a Board;
 - (d) the appointment by the Board of its Chairman and the duration of office of such Chairman;
 - (e) the filling of casual vacancies in a Board or in the office of Chairman; and the number of members required to form a quorum;
 - (f) the procedure at meetings of a Board;
 - (g) the appointment of a secretary and other officers or servants of a Board, and the powers, duties, salaries and emoluments of such secretary, officers, or servants;
 - (h) the delegation by a Board of any of its powers to committees, and the constitution, powers, and procedure of such committees;
 - (i) the manner of calling a meeting of voters of the district;
 - (j) the service of notices under this Part;
 - (k) the proceedings of any person who under this Part is required or empowered to take action in any matter;
 - (l) the persons by whom, the place or manner at or in which, shall be done anything for which provision is made in this Part;
 - (m) any matter or thing authorised or required by this Part to be done or provided for by or according to regulations;
- and generally for
- (n) giving effect to the provisions of this Part.

PART V.—WATER COURTS.

Appoint-
ment of
Water Court
and bound-
aries of Water
Court district.

64. The Governor may appoint in any area a Court, to be called a Water Court, for the purpose of hearing and determining disputes in connection with the use and appropriation of water, and for such other purposes as may be assigned to it by this Act, and such area shall be called a Water Court District: and the Governor may prescribe, and from time to time alter or amend, the boundaries of any such district.

65. A Water Court shall consist of a Resident Magistrate having jurisdiction over the whole or some portion of the Water Court District, who shall sit with two assessors selected from a list of Water Court Assessors, not less than ten or more than twenty-five in number, appointed for the district by the Governor, after consultation with the Divisional Council of every Division any part of which is situated in the district. Every assessor shall own and occupy land, and shall have cultivated his own land in the district, and shall possess the qualifications necessary for a Divisional Councillor, shall not be less than thirty years of age, and shall hold office during the pleasure of the Governor. The name of any person ceasing to hold these qualifications shall be removed from the list of assessors, and vacancies caused in this or any other manner may be filled up by the Governor after consultation as aforesaid. The assessors to sit as members of a Water Court for the purpose of any decision, report, or investigation by such Court, shall in the first instance be selected from such list in manner prescribed by regulations. The names so selected shall in manner similarly prescribed be notified to all the parties to the contemplated proceedings, any one of whom may in accordance with the regulations lodge an objection to any one or more of those selected. Such objection and any necessary selection of further names shall be dealt with and made as the regulations direct. Provided that an assessor shall not sit or take part in proceedings in the result of which he has any direct or indirect personal interest.

66. When any matter or dispute which under this Act can be brought before a Water Court relates to two or more separate Water Court Districts, the Governor may appoint a Special Water Court, consisting of a Resident Magistrate who shall sit with two Assessors for each Water Court District selected in manner prescribed by regulation from the Water Court Assessors of such Districts, and in respect of such matter or dispute such Special Water Court shall be deemed to be a Water Court appointed under this Act.

67. The general powers and duties of a Water Court shall be as follows:—

- (a) On the application of any person as to a matter in dispute regarding the use, diversion, or appropriation of water within the district, or as to any matter which by this Act can be brought by such person before such Court, to investigate the matter and make order thereon.
- (b) On the application of any interested person, to investigate, define and record the rights to the use of the water of any stream, channel, reservoir or source of supply, and to apportion the water for irrigation or other purposes, where such rights have not been defined or

such apportionment made by a competent court, or by arbitration or agreement or in other legal manner.

- (c) At the request of the Minister or any superior Court to report to such Minister or Court on the use or waste of water, diverted from any stream, or on any matter arising out of the provisions of this Act.
- (d) To grant in accordance with regulations, permits for the use of the water of any intermittent stream in the district.
- (e) On the application of an owner of land riparian to a stream to determine and fix in accordance with regulations the place or places either upon the said land or upon any land higher up in the course of the stream, at which such owner shall be deemed to have a right to the use of the water, and to determine, if required, the nature and extent of such use at such place or places, having due regard to the rights of other owners; and at that place or places such owner shall be entitled to divert and make such use of the water as the Court has determined, or as he may be entitled to by virtue of his riparian ownership or any agreement, servitude or order of a competent Court. Notice of the application shall be given to every owner of riparian land between that of the applicant and the place or places which it is proposed to fix, and such owners shall be entitled to appear before and be heard by the Court upon the application.
- (f) On an application of any person for the removal of or interference with any dam, weir or other obstruction in the course of a stream to investigate the application and make order thereon, including, if the application is granted, the compensation, if any, to be paid to any person affected by the order.
- (g) Generally to do any matter or thing in this Act provided to be done by such Court.
- (h) On the application of any interested person, made in manner prescribed by regulations, to investigate, decide and record, in the case of any stream, whose character has not already been defined by a competent Court, whether such stream is perennial or intermittent, provided that an appeal, to be prosecuted within three months, shall be from any such decision of a Water Court to a Superior Court at the instance of an interested person.

Original jurisdiction in water disputes.

68. Save with the consent of all parties to any dispute as to water-rights, no Court other than a Water Court shall have original jurisdiction in the hearing and settlement of such dispute: and no process to summon any person to answer any

claim in a suit involving a question of water-rights shall issue out of any of the superior Courts except in cases where the defendants have consented in writing thereto: provided that nothing in this section contained shall affect the jurisdiction conferred by any section of this Act in any of the superior Courts, in appeal or otherwise, or in cases where the aforesaid consent has been obtained.

69. (1) The order of the Water Court shall be set down in writing and in case of dispute a copy shall be served upon each of the parties to the proceedings and upon every other riparian owner whom the Water Court considers to be materially affected thereby, and such order shall be binding on the parties unless and until set aside on appeal as in the next section provided.

Validity of
order of
Water Court.

(2) Any person entitled to the payment of money by order of a Water Court may apply to the Supreme Court to have the order of the Water Court in respect of such payment made an order of the Supreme Court.

70. (1) An order made by the Water Court shall be subject to appeal as follows:—Any person aggrieved by the order of a Water Court may appeal to the Supreme Court to set it aside or vary it; but no appeal shall be entertained unless it be made within three months after the making of the order, nor unless notice be given as provided by regulations. The Supreme Court may make such final order upon the appeal as it deems proper.

Appeal to
Supreme
Court.

(2) If the time has lapsed within which an appeal or petition for leave to appeal can respectively be made, or if the Supreme Court dismisses the appeal, the order of the Water Court shall be final and binding on all parties concerned provided that in all cases of appeal the Supreme Court may direct that further evidence be taken by the Water Court.

71. A dispute which might under this Act be brought before a Water Court, may if the parties to the dispute so desire, be first reported in writing by them jointly to the Director, who, after causing such local inquiry to be made as he considers necessary, may give the parties such written directions in the matter as seem to him equitable; and these directions shall be binding on the parties unless and until they are set aside either by agreement or the order of a competent court.

Powers of
Director in
case of dis-
pute.

72. If a dispute arises concerning the use, diversion, or appropriation of water, the parties may agree, in writing, to submit the matter in dispute for final decision to the Water Court of the district, and may apply accordingly in form prescribed by regulations. The order of the Water Court on such application shall be final and binding on the parties, and shall not be subject to appeal or review by any Court.

Agreement
to accept
decision of
Water Court
as final.

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Registration
of final order.

73. An order of the Water Court which is or has become final or a final order made by the Supreme Court shall, at the instance of any person interested, be registered on the titles of the land to which the order refers; the cost of registration to be borne in such manner as the Water Court or the Supreme Court, as the case may be, may direct.

Reference
to Supreme
Court on
point of law

74. (1) If a Water Court in the discharge of its duty finds that a question of law arises upon which it considers that the decision of the Supreme Court is necessary, the Water Court may, after hearing the parties to the dispute in the course of which the question has arisen, state the question in a case in writing for the opinion of the Supreme Court, and forward it to the Registrar of that Court. The question may be answered by the Supreme Court or any judge thereof to whom the Supreme Court has referred it, with or without argument on behalf of the parties, as the Supreme Court shall determine. Provided that the Supreme Court or such judge may require the Water Court to send further particulars in writing before answering the question.

(2) The Registrar shall convey to the Water Court concerned the answer of the Supreme Court or judge, and the Water Court shall adopt and apply the law as so laid down for its guidance in making its order in the dispute.

Reference
to Water
Courts of
action pend-
ing else-
where.

75. (1) If an action with regard to water rights in a Water Court District is pending in any Superior Court, such Court may refer all or any of the issues of fact raised on the pleadings to the Water Court. Provided that the issues of fact to be determined by the Water Court be stated in writing by the Registrar of the Court referring such issues.

(2) The Water Court shall thereupon make inquiry upon the spot or otherwise, and shall hear such evidence as may be tendered or as it deems necessary and shall then determine the issues of fact and shall report to the Court its finding thereon; and that finding shall be conclusive and binding on all parties to the action; and the costs of such reference shall be in the discretion of the Court referring the issues, after considering the recommendation of the Water Court regarding such costs.

Reference
elsewhere of
action pend-
ing in Water
Court.

76. A dispute which is pending in a Water Court shall not be made the subject of legal proceedings in any other court, except with the consent of all parties to the dispute; and upon such consent the proceedings shall be stayed in the Water Court and withdrawn therefrom.

Representa-
tion of Board
before Water
Court.

77. If a dispute is brought before a Water Court, the secretary of a River or Irrigation Board in whose district is situated the rateable area or irrigable area as the case may be of any party to the dispute, such Board not being itself a party to the dispute, shall be entitled to appear before the Court and, subject to the permission thereof on good cause shown, to produce such evidence as the Board may desire.

78. In any proceedings before the Water Court a party to the proceedings or a secretary to a Board entitled to appear thereat may appear personally or by such other person as he may under his hand direct.

Appearance
by proxy.

79. The payment of costs incurred in proceedings before a Water Court shall be made in such manner as the Court shall appoint.

Costs.

80. Notwithstanding any other penalty in that behalf provided, disobedience by any person of an order lawfully made under this Act by a Water Court, shall be in the nature of a contempt of court and shall be punishable by any Court of Law, at the instance of the Water Court, as if contempt of such Court of Law itself.

Contempt of
Water Court.

81. The Governor may proclaim regulations prescribing, defining and regulating :—

Power to
proclaim re-
gulations.

- (a) the procedure of Water Courts ;
- (b) the oath to be taken by members of the Court ;
- (c) the fees to be charged in such Courts and the remuneration to be paid to the members thereof ;
- (d) the duties of the Courts and members thereof ;
- (e) the forms of applications to Water Courts, and notices in respect thereof ;
- (f) the conditions under which a Water Court may obtain expert assistance from the Government ;
- (g) the principles and considerations which should guide the Court—
 - (i) in defining or fixing what use of the water of a perennial stream, by a riparian owner shall be deemed to be a reasonable use ;
 - (ii) in determining whether an application for a permit for the use of the water of an intermittent stream should be granted or refused, and in fixing the conditions under which such an application should be granted ;
 - (iii) in considering the application of a River Board for the removal of or interference with any mill-dam, weir, or other like obstruction in a stream ;
- (h) the appointment of officials of the Court ;
- (i) the service of notices under this Part ;

And generally for—

- (j) giving effect to the provisions of this Part.

Provided that :

- (1) No such regulations shall be proclaimed unless and until they have been approved by the Supreme Court or by both Houses of Parliament.

- (2) Before the Governor proclaims a regulation under subsection (g) of this section with regard to permits for the use of water of an intermittent stream, the Minister shall give three months' notice of the Governor's intention to issue the proclamation, stating the terms thereof; the notice to be published in the *Gazette* and in some newspaper circulating in every fiscal division in which the stream is situated.

PART VI.—EXPROPRIATION OF LAND AND ACQUISITION OF SERVITUDES.

Land, etc., may be taken for Government purposes on payment of compensation.

82. If at any time the Government shall require, or deem it to be expedient to take or use any land, or the bed of any river, stream or river tributary, for the purpose of irrigating any land or constructing thereon any dam, reservoir or other irrigation work and there may not be any right or power by law to take or use such land or property without the consent of the owner thereof, it shall be lawful for the Governor to take or use such land or property for the purposes aforesaid, and the proprietor thereof shall thereupon be entitled to compensation, to be settled in case of difference by arbitration.

Notice of proposed expropriation and offer of compensation.

83. The Minister shall give notice to the owner of the property to be expropriated, describing and defining the property which it is proposed to expropriate, and stating the amount of compensation offered.

May enter upon and take possession of lands, etc.

84. It shall be lawful for any River or Irrigation Board or their officers or servants, from time to time, to enter upon and take possession of such lands and premises within their district, covered or uncovered with water, as may be necessary to enable them to carry out the purposes of this Act; to purchase any such lands or premises; and to dig, get and carry away out of and from any such lands any materials which may be necessary to enable them to carry out the said purposes, paying, however, such recompense or compensation to the owners, lessees and occupiers of such lands, premises and materials, according to their respective interests therein, as may be agreed upon, or if no agreement, as may be settled by arbitration as hereinafter mentioned.

Restrictions.

85. It shall not be lawful for any such Board to remove or otherwise interfere with any mill-dam, weir, or other like obstruction whereby the level of the water is raised for milling or other purpose of profit so as to injuriously affect the supply of water, otherwise than with the consent of the owner and occupier of such mill-dam, weir, or other like obstruction, until their right to do so has been determined by the Water Court of the district in manner hereinafter mentioned, and until compensation has been made to all parties entitled for the injury which may be caused by such removal or interference.

86. A person who, having a right to or to the use of water, or being entitled to superintend and control the use of water, wishes to employ it or to increase its employment for irrigation or domestic use, or the use of stock, or any other useful purpose, is entitled to claim under this Act the following servitudes temporarily or in perpetuity, namely:—

- (a) servitude of aqueduct,
- (b) servitude of storage,
- (c) servitude of abutment.

Provided that:

- (1) A temporary servitude shall not be for a longer period than three years.
- (2) No proceedings shall be taken for the acquisition of a servitude whilst a dispute as to the right to the water in respect of which the servitude is claimed is pending in a competent court.
- (3) The servitude shall not give the person exercising it a right of property in the land of the servient tenement, and all burdens attached to the land shall be borne by the owner of the land.
- (4) No servitude shall be claimed in respect of any water, the right to which is in dispute, until such dispute shall have been settled by some competent court.

87. (1) Servitude of aqueduct shall consist of the right to occupy for and in connection with the passage of water, such land, the property of another, as may be necessary for the purpose, including the right to construct such works as are necessary for the passage over, under, or alongside of another irrigation work.

Servitude of aqueduct.

(2) The servitude shall include the right of temporary occupation of a strip of land, and of access thereto for the purpose of constructing the necessary works, and for purposes of inspection, maintenance and repairs.

(3) In carrying water across a public road, such works shall be constructed by the person exercising the right of aqueduct as the divisional council or the commissioners of the municipality, or the town or borough council (or other local authority, as the case may be), in whom the road vests may consider necessary for the purpose of preventing danger or inconvenience, subject in case of dispute to the approval of the Governor; and any works so constructed, excluding the actual roadway, shall thereafter be maintained in repair by the person exercising the right.

88. (1) Servitude of storage shall consist of the right to occupy, by flooding with water the land of another by means of a dam constructed on the land of the person claiming such right. The servitude shall include the right of passage over the servient tenement along the margin of and throughout the area subject to

Servitude of storage.

the servitude, for purposes of maintenance of works, cleansing, clearance of silt and brushwood or litter, or any like purpose necessary for the due enjoyment of the servitude. The servitude shall not, unless so stated in the order constituting or the agreement embodying it, deprive the owner of the servient tenement of such use as he can make of the area subject to the servitude whenever such area is not submerged; provided that such use is not detrimental to the due enjoyment of the servitude.

(2) Servitude of storage shall not be enforced if the owner of the servient tenement can himself to the satisfaction of the Water Court make a beneficial use of the land for storage or agricultural purposes.

Owner of servient estate may participate in the benefit of the storage work.

89. In every case wherein the enforced servitude of storage is permanently imposed upon private property in the interest of another private individual owner, the owner of the servient tenement may within one year after completion of the work under such servitude and on payment of his *pro rata* share of the cost of the work (to be assessed by the Water Court in case of dispute) together with twenty-five per cent. thereof in addition, demand, and must thereafter receive, the benefit of the storage work for use of water on his lands only, in the proportion which the volume of water which would by such storage work be held on the servient tenement shall bear to the full volume of the reservoir's capacity.

Servitude of abutment.

90. Servitude of abutment shall consist of the right to occupy by a dam or weir, the bed of a river and the banks adjacent thereto, the property of another, as may be necessary for the dam or weir.

Mode of acquiring servitude.

91. (1) A claimant to any of the servitudes specified in section eighty-six, shall give notice in writing to the owner of the land over which he proposes to acquire the servitude, describing the line of passage along or the locality upon which and the mode in which he proposes to conduct, store, or divert water, or construct works, the works which he proposes to construct upon the land, the compensation which he offers, and the period of time during which he wishes to enjoy the servitude. If the owner does not within one month after the service of the notice agree as to the right of the claimant or as to any matter mentioned or described in the notice, or as to any other matter necessary for the servitude, the claimant may apply to the Water Court, in manner prescribed by regulations, for the settlement of the several matters in dispute between him and the owner; and notice of the application having been made, together with a copy of the application, shall be served by him upon the owner. Provided that failure to comply with any of the provisions of this sub-section shall be dealt with by the Water Court as it deems just.

(2) If the property on which the servitude is claimed is mortgaged or leased, the mortgagee or lessee, as the case may be,

shall be made a party to the proceedings and shall receive and may give notices under this section as though he were the owner of the property.

92. (1) A Water Court, on application made to it under the preceding section, may—

- (a) grant the application with such modifications and subject to such conditions as it deems equitable;
- (b) award the compensation, if any, to be paid for the right of servitude;
- (c) if the land over which the servitude is claimed is under lease, determine the compensation to be paid to the lessee for any injury which he may sustain by the exercise of the servitude;
- (d) if the land is mortgaged, and the mortgagee claims a share of the compensation in reduction of his mortgage determine the share to be so paid;
- (e) refuse the application.

Order of
Water Court
on applica-
tion for servi-
tude.

Provided that it shall not refuse to grant a right of servitude unless—

- (1) the servitude does not satisfy the conditions of section eighty-six, or its enforcement is debarred by sub-section (2) of section eighty-eight; or
- (2) the object for which the servitude is claimed could be better attained in some other manner; or
- (3) the work is not proposed in good faith; or
- (4) the work will not be of sufficient agricultural utility to justify the enforcement of the servitude.

(2) In fixing the amount of compensation the Water Court may deduct such amount as it thinks reasonable in consideration of the advantages which the owner, or lessee, or owner and lessee, as the case may be, of the servient property may derive by reason of the servitude.

(3) Compensation awarded by a Water Court for a temporary servitude shall be an annuity equal to the rental value, as nearly as can be ascertained, of the land to be actually occupied by the work when completed, together with yearly compensation for any actual inconvenience and loss that may be suffered by the exercise of the servitude.

(4) Compensation awarded by a Water Court for a permanent servitude shall be a lump sum equal to the average market value, as nearly as can be ascertained, of the land to be actually occupied by the work, together with an annuity as compensation for actual inconvenience and loss that may be suffered by the exercise of the servitude, or, in lieu of this annuity, an amount equal to twenty times the annuity.

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Repair and cleaning of channels constructed across the land of another person.

93. In the event of any channel constructed under this Act across the land of another person, being out of repair or in want of cleaning, the person having or claiming the right of passage of water through such channel, shall be bound upon receipt of a notice in writing from the proprietor of such land requiring him so to do, to repair or clean, as the case may be, such channel within a reasonable time, and in the event of his failing so to do, it shall be lawful for such proprietor to cause all necessary repairs or works to the said channel to be done, and to recover the cost thereof from the person having or claiming such right of passage as aforesaid, and any person having or claiming such right of passage as aforesaid, who shall knowingly allow or suffer any such channel to be out of repair or foul, shall be liable for all damage which may arise therefrom.

Bridges and other works necessary for inter-communication.

94. In cases where the waters flowing in any channel made under this Act for the benefit of individuals prevent the adjoining proprietors from passing freely to their property, or check the circulation of water in the irrigation or drainage of the same, the parties benefiting by the water shall be bound to construct and maintain in good order all bridges and other works necessary for inter-communication in a sure and convenient manner, and shall be further bound to construct and maintain such culverts, aqueducts, and other like works, as are required for the free progress of irrigation or drainage, except there shall be some agreement or legitimate title to the contrary.

Conversion of temporary into permanent servitude.

95. A person who has acquired under this Act a temporary servitude, is entitled to have it converted into a permanent servitude on paying to the owner of the servient tenement such compensation as may be agreed upon between them; and if the compensation is not agreed upon within one month after the person holding the servitude has offered a definite sum, he may apply to the Water Court for the determination of the compensation, giving notice of his application to the owner. The Water Court shall thereupon assess the compensation as for a permanent servitude, having due regard to the amount actually paid in respect of the temporary servitude.

Construction, maintenance and ownership of works on servient tenement.

96. All channels and other works required for the enjoyment of a servitude in force under this Act shall be constructed and properly maintained solely at the cost of the person acquiring the servitude, and the grant of such servitude shall include the right of entry for the purposes of survey and for all other purposes necessary to secure the same.

Lapse of servitude.

97. A servitude imposed by order of a Water Court shall lapse if the work proposed to be executed is not completed and the water is not utilised within three years from the date of such order or within such further period as the Water Court may have fixed.

98. Every servitude acquired under this Act shall be duly registered in manner prescribed by regulations against the deed of grant or transfer as the case may be of the dominant and servient tenement.

PART VII.—IRRIGATION LOANS, SUBSIDIES AND GRANTS IN AID.

99. (1) An owner or Irrigation Board desiring to raise money on loan for the construction of an irrigation or drainage work may make application to the Minister stating the purpose for which the loan is required, the nature of the proposed works, the estimated cost of construction, the position and extent of the land to be irrigated or drained, the extent to which the value of the land will be enhanced by the work, and

Application
for loan.

(a) if the applicant is an owner, the nature and value of the property offered as security for the loan, and the extent to and amount for which the property has already been hypothecated, or

(b) if the applicant is an Irrigation Board, the extent to which the rates leviable by the Board under this Act have already been hypothecated or charged.

The application shall state the names and addresses of the mortgagees, and of every other person who has any interest in or charge upon the property or rates.

(2) If the amount of the proposed loan exceeds five hundred pounds, or if the enhanced value of the land arising from the proposed work forms part of the security offered, the application shall be accompanied by plans and estimates of the proposed works and such other documents as may be required by regulations; and, if the application is from an Irrigation Board, by a statement of the existing liabilities of the Board, and an account of its revenue and expenditure under suitable heads.

(3) The application from an Irrigation Board shall certify that the conditions of section fifty-nine relative to the number of members present at the meeting which approved the application, and to the notice of such meeting, have been complied with.

100. If the applicant is an owner the security offered for a loan shall be a mortgage on immovable property; and the Minister shall not accept such property as security unless—

Security to
be offered for
loan to owner.

(a) the amount of the loan applied for, together with the amount for which the property is already hypothecated, is less than three-fourths of the latest Divisional Council valuation of the property. Provided that the Minister may require in place of the Divisional Council valuation, a valuation made by two sworn appraisers at the cost of the applicant; or

- (b) the amount of the loan applied for, together with the amount for which the property is already hypothecated, is less than two-thirds of the valuation under sub-section (a) together with the amount of an estimate of the sum by which the value of the property will be enhanced by the proposed work: such estimate to be furnished to the Minister at the expense of the applicant by two sworn appraisers, or in such other manner as the Minister may direct.

Security to be offered for loan to Board.

101. The security offered for a loan to an Irrigation Board shall be the rates leviable by the Board under this Act or such other security as may be approved by the Governor.

Procedure of Minister on receipt of Application.

102. (1) On receipt of an application under section ninety-nine the Minister shall, if the loan is sought on the security of property, give notice of the application to every mortgagee of the property, and to every other person who to the knowledge of the Minister has an interest in or charge upon it. If within one month, or such other time as the Minister may fix, from the service of the notice, any person having an interest in or charge upon the property, signifies to the Minister, in writing, his objection to the loan, stating the nature of his interest in or charge upon the property, the Minister shall give notice of the objection to the applicant, and shall refuse to entertain the application unless and until the objection has been withdrawn, or the Minister is satisfied that the objection is unreasonable.

(2) If the application has not been refused under the preceding sub-section and if, after due inquiry, the Minister is satisfied with the security offered, he shall obtain from the Director an estimate of the probable cost of the work, with a report upon the proposals. The Director shall state especially whether he is of opinion—

- (a) that the proposed works will effect an improvement in the annual value of the land in excess of the amount which would be payable annually in redemption of the loan if it were granted for the greatest number of years for which in the opinion of the Director, it should be granted, having regard to the nature and probable durability of the works:
- (b) and if the loan exceeds five hundred pounds, or if the enhanced value arising from the proposed irrigation work has been taken into consideration under sub-section (b) of section one hundred, that the applicant proposes to construct the work in a sufficiently substantial and durable manner, in accordance with plans, estimates, and specifications which have been approved by the Director.

103. Upon receipt of such a report the Minister, after such further inquiry as he deems necessary, may, if he thinks fit, submit the application with his recommendations to the Governor, who may order that a loan, to be called an Irrigation Loan, for such amount and period as he may authorise, be made to the applicant from any funds provided by Parliament for the purpose; and the loan shall be made accordingly upon the security set forth in the petition. Provided that:

Power to grant loan.

- (1) In fixing the period of the loan regard shall be had to the nature and probable durability of the works.
- (2) A loan shall not be granted for a longer period than thirty years, or in respect of works of which the estimate of cost made by the Director exceeds twenty-five thousand pounds, except with the previous sanction of Parliament.

104. After the issue of the order for an irrigation loan, the Minister shall cause to be paid to the applicant an amount not exceeding one-fifth of the total amount of the loan, and from time to time, thereafter, such further instalments of the loan as he deems just, upon certificate by an Engineer or other competent person as to the quantity and estimated value of the work done. Provided that:

Payment of loan.

- (1) The Minister shall not advance any portion of the loan until the applicant has passed before the Registrar of Deeds a bond duly registered, specially hypothecating in favour of the Government as security for the loan, the property or rates which the applicant had agreed to hypothecate.
- (2) If the amount of the loan exceeds five hundred pounds, or if the enhanced value of the land has been taken into consideration under sub-section (b) of section one hundred the Minister shall not pay any instalment of the loan unless satisfied that the work, if not begun will be carried out, or if begun has been and will be carried out in accordance with plans, estimates and specifications approved as in section one hundred and two provided.

105. An irrigation loan advanced on the security of property shall be a charge upon that property, with preference over every other charge except a preexisting mortgage in favour of a person who has not consented to the preference of the loan.

Charge on property; priority of loan.

106. The transfer of a property which is hypothecated for an Irrigation Loan shall not be passed in the Office of the Registrar of Deeds until there has been produced to and deposited with him a valid receipt for the payment of the redemption charge due for the previous half year under section one hundred and eight.

Transfer of hypothecated property.

107. An irrigation loan advanced to a Board shall be a charge upon the rates of the Board, with preference over all other charges.

Charge on rates; priority of loan.

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Redemption
of loan.

108. (1) An irrigation loan shall be redeemed by the payment on the first day of January and the first day of July, of one half of the annual payment required to redeem such loan, in accordance with a general scale to be published in the *Gazette*, and in such newspapers as the Minister may determine, and such sum shall continue to be payable until the whole loan with interest has been repaid.

(2) The period of redemption shall begin from such first day of January, or first day of July, as the Minister shall prescribe, being not later than two years from the date on which in the opinion of the Minister the works should be completed.

(3) Interest calculated at the rate of three and a half per cent. per annum, shall accrue on any loan or instalment from the date on which it is advanced or paid.

(4) Interest accruing between the date of the first advance and the date prescribed under sub-section (2) for the commencement of the period of redemption shall be added to the amount of the loan, and form part of it for the purposes of redemption.

(5) The loan may at any time be partially or entirely redeemed by payment of any sum in addition to the half-yearly payments, and thereafter should any balance be left, such payments shall be reduced accordingly.

(6) The period of redemption may, at the request of the borrower, be shortened at any time, a corresponding increase being made in the half yearly payments.

Power of
Treasurer in
case Board de-
faults.

109. If an Irrigation Board has, for a period of sixty days and upwards, neglected to pay any moneys due to the treasury under this Part, the Treasurer may levy and recover rates of sufficient amount, and collect any dues payable to the Board, and for this purpose the Treasurer shall have all the powers of the Board for levying and recovering rates and for collecting such dues; and if, after payment of the amount, together with interest and all expenses incidental to the levying, recovering and collecting such rates and dues, there remains any balance, such balance shall be paid over to the Board.

Inspection
of lands and
works.

110. When a loan to an owner or Irrigation Board has been authorised and has not been redeemed in full, the Director may from time to time appoint an Engineer to inspect the lands and works in respect of which the loan was authorised, and if the works have not been executed and maintained in a satisfactory manner, the Director shall report the fact to the Minister who shall thereupon call upon the owner or Board to take within a stated time such action as the Minister may direct; failing which the Minister shall cause such action to be taken at the expense of the owner or Board, and shall have the right to recover the cost thereof in a competent court.

111. The Minister may by notification in the *Gazette* fix special rates for the carriage on the Government Railways of such goods or materials as are to be used for purposes of irrigation within this Colony, and such notification shall specify the things necessary to be done in order to obtain the advantage of such special rates.

Railway rates.

112. The Governor may proclaim regulations prescribing and defining—

Power to proclaim regulations.

(a) the form of application to be used in applying for an irrigation loan or grant.

(b) the form and nature of the plans, estimates and other documents to accompany an application for an irrigation loan or grant

and generally for—

(c) giving effect to the provisions of this Part.

PART VIII.—GENERAL.

113. Any person authorised in writing by the Minister or by the Director, or by a River or Irrigation Board, and any officer or servant of such person, Minister, Director, or Board, may enter upon any such lands or premises as it is necessary to enter upon for any of the purposes of this Act and may do thereupon such acts as are necessary for such purpose.

Right of entry.

114. The following shall be receivable in evidence in any Court without further proof :

Papers receivable in evidence.

(a) The minutes of proceedings of a meeting of a River or Irrigation Board or committee of such Board : provided that such minutes purport to be signed by the chairman of the meeting.

(b) A notice given under this Act by the secretary of such Board, purporting to be signed by the secretary.

115. If the value of a property liable to be assessed in respect of Divisional Council or Municipal Council rates has been enhanced by an irrigation work constructed after the commencement of this Act, then, in every valuation roll framed for the assessment of such rates, there shall be specified the amount by which the value of the property has been so enhanced ; and a person liable to pay rates in respect of such property shall not for ten years from the date of completion of the work be liable to pay rates on that enhanced value. Provided that the provisions of the Divisional Councils' Act, 1889, regarding objections to the valuation of property for rating purposes shall apply to objections to the estimate of the enhanced value.

Exemption of irrigated lands, enhancement, from local rates.

116. All regulations proclaimed by the Governor under this Act shall while in force have effect as if enacted in this Act. Provided that :

Validity of regulations.

(1) Where express provision is made that regulations shall be approved by the Supreme Court, the Governor shall

proclaim such regulations only as have been approved by the majority of the judges of such Court; the approval to be notified to the Governor by the Chief Justice.

- (2) Where express provision is made that regulations shall be approved by the Legislative Council and by the House of Assembly, the Governor shall proclaim such regulations only as have been approved by each of the said Houses; the approval of either House to be presumed when the regulations have lain upon the table of the House for fourteen days without any notice of a motion of disapproval having been given by a member of the House. If notice be given, and thereafter it is withdrawn within the fourteen days and no other notice be given within that period, the approval of the House shall be presumed.

Power to impose penalty.

117. The Governor, or a River or Irrigation Board with the approval of the Governor, may prescribe a fine not exceeding ten pounds for the breach of any regulation or by-law, as the case may be, proclaimed under this Act.

Offences.

118. Any person commits an offence under this Act who having no legal right or authority thereto does any of the following acts, wilfully or negligently:

- (a) Damages, alters, enlarges, or obstructs an irrigation work: such work including for the purposes of this clause, all canals, channels, reservoirs, embankments, weirs, dams, structures and other works constructed, maintained or controlled by the Government or by a River or Irrigation Board for the purposes of irrigation or for the conservancy of any stream, or for the drainage of lands, and all lands occupied by Government or by a River or Irrigation Board for such purposes, and all buildings, machinery, fences, gates, and other erections, trees, crops, plantations or other produce occupied by or belonging to Government or the Board upon such lands; and all gauge-posts, measuring weirs, or other appliances the established under the authority of the Minister, Director, or Board, for measurement of water in a channel, reservoir or stream.
- (b) Interferes with or alters the flow of water in an irrigation or drainage work, or in a stream in a River District, or in a proclaimed stream; or interferes with the authorized distribution of water therefrom, or uses such water in an unauthorised manner.
- (c) Destroys or moves any level mark fixed for or in connection with an irrigation or drainage work.
- (d) Using or being responsible for the maintenance of an irrigation channel or reservoir supplied with water by

- means of a Government or Irrigation District work or from a stream situated in a River District, does not take proper precautions for preventing waste of the water.
- (e) Obstructs or interferes with any person acting in the performance of anything which such person is under this Act authorized or required to perform.
- (f) Violates any by-laws or regulations under this Act for breach whereof a penalty is provided.

119. The Resident Magistrate of the Magisterial District in which any such offence is committed shall have jurisdiction therein and may either try the case summarily or hold a preparatory examination as the case shall require. Jurisdiction.

120. Any person summarily convicted of an offence under this Act shall be liable to a fine not exceeding ten pounds or to imprisonment not exceeding one month, or to both such fine and imprisonment; and in the case of a second or subsequent conviction to a fine not exceeding twenty-five pounds, or to imprisonment not exceeding two months, or to both such fine and imprisonment; and the Magistrate may direct that the whole or any portion of the fine shall be paid by way of compensation to any person injured by the commission of the offence, if the person agrees to accept the payment in full satisfaction for the injury. Provided that if the offence is a breach of a regulation or by-law under section one hundred and seventeen, the fine shall not exceed the limits fixed by the regulation or by-law, and there shall be no imprisonment. Penalties.

121. The Governor may for the purpose of carrying out the provisions of this Act raise by way of loan either temporarily or by means of Colonial or consolidated stock to be issued in this Colony or in England under the provisions of "The Cape of Good Hope General Loans Act, 1881" as amended by the "Cape of Good Hope General Loans Acts, 1883, 1888 and 1892," a sum not exceeding £200,000 (two hundred thousand pounds). Power to borrow.

SCHEDULE A.

Schedule A.

Ordinance No. 5 of 1848. The whole.
 The Irrigation Act, No. 8 of 1877. The whole.
 The Municipalities Irrigation Works Loans Act, No. 28 of 1879. The whole.
 The Irrigation Act Amendment Act, No. 7 of 1880. The whole.
 The Local Works Loans Act, No. 11 of 1882. So much of Section 1 as refers to any Irrigation Board.
 The Right of Passage of Water Act, No. 26 of 1882. The whole.
 The Irrigation Act Amendment Act, No. 10 of 1893. The whole.
 The Irrigation Act Amendment Act, No. 24 of 1897. The whole.
 The Water Act, No. 40 of 1899. The whole.
 The Villages Management Act Amendment Act, 1905. Section 2.

No. 33—1906.]

[August 21, 1906.

ACT

To Authorize Local Authorities to contribute towards the cost of Constructing and Working certain lines of Railway.

[Assented to 21st August, 1906.]

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

Meaning of "Local Authority." 1. For the purposes of this Act the term "Local Authority" shall include "the Divisional Council of any Division," the Council or Board of Commissioners of any Municipality, Borough, or Corporate Town, and the Board of Management of any area or place constituted under "the Villages Management Act, 1881."

Contributions by Local Authority towards Railways. 2. From and after the date of the promulgation of this Act it shall be lawful for a local authority to make contributions to the Government or any Railway Company in aid of all or any of the following items of expenditure in connection with any Railway calculated to be directly or indirectly beneficial to the district or area of such local authority, that is to say :—

- (a) the cost of construction ;
- (b) the cost of working and maintenance ;
- (c) payment of interest on capital cost ;
- (d) cost of special facilities in the way of accommodation, increased train service, reduced fares or rates, and the like.

Provided that all such contributions shall be first approved by a majority of the ratepayers present at a meeting specially convened for the purpose, and by a majority in value of those ratepayers being owners of property whose names appear on the Valuation Roll of the local authority, and who record their votes at a poll specially taken for the purpose of ascertaining whether the owners of property in favour of the contribution exceed in value those who are opposed thereto, and provided further that a statement prepared by the Railway Department, showing the estimated cost of survey, construction, maintenance and working expenses of such line or cost of extra working shall be sent to the Secretary of the Divisional Council, Town Clerk, or Clerk of the Village Management Board, as the case may be, to be submitted to the said meeting, and provided also that any such contribution may be by way of lump sum, or periodical payments, for a period limited or unlimited, and shall be payable out of the general funds or provided for by special rates or otherwise, as may be determined by the ratepayers at such meeting and by the poll as aforesaid.

3. If, however, in the opinion of any local authority only a specified portion of the area within its jurisdiction will be beneficially affected by any contribution as aforesaid, then such local authority, in lieu of holding a meeting and poll of the ratepayers as aforesaid, within the whole area of its jurisdiction, shall hold a Public Meeting of ratepayers and a poll only of the ratepayers owning rateable landed property within such specified portion of their area. In special areas.

4. Any special rate hereby authorized to be levied in terms of the resolution of a meeting and poll, in terms of section two of this Act, shall be levied on all the rateable property in the district or area of the local authority levying the same; but if, by the resolution, only a portion of the area of such local authority is affected, then the special rates shall be levied only on the rateable property within the specified area approved by a meeting and poll of ratepayers in terms of the last preceding section hereof, provided that no special rate levied under the terms of this Act shall exceed two pence in the Pound. Levy of Special Rate.

5. All meetings and polls taken under this Act shall be convened and held in accordance with such regulations and rules of procedure as the Governor may from time to time promulgate therefor. Meetings of Ratepayers.

6. This Act may be cited for all purposes as "The Local Authorities Railway Contributions Act, 1906." Short Title.

No. 34—1906.]

[August 21, 1906.

ACT

To Provide for the Construction, Acquisition, Equipment, Maintenance, and Working of certain Lines of Railway, and for a Subsidy towards a certain Line of Railway.

[Assented to 21st August, 1906.]

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

1. It shall be lawful for the Governor, as soon as it may seem to him expedient after the taking effect of this Act, to cause to be constructed, equipped, maintained, and worked, the Lines of Railway set forth in Schedule A to this Act, at a cost respectively not exceeding the several amounts set opposite the said Lines in the said Schedule. Railway Lines: George to Oudtshoorn; Butterworth to Idutywa; Riverside to Llewellyn.

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Railway Lines: Eende Kuil to Graaf Water or Vogelfontein, Barkly Bridge to a point on the Kowie Line; Lady Grey to Gairtney; Cathcart to Fairford or Chilton; Hopefield to Hoetjes Bay; Belmont to Douglas; Schoombie to Maraisburg; Queenstown to Whittlesea.

2. It shall, furthermore, be lawful for the Governor, as soon as it may seem to him expedient after the taking effect of this Act, to cause to be constructed, equipped, maintained, and worked, the Lines of Railway set forth in Schedule B to this Act, at a cost respectively not exceeding the several amounts set opposite the said Lines in the Schedule; ~~provided that the sum of £76,000, available from the amount authorized by Act 40 of 1898, for the construction of a line from Kalabas Kraal or Malmesbury to Pickenier's Kloof, shall in addition be available for the purpose of the line from Eende Kuil to Graaf Water or Vogelfontein, provided further that the sum of £25,000 provided by Act 38 of 1902 for the construction of a Line from Hopefield, in the direction of Vredenburg, shall in addition be available for the purpose of the Line from Hopefield to or near Hoetjes Bay via the vicinity of Lange Riet Vlei and the vicinity of Vredenburg; provided, further, that the line of Railway from Belmont to Douglas may be constructed either wholly or in part along the main or any other wagon road between the points mentioned, without it being compulsory on the part of the Governor to fence the whole or any portion of the said line of Railway anything to the contrary contained in Section fourteen hereof notwithstanding, and provided, further, that no passenger shall be carried on any of the lines mentioned in Schedule B except at his own risk and no liability shall attach to the Railway Department in respect of any accident to any passenger attributable to insufficiency of ballast, the material or mode of construction or the maintenance of the line, bridges or plant, the lines aforesaid being intended to be constructed and maintained for the purposes of agricultural development as light agricultural railways for the conveyance of produce and goods and not for the ordinary purposes of a railway; nor shall any passenger be entitled to damages in respect of any delays to which he may be subjected.~~

Bellville-Durbanville and Walmer-Port Elizabeth Railways.

3. Subject to the provisions of the next succeeding Section of this Act it shall be lawful for the Governor as soon as it may seem to him expedient after the taking effect of this Act, to cause to be constructed, equipped, maintained, and worked the Lines of Railways set forth in Schedule C to this Act, provided that for the purpose of the construction of the Line of Railway from Bellville to Durbanville it shall be lawful for the Governor to acquire at a cost to be settled by agreement, but not to exceed the sum of £2,000, all the assets, interests and rights acquired by the Durbanville Railway Company, Limited, under Act 7 of 1903, inclusive of all land required for the construction of the line with usual side-widths, land for stations, sidings, and other purposes in connection with the construction of the railway; and upon the due transfer of such assets being completed the rights of the Company under the said Act shall cease and determine; and, further, provided

that the cost of constructing (and in the case of the Durbanville Railway the cost of the acquisition of the assets hereinbefore provided for) and equipping the said lines inclusive of rolling stock for the Walmer Line but not for the Durbanville Line, shall not exceed the respective amounts set opposite them in the Schedule.

4. The provisions of the preceding Section of this Act shall not be acted upon unless and until the Governor shall be satisfied that the Municipal Council of Durbanville in respect of the line of Railway from Bellville to Durbanville and the Municipal Council of Walmer in respect of the line of Railway from Walmer to a point on the Port Elizabeth-Avontuur Line have entered into contracts with the Government guaranteeing and securing the payment to the Government of:—

Subject to Municipal Guarantee.

(a) Interest at the rate of four per centum per annum on the capital cost of the construction and equipment by the Government of the respective lines of Railway (provided that in the case of the Durbanville line a sum of £1,200 per mile being the amount of the subsidy authorised by Act 7 of 1903, shall be deducted from the Capital cost before assessing the interest), for a period of ten years from the date of the opening for traffic of the said lines respectively such capital cost to include:—

- (1) The acquisition of land and in the case of the Bellville-Durbanville Line the acquisition of the rights aforesaid, the erection of station buildings, and all other appurtenances and appliances as are usual on similar lines on the Cape Government Railways;
- (2) The actual cost of all betterments or new works which it may be necessary to provide after the opening of the respective lines for safe and proper working; and
- (3) An additional sum not exceeding five per centum of the expenditure to cover the cost of raising loans and interest during construction.

(b) The actual loss incurred by Government in the working of the said lines during the said period of ten years. Provided that any profit in working the said Railways which may be made in any one year ending on the 30th day of June shall be applied to the reduction of the liability of the respective guarantors in respect of the interest charges as aforesaid; and that the net shortfall only shall be the extent of the liability of the Municipalities and ratepayers in any one year. Provided, however, that adjustment be made from time to time, the period of the first adjustment to be within three years from the date of the opening of the said railways

And loss of working line for 10 years.

and thereafter annually, taking into consideration any past surplus of which the said Councils shall not at such date have had the full benefit; and provided also that a final adjustment shall take place after the expiration of the said period of ten years.

Ceres Road
to Ceres Rail-
way.

5. It shall furthermore be lawful for the Governor as soon as it may seem to him expedient after the taking effect of this Act to cause to be constructed, equipped, maintained, and worked as a 3 ft. 6 in. gauge line the Railway from Ceres Road to Ceres authorised by Act 38 of 1902 to be constructed on a 2 ft. gauge, at an additional cost not exceeding the amount provided therefor in Schedule D, provided that the Governor shall be satisfied that the Municipal Council, ^{and} or the Divisional Council of Ceres have entered into an Agreement with the Government guaranteeing and securing the payment to the Government for a period of ten years commencing at the expiration of one year from the date of the opening for traffic of the said line of an annual amount not exceeding £1,000 to cover the actual loss incurred by Government in the working and maintaining of the said line together with interest during the said period at the rate of four per centum per annum on the Capital cost of construction and equipment, such Capital cost to include :—

- (1) The acquisition of land, the erection of station buildings, and all other appurtenances and appliances as are usual on similar lines on the Cape Government Railways ;
- (2) The actual cost of all betterments or new works which it may be necessary to provide after the opening of the line for safe and proper working ; and
- (3) An additional sum not exceeding five per centum of the expenditure to cover the cost of raising loans and interest during construction ;

provided that the net shortfall only shall be the extent of the liability of the said Councils in any one year ; provided further that adjustments be made from time to time, the period of the first adjustment to be within three years from the date of the opening of the said railway and thereafter annually, taking into consideration any past surplus of which the said Councils or either of them shall not at that date have had the full benefit ; and provided further that all liability under this section of the said Councils or either of them shall cease upon the date of the commencement of any extension of the Ceres-Ceres Road section beyond Ceres duly authorised by Parliament as a portion of the Cape Government Railways, and provided also that a final adjustment shall take place after the expiration of the said period of ten years.

6. It shall furthermore be lawful for the Governor as soon as it may seem to him expedient after the taking effect of this Act to cause to be acquired, equipped, maintained, and worked, the lines of railway set forth in Schedule E to this Act at a cost respectively not exceeding the amounts set opposite the said lines in the said Schedule, provided that the sum of £9,184 representing the cost of acquiring and equipping the line from Mafeking to ^{Buurman's} Drift Siding shall be paid out of the amount of £84,150 provided by Schedule A of Act 44 of 1905 for a railway from Mafeking to Ottoshoop, notwithstanding anything to the contrary contained in the said Act; and provided further that it shall be lawful for the Governor to cause to be constructed, equipped, maintained and worked an extension to Diep River of the line of railway from Maitland to Ottery Road.

Mafeking -
Buurman's
Drift; Mait-
land - Ottery
Road; and
construction
of line from
Ottery Road
to Diep River.

7. It shall furthermore be lawful for the Governor to arrange with any person or Company for the constructing, equipping, maintaining and working of a line of railway from a point on the South Western Railway to an approved point on the Mossel Bay-George Railway, either of 3ft. 6in. or 2ft. gauge, and to agree to pay a subsidy not exceeding £1,300 per mile for a length not exceeding 53 miles, provided such subsidy does not exceed forty per centum of the total cost of constructing and equipping such railway, and it is provided that all the sections of Act 16 of 1904, intituled "The South Western Railway Company, Limited, Act, 1904," save and except those which are inconsistent with this clause shall *mutatis mutandis* be deemed to be, and to have the same effect as though they were, incorporated in this Act.

Subsidy-
K n y s n a -
George Rail-
way.

8. It shall furthermore be lawful for the Governor as soon as it may seem to him expedient after the taking effect of this Act to enter into and ratify a Convention with the Governor of Natal providing for the construction, equipment, maintenance and working by the Governor of Natal, subject to the approval and supervision of an Officer to be appointed by the Governor of the Cape of Good Hope, of a line of railway from Riverside to the Natal Border, the cost of such line of Railway including all station buildings and appurtenances to be borne by the Natal Government; provided always that the Governor shall have the right on giving six months' notice of his intention to acquire and take over the said line of Railway on such terms as may be laid down in the said Convention on payment of an amount not exceeding £20,000 plus the whole cost of station buildings and appurtenances and land required therefor at Riverside for Railway purposes.

Agreement
for construc-
tion of River-
side- Natal
Border Rail-
way.

9. It shall be lawful for the Governor, as soon as it may seem to him expedient after the taking effect of this Act, to arrange for the construction and equipment by the High Commissioner of the line of Railway referred to in the Agreement set forth in Schedule F to this Act.

Railway
from Bloem-
fontein to
Kimberley.

No. 34—1906.

Gauge.

10. All the Lines authorised to be constructed by this Act shall be constructed on the standard Colonial gauge of 3 ft. 6 in., with the exception of the Lines from Barkly Bridge *via* Alexandria to a point on the Kowie Railway between Round Hill and Port Alfred; Cathcart to a point in the vicinity of Fairford or Chilton; Queenstown to Whittlesea; Hopefield, to a point at or near Hoetjes Bay; Walmer to a point on the Port Elizabeth-Avontuur Railway; and Belmont to Douglas; which shall be constructed on a 2 ft. gauge.

Power of entry on land.

11. For the purpose of setting out the Lines of Railway referred to in Schedules A, B, C, D and E, and the Lines referred to in Sections eight and nine, the Governor may by persons thereto duly authorised, enter upon any land for the purpose of surveying the same, and of probing and boring for the purpose of ascertaining the nature and formation of the soil, making full compensation to the occupier of any such land for the damage, if any, thereby occasioned.

Application of provisions of Act 19 of 1861.

12. The several provisions of Act No. 19 of 1861, intituled "An Act for the Regulation of Railways in this Colony," save and except the twenty-ninth and thirtieth Sections thereof, and the provisions of any Law amending the said Act shall, *mutatis mutandis*, apply to so much of the land and railways referred to in the preceding Sections of this Act as shall lie within the Cape Colony, precisely as if the said railway belonged to a Company and there were a Board of Directors, the functions of the said Board being performed by the Governor, with advice of the Executive Council.

Governor to have powers of Divisional Council under Sections 146 and 147 of Act 40 of 1889.

13. The Governor shall for the purpose of the construction and maintenance of so much of the lines of railway referred to in this Act as shall lie within this Colony have and exercise all the rights and powers, subject to all the duties and obligations which a Divisional Council by law has and exercises, or is subject to under Sections one hundred and forty-six and one-hundred and forty-seven of the Act No. 40 of 1889, provided that:—

- (a) The extent of the land taken for the said lines of Railway shall not exceed seventy feet for the formation line, together with such additional land as may be required for the slopes, cesses, drainage, stations, sidings, approach roads and all other works, matters, and things which may be requisite or necessary for the efficient construction and maintenance and working of the said railways.
- (b) That the publication of notice in the *Gazette* shall be deemed to be sufficient notice to any proprietor who shall be absent from the Colony, or whose place of residence shall not be known.
- (c) That the settlement of questions as to recompense in consequence of any exercise of the rights and powers

aforesaid shall not delay such exercise and such questions shall, as soon as may be, be determined under the "Lands and Arbitration Clauses Act, 1882."

14. At all places where the lines of the said railways shall intersect or cross the line of any street or road in this Colony, it shall be lawful for the Governor to cause the said lines of railway to be made and carried across such street or road, either by a level crossing, or by means of a sufficient and convenient bridge, and at all places where the lines of the said railways shall run in the same direction as the line of any street or road in this Colony, it shall be lawful for the Governor, with the consent of the Municipal Council or Divisional Council in which any such street or road may be vested, to cause the said lines of railway to be made and carried along such street or road for such distance, subject to such conditions and with such safeguards as may be agreed upon between the Governor and such Municipal or Divisional Council.

Method to be adopted in crossing road or street.

15. Act No. 15 of 1897 prohibiting the erection of swing gates across certain roads in the division of Oudtshoorn shall not apply to swing gates at level crossings on any railway already constructed or to be constructed within the said division of Oudtshoorn.

Swing gates.

16. It shall and may be lawful for the Governor for the purpose of carrying out the provisions of this Act to raise by way of loan either temporarily or by means of Colonial or Consolidated Stock to be issued in this Colony or in England under the provisions of "The Cape of Good Hope General Loans Act, 1881," as amended by the "Cape of Good Hope General Loans Acts, 1883, 1888 and 1892," a sum not exceeding £2,026,266.

Loan to be raised.

17. No expenditure under this Act shall be incurred for any new work until the Treasurer shall have notified under his hand to the Commissioner of Public Works that the funds for such work are available.

Work not to be commenced until funds available.

18. The provisions of Section seventeen of the "Railways Extension Act, 1895," shall apply to the construction and maintenance of such part of the lines authorised by the Act aforesaid as may have been or shall be constructed by the Governor, and all rights and powers already exercised by him in respect thereof shall be deemed to have been properly and duly exercised.

Act 28 of 1895 to apply to Governor.

19. This Act may be cited for all purposes as "The Railways Acquisition and Construction Act, 1906."

Short Title.

SCHEDULE A.

Schedule A.

Line of Railway.	Mileage.	Cost.
		£
George to Oudtshoorn	46 $\frac{3}{4}$	372,971
Butterworth to Idutywa	26	117,842
Riverside to Llewellyn	27	256,000

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ACT, 1906.

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Schedule B.

SCHEDULE B.

Line of Railway.	Mileage.	Cost.
Eende Kuil to a point in the vicinity of Graaf Water or Vogelfontein in the direction of Van Rhyn's Dorp ...	53½	£ 155,773
Barkly Bridge <i>via</i> Alexandria to a point on the Kowie Railway between Round Hill and Port Alfred ...	90	313,377
Lady Grey to Gairtney	21	197,515
Cathcart to a point in the vicinity of Fairford or Chilton	49	138,229
Hopefield to a point at or near Hoetjes Bay <i>via</i> the vicinity of Lange Riet Vlei and the vicinity of Vredenburg	40	62,640
Belmont to Douglas	55	100,870
Schoombie to Maraisburg	28¼	100,000
Queenstown to Whittlesea	22½	55,000

Schedule C.

SCHEDULE C.

Line of Railway.	Mileage.	Cost.
Bellville to Durbanville... ..	7¼	£ 26,000
Walmat to a point on the Port Elizabeth—Avontuur Railway	3½	11,976

Schedule D.

SCHEDULE D.

Line of Railway.	Mileage.	Cost.
Ceres Road to Ceres	10¾	£ 60,873

Schedule E.

SCHEDULE E.

Line of Railway.	Mileage.	Cost.
Mafeking to Buurman's Drift Siding ...	9¼	£ ...
Maitland to Ottery Road, Wynberg and Diep River	9½	57,200

SCHEDULE F.

Schedule F.

MEMORANDUM OF AGREEMENT made and entered into this fifteenth day of June, 1906, between Patrick Duncan, for and on behalf of the High Commissioner of South Africa, in his capacity as Chairman of the Railway Committee of the Inter-Colonial Council of the Transvaal and Orange River Colony of the one part, and Thomas William Smartt, of Cape Town, in the Colony of the Cape of Good Hope, Commissioner of Public Works, acting for and on behalf of the Governor of the Cape of Good Hope, of the other part.

(a) WHEREAS the Inter-Colonial Council aforesaid did, by its Resolution of the 24th November, 1905, authorise the construction of a Line of Railway from Bloemfontein, in the Orange River Colony, to Kimberley or Beaconsfield, or a point in the vicinity thereof, in the Cape Colony, as soon as the written consent of the Cape Government to a point of junction has been received; and

(b) WHEREAS the Government of the Cape of Good Hope desires to do all things necessary in order to enable the Inter-Colonial Council to construct, equip, maintain, and work the said line of railway; and

(c) WHEREAS it is considered desirable that an agreement should be entered into regarding the construction and working of the line of railway aforesaid.

NOW THESE PRESENTS WITNESS, and it is hereby agreed as set forth in the following Articles:—

ARTICLE 1.

(a) "The Cape" shall mean the Government of the Cape of Good Hope, administered by the Governor of the Cape of Good Hope.

(b) "The Chairman" shall mean the Chairman for the time being of the Railway Committee of the Inter-Colonial Council or the Officer appointed by the High Commissioner to carry out the duties of the Chairman of the Railway Committee in respect of this Agreement.

(c) "The Cape Railways" shall mean the entire system of railways, owned and administered by the Cape Government.

(d) "The Railway" shall mean the line of railway from Bloemfontein to a point on the existing line of Cape Railways at or near Kimberley.

(e) "The Extension" shall mean such portion of the railway defined in sub-section (d) of this Article, as lies between the border of the Orange River Colony and the point of junction with the Cape railways at or near Kimberley as shall be approved by the Cape, and shall include the permanent way, and all buildings,

machinery, plant material, signalling apparatus, platelayers' cottages, residences for railway servants, sidings, junction works, and all other works connected therewith.

ARTICLE 2.

Granting
right to con-
struct and
work the Ex-
tension.

The Cape agrees to grant to the Chairman the exclusive right to construct, maintain, and work the Extension as defined in Article 1 hereof, subject to the conditions and Articles herein-after contained.

ARTICLE 3.

The Chair-
man to con-
struct Exten-
sion.

The Chairman undertakes to construct, and equip, or to effect the construction and equipment of the Extension at his own risk and cost without any guarantee of interest on the part of the Cape; such construction and equipment shall be in accordance with surveys, plans, sections, types, estimates, and specifications, previously approved by the Cape, or the officer appointed by the Cape for that purpose; and the Chairman further undertakes to bear the cost of the necessary Junction Works and appliances, at or near Kimberley and of providing such buildings at Kimberley (or other exchange station mutually agreed upon) as may be necessary for the accommodation of the staff required to work the Railway.

If the junction herein provided for is not established at Kimberley or other station where staff is kept, the cost of working such junction shall be borne by the Chairman; but if the Junction is established at a station where staff is kept the proportion to be borne by each party hereto of the cost of working it shall be settled by mutual agreement.

ARTICLE 4.

Provision of
land.

The Cape undertakes from time to time and whenever called upon to do so by the Chairman (and at the cost of the latter when compensation has to be paid), to do, or cause to be done all things necessary in order to provide and vest in the Chairman, free from liability to be expropriated, all land necessary for the construction, working and maintenance of the Extension (including land required for the raising and carrying of materials, sites for signal stations, platelayers' cottages, residences for railway servants, and watering places for railway purposes).

ARTICLE 5.

Telegraphs
and Tele-
phones.

The Chairman agrees and is hereby empowered to lay along the Extension a line of telegraphs, telephones or other line of scientific communication to be used for the purpose of, and in connection with the said Railway, but not otherwise, except where specially required by the Cape, in which case the Cape shall make provision for the transmission of messages on terms to be mutually agreed upon from time to time.

ARTICLE 6.

The Chairman shall be bound properly to fence the Extension.

Fencing.

ARTICLE 7.

The Chairman shall not permit any connections to be made with the said Extension either in the nature of private sidings, or connections with other lines of railway without the approval of the Cape being first had and obtained, nor shall the Chairman permit any connections to be made between the railway and any lines or sidings in the Cape Colony save and except the Extension the subject of this Agreement; it is further provided and agreed that there shall be no junction from the South within the Borders of the Orange River Colony with the railway, elsewhere than at or near Bloemfontein, without the consent of the Cape being first asked and obtained.

Connections with private sidings or other lines.

ARTICLE 8.

All materials requisite for the construction and equipment of the said railway which have to be imported from oversea therefor shall be imported through Cape Ports.

Conveyance of material for construction and equipment of Railway.

ARTICLE 9.

The Cape is hereby empowered to take over the Extension (rolling stock excepted) as a going concern, after the expiration of not less than six months' notice of its intention to exercise the power served on the Chairman.

Expropriation of Extension.

(a) Nothing in this Article shall be construed as empowering the Cape to take over a portion only of the Extension, buildings and appurtenances or any of them.

ARTICLE 10.

On taking over the Extension, as provided in the last preceding Article, the Cape shall pay to the Chairman in consideration therefor the actual cost of the said Extension, that is to say, the original actual cost of construction (exclusive of the cost of rolling stock), plus the actual cost to the Chairman of compensation for expropriation of land, supervision and betterments duly approved by the Cape.

Payment on Expropriation.

ARTICLE 11.

The following provisions as to the rates and fares to be charged in through and in local traffic shall be binding until such time as they are revised by mutual consent:—

Rates and Fares.

(a) The rates to be charged on the Railway for all over-sea traffic shall be fixed so that the sum of the Port rate from all South African Ports to Bloemfontein or other station, plus the rate therefrom to Kimberley or other station beyond the point of junction of the Railway with the existing Cape Railways shall not be lower than the rate for the time being from East London *via* Cookhouse and De Aar to Kimberley or other station.

Overseas traffic to Kimberley, &c., *via* Bloemfontein

Provided always that in the case of such other station being south of the point of junction there shall be added to the rate to Kimberley *via* the new line a sum equal to the rate over the Cape Government Railways for the distance from Kimberley to such other station.

Over sea traffic to places on the Railway via Bloemfontein (b) No lower rate shall be charged on the railway for oversea traffic forwarded *via* Bloemfontein to any place on the said railway than the proportion, according to mileage, of the rate fixed in terms of the preceding sub-section for the conveyance of such traffic over the whole of the said railway.

Rate for S.A.P. (c) There shall be a uniform rate for each class of South African Produce over the railway and such shall not be less than the rate per ton per mile charged for similar produce grown in the Cape Colony over other lines of railway in the Orange River Colony.

Conveyance of Coal. (d) The Chairman undertakes to place the Cape Government so far as concerns the conveyance *via* the railway of coal for the purpose of the Cape Railways in a no worse position in regard to rates and other facilities than those obtaining from time to time over the existing O.R.C. trunk line from Vereeniging to Norval's Pont and Bethulie.

Rates on traffic not otherwise provided for herein. (e) The rate to be charged in respect of traffic not otherwise provided for in this Article shall be not less than the through or local rate, as the case may be, in force from time to time on the Central South African Railways, provided that in the event of the Cape exercising in respect of the Extension the powers reserved to it in Article 9 the Cape shall have the right to charge over the Extension in respect of traffic dealt with in this sub-section such rates in through or local traffic as the case may be as are in force from time to time on the Cape Government Railways.

Passenger Fares. (f) The fares for local and through passenger traffic on the railway shall be charged at the mileage rate in force from time to time on the Central South African Railways.

Division. (g) After the Cape has taken over in terms of Article 9, the Extension, the rates on traffic over the railway shall be divided by mileage according to the length owned by each Administration concerned, terminals as may be mutually agreed to being first deducted in respect of work performed at Port, Cartage or other Stations.

ARTICLE 12.

Working Agreement to be framed. The Chairman and the Cape undertake that the working of the traffic between their respective lines shall be regulated by the terms of a Working Agreement to be entered into between the Chairman and the Cape, and agree that such Working Agreement may be modified by mutual arrangement.

Further, it is understood that the character of the arrangements for the working and interchange of traffic shall correspond in

their nature in so far as the respective conditions allow with those obtaining for the time being between the Cape Railways and Central South African Railways for the working and interchange of traffic at the Border Stations at Norval's Pont, Bethulie and Warrenton, so long as they form the interchange stations between the Cape Railways and the Central South African Railways.

ARTICLE 13.

It is agreed that trucks and other rolling stock which may be sent with traffic from the lines of one Administration to those of the other, shall be returned to the parent line by any of the direct routes then existing, provided that in the case of Cape trucks, the Cape Railways shall have the right to call upon the Chairman to return the trucks by the route adopted on the forward journey until all the requirements of the Cape Railways in the way of coal supply from the Orange River Colony or Transvaal are met.

Returning of
Trucks to
Parent Line.

Similarly the Chairman shall be entitled to call upon the Cape Railways to return empty trucks belonging to the Central South African Railways or other Administrations by the route adopted on the forward journey.

ARTICLE 14.

The Chairman undertakes to convey over the Extension all letters, newspapers, parcels and other postal matter usually conveyed through the post at a rate not higher than that which is charged from time to time by the Cape Railways for similar services performed on similar lines in the Cape Colony.

Rate for
Mails and
other Postal
matters.

ARTICLE 15.

The Chairman shall keep all necessary books and accounts customary which shall shew specifically the cost of construction and equipment of the Extension, and the said books and accounts shall be open at all times to inspection by any person appointed in writing by the Cape, and such person may take such extracts from such books and accounts as he may think proper. The Chairman shall also furnish to the Cape accounts showing the actual cost of the construction and equipment of the said Extension.

Accounts
showing cost
of construction
and
equipment.

ARTICLE 16.

The Chairman shall appoint an accredited agent in the Colony of the Cape of Good Hope to sue or to be sued in any of the Courts of the said Colony in connection with any matters concerning the said Extension, similarly the Cape shall appoint an agent in the Orange River Colony.

Accredited
Agents to be
appointed.

ARTICLE 17.

Arbitration. All disputes or differences arising during the continuance of this Agreement between the Chairman and the Cape shall be submitted for consideration and decision by three arbitrators, one to be appointed by the Chairman and one to be appointed by the Cape and the third to be appointed by the two arbitrators so appointed, before proceeding to the arbitration.

ARTICLE 18.

Ratification. The Chairman and the Commissioner undertake to obtain all such authorities and powers as may be necessary in order to enable them to carry out the provisions of this Agreement, as soon as may be, and failing the obtaining of such authorities and powers within a period of twelve months from the date of entering into these Presents, this Agreement shall become null and void, unless the contracting parties shall mutually agree to allow further time for the obtaining of the same.

ARTICLE 19.

Period of Agreement. This Agreement shall remain in force for a period of seven years after which it shall be terminable by either party on giving six months' notice of their intention to withdraw therefrom: after such termination of period all traffic on the Extension shall cease and the Chairman shall have the right irrespective of which side gave such notice to remove all railway material and plant on such Extension, paying to the Cape any expenditure the latter may be put to in re-adjustment of the actual point of junction.

ARTICLE 20.

This Agreement shall be of no effect unless and until the Natal Government shall have consented, in writing, to waive all rights in respect of oversea traffic arising under an Agreement dated 10th March, 1905, between themselves and the Chairman for the construction of a Railway between Bethlehem and Kroonstad.

As WITNESS the hands of the said parties the day and year
aforewritten.

As WITNESSES :

(Signed) H. F. WILSON, (Signed) PATRICK DUNCAN.
" B. H. BRAND.

As WITNESSES :

(Signed) T. S. McEWEN, (Signed) T. W. SMARTT.
" F. H. SARGEANT.

No. 35—1906.]

[August 21, 1906.

ACT

To Regulate the Trade of General Dealers and Hawkers and to Amend the Law relating to Stamp Duties and Licences.

[Assented to 21st August, 1906.]

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

1. So much of Act 38 of 1887 entitled an Act to amend and explain the law relating to Stamp Duties and Licences, and of any other law as is inconsistent with the provisions of this Act, is hereby repealed. Repeal of Laws.

2. "Person" in this Act shall include any firm or company.

3. From and after the promulgation of this Act no General Dealer's Licence shall be issued or granted to any person who, at the time of the said promulgation, was not the holder of such a Licence, and no Hawker's Licence shall be issued to anyone, except upon the certificate hereinafter referred to, and upon the promulgation of this Act a list shall be framed and kept by every Resident Magistrate and Assistant Resident Magistrate of a district or detached district, of the names of all persons, holding existing General Dealer's Licences in the said district, and such persons shall be exempt in the said district, so long as they trade there, from the provisions of this Act relating to the obtaining of a Certificate for a New General Dealer's Licence. Meaning of "person,"
General Dealer's and Hawker's Licences.

4. Any General Dealer's or Hawker's Licence which requires the aforesaid certificate for its issue, shall be deemed to be a new Licence for the purposes of this Act. New Licence.

5. Any person desiring to obtain a New General Dealer's or Hawker's Licence shall, if he desires to carry on such business within any Municipal area, apply to the Municipal Council thereof for a certificate allowing the issue of such Licence, and such Council shall at the next ordinary meeting or special meeting, called for the purpose of considering the application, grant the said certificate, unless at least two-thirds of the Councillors voting and forming a majority of the whole number of members constituting the Council, are opposed to the issue thereof, in which case it shall be refused. Certificate of Municipal Council in case of a business to be carried on within a Municipality.

6. If the said applicant desires to obtain a new General Dealer's or Hawker's Licence in any Village Management Board area or in any Divisional Council area outside of a Municipal or Village Management Board area, he shall apply to the Divisional Council or Village Management Board of such area as the case may be and such Board or Council shall, at its next ordinary Certificate of Divisional Council or Village Management Board in case of business to be carried on outside a Municipality.

meeting or at a special meeting called for the purpose of considering the application, grant a certificate for the issue of the said licence unless at least two-thirds of the members voting and forming a majority of the whole number of members constituting such Council or Board are opposed to the issue of the certificate, in which case it shall be refused.

Majority of Members of Council to be present.

7. No application for the aforesaid certificate shall be considered at any meeting of a Municipal Council, Village Management Board or Divisional Council, unless a majority of the whole number of members constituting such Council or Board are present at such meeting.

Certificate of Resident Magistrate in other cases.

8. In case there be no Municipality, Divisional Council or Village Management Board in or for the area in which a new General Dealer's or Hawker's Licence is sought, the granting or refusal of the certificate allowing the issue of the licence shall be in the discretion of the Resident Magistrate or Assistant Resident Magistrate of the district or detached district as the case may be in which the business is sought to be carried on.

Effect of refusal of Certificate.

9. Should any applicant be refused a certificate as aforesaid it shall not be lawful for such Council, Board or Magistrate again to consider the application within six months of such refusal.

Certificates to be forwarded to Magistrate.

10. Any certificate issued under the provisions of this Act shall be signed by the Town Clerk or Secretary of the said Board or Council or by the Magistrate as the case may be, and a list of such certificates shall be forwarded by such Town Clerk or Secretary monthly to the Resident Magistrate or Assistant Resident Magistrate of the district or detached district as the case may be, in which such certificates are issued, and in case licences be taken out upon such certificates, the Resident Magistrate or Assistant Resident Magistrate, as the case may be, shall add the names of the persons so licensed to the list referred to in section three, and such persons shall thereafter be entitled to the exemption provided by the said section, in regard to successive annual licences applied for by such persons.

Notice of intention to sell or transfer.

11. No application for a new General Dealer's Licence by a person who has acquired or purposes to acquire an existing General Dealer's business shall be entertained unless upon proof that the seller has given Fourteen Days notice of his intention to sell or transfer the said business, with the name of the district and street or place where the said business is situated, in the *Gazette* and in at least one newspaper circulating in the district where such business is a carried on.

Death of Licence holder.

12. In case of the death of the holder of any licence the widow or widower (if any) or the executor of the deceased person and failing the appointment of an executor, any *curator bonis* appointed by the Master of the Supreme Court for taking charge of the Estate of such deceased person or any person approved of by the Resident Magistrate and in case of insolvency or assignment the

trustee or assignee of the Estate of such person, may carry on the business under the same licence.

13. In case the applicant for a certificate for the issue of a licence as aforesaid shall die, become insolvent or assign his estate after applying for the said certificate, but on or before the date for considering such application, the Council, Board or Magistrate, as the case may be, may grant a certificate for such licence to the widow or widower of the deceased applicant or to the executor, *curator bonis*, trustee or assignee, as the case may be, of the Estate of such applicant.

Death or insolvency of applicant after application.

14. If any person who is subject to the provisions of this Act carries on the trade of a General Dealer or Hawker without obtaining a certificate in the manner hereinbefore mentioned, he shall be deemed to be trading without a licence.

Trading without a licence.

15. From and after the promulgation of this Act no General Dealer's Licence, whether issued under the provisions of this Act or not, shall cover more than one shop or separate place of business, provided that no more than one licence shall be required for shops divided by walls but otherwise adjoining one another, and no licence shall be required in respect of premises used for manufacturing or storage only.

Limitations of General Dealer's Licence.

16. Any holder of a General Dealer's or Hawker's Licence who shall be twice convicted within 12 months for unlawfully selling or trading on Sunday or for selling spirituous liquor without a licence, may be punished in addition to any other penalties provided by law, by cancellation of his licence, and such cancellation shall debar the said person from obtaining a fresh licence for twelve months thereafter.

Offences by holder of General Dealer's or Hawker's licence.

17. The Municipal Council or Village Management Board of any area under such Council or Board may fix the hours of trade by General Dealers, or any classification of them, as to such Council or Board may seem meet within such area whether the licence was issued under the provisions of this Act or not, at a special meeting called for the purpose, of which fourteen days' notice shall be given, the hours for opening not to be earlier than 5 o'clock in the morning, and the closing hours not to be earlier than 8 o'clock or later than 11 o'clock at night, and such hours from 5 o'clock to 11 o'clock shall be the hours of trade, if no others are fixed by the said Council or Board, and any holder of a licence selling or trading at any other hour or hours than those so fixed or provided shall be deemed to have traded without a licence: Provided that no Council or Board shall fix hours for Saturday or for the day preceding Christmas or New Year respectively other than 5 o'clock in the morning for opening and 11 o'clock at night for closing, and if no hours are so fixed the said hours shall be the hours of trade on such days: Provided further that no General Dealer shall sell on Sunday, and no shop in which a General Dealer's goods are kept for sale on business

Powers of Municipal Council or Village Management Board as to fixing hours of trade.

days shall be open on the said prohibited days or hours, and any General Dealer contravening this proviso shall be deemed to be trading without a licence: Provided further that nothing in this Act shall interfere with the right of any person holding a General Dealer's Licence to open his shop later in the morning or close it earlier in the evening than the hours fixed under this Act, or the hours fixed by any Council or Board: Provided lastly that nothing in this Act shall make it lawful to sell at a time prohibited by the Half Holiday Act or any other law, and provided further that nothing in this Clause shall prevent a Chemist from opening his shop at any time prohibited, for the purpose of selling all such things as he is entitled to sell under his Chemist's or Druggist's Licence.

Area of
operation of
hours of trade.

18. The hours of trading as aforesaid fixed by the said Municipal Council or Village Management Board or as provided herein shall be in operation and have the force of law within a distance of three miles from and beyond the boundary of such Municipal or Village Management Board area, the said three miles not to include any portion of any other Municipality or Village Management Board area.

Limitation
of operation
of Hawker's
licences.

19. From and after the passing of this Act a Hawker's Licence shall authorise the holder to trade only in a Municipal or Village Management Board area or in a Divisional Council area outside the said Municipal or Village Management Board area, as the case may be, according as the licence is taken out in the one area or the other, and no Hawker's Licence shall from and after the passing of this Act authorise the holder to trade throughout the Colony, provided that this licence shall not apply to existing Hawker's Licences issued before the provisions of this Act take effect.

Fees for
Hawker's
licences.

20. There shall be payable for a Hawker's Licence within a Municipal or Village Management Board area the sum of two pounds, and within a Divisional Council area outside of a Municipal or Village Management Board area the sum of three pounds.

Short Title:

21. This Act may be cited as the "General Dealers' and other Licences Amendment Act, 1906."

No. 36—1906.]

[August 21, 1906.

ACT

To Authorise the Issue of Title in favour of Henry James Adkins, Senior, to certain land, being Lot No. 13, near Potsdam, in the Division of East London, to which he was decreed entitled by prescriptive right.

[Assented to 21st August, 1906.]

WHEREAS by an Order of the Supreme Court of the Colony, on the 12th January, 1905, on a petition by Henry James Adkins, Senior, a certain piece of unsurveyed land, in extent about 11 morgen 200 square roods, known as Lot No. 13, near Potsdam, in the Division of East London, was ordered to be enregistered in the name of the said Henry James Adkins, Senior; Preamble.

And whereas Parliament, by Resolution, dated the 29th May and 5th June, 1905, did sanction the grant of a freehold title to the said land in favour of the said Henry James Adkins, Senior;

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

1. Notwithstanding anything to the contrary in the “Crown Lands Disposal Act, 1887,” or any other Law, it shall be lawful Title to H.
J. Adkins, Sr. for the Governor to issue to Henry James Adkins, Senior, a freehold title to the land in the preamble to this Act described: provided that the grantee shall pay the cost of survey and office fee.

2. This Act may be cited as “The Adkins Land Title Act, 1906.” Short Title.

No. 37—1906.]

[August 21, 1906.

ACT

To Authorise the raising of a Loan of One Million and Fifty Eight Thousand Six Hundred Pounds for the purpose of carrying out certain Works and Services and to make provision in regard to certain Public Monies.

[Assented to 21st August, 1906.]

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

No. 37—1906.

Application of surplus balances on Telegraph and Telephone works to construction of other works.

1. For the purpose of constructing the Telegraph and Telephone works detailed in Schedule "A" hereunto annexed, it shall be lawful to apply certain surplus balances whether more or less as the case may be as well as the amounts authorised for the construction of certain other works as detailed in the said Schedule.

Power to raise Loan of £89,220 for carrying out the works, detailed in Schedule B.

2. It shall be lawful for the Governor to raise by public loan, either temporarily or by means of Consolidated or Colonial Stock in London or in the Colony, the sum of £89,220 0s. 0d. for the purpose of carrying out the works detailed in Schedule "B" hereof, being certain of the works authorised in Schedule "C" II. "Secretary for Public Works" to the Loans Act No. 43 of 1905.

Power to raise Loan of £669,380 for constructing works, detailed in Schedule C.

3. For the purposes of constructing the works and services detailed in Schedule "C" to this Act, it shall be lawful for the Governor to raise by public loan, either temporarily or by means of Consolidated or Colonial Stock in London or in the Colony, the sum of £669,380 0s. 0d.

Loan of £300,000 authorized to meet claims for compensation for War Losses.

4. It shall be lawful for the Governor to raise, either temporarily or by means of consolidated or Colonial stock in London or in the Colony, a further loan of three hundred thousand pounds sterling for the purposes of the War Losses Additional Compensation Loan Act, 1902, under which Act the loan hereby authorised shall be appropriated and shall be deemed to have been raised: Provided that a portion of the sum raised hereunder may be applied towards the expenses and cost of administration, from and after the 1st July, 1903, of sections sixty-two, sixty-three, sixty-four, sixty-five and sixty-six of "The Indemnity and Special Tribunals Act, 1900," "The War Losses Compensation Act, 1900," "The War Losses Compensation Sub-Commissions Act, 1902," "The War Losses Additional Compensation Loan Act, 1902," "The War Losses Compensation Inquiry Act, 1904," "The War Losses Loan Act, 1904," and this Section of this Act.

Treasurer may pay certain claims awarded out of moneys raised.

5. Out of moneys already provided or provided under the preceding Section hereof for the purposes of compensation for War Losses it shall be lawful for the Treasurer to pay, subject to the provisions of "The War Losses Additional Compensation Loan Act, 1902," to the person entitled thereto the amount, or any portion thereof, of—

- (a) Any increase of an award of compensation recommended under the provisions of Section 1 of the "War Losses Compensation Inquiry Act, 1904," by the Commission appointed under the said Act;
- (b) Any award of compensation recommended by the said Commission on any claim inquired into by the said Commission under the provisions of Sub-section (d) of Section 1 of the said Act.

6. From and after the 1st July, 1906, there shall be paid out of the Public Revenue of the Colony to the Sinking Fund Commissioners appointed under the provisions of Act No. 11 of 1897, on the first day of January in each year, an annual sum calculated at the rate of one per cent. per annum upon the sum raised under Sections 2 and 3 of this Act, which sum shall be applied towards the reduction of any portion of the existing Public Debt of the Colony, or in respect of any debt now or hereafter created, either permanently or temporarily.

Payment to sinking Fund.

7. The provisions of Clause 2 of the "New and Additional Railway Works Act No. 42 of 1902" shall be and are hereby repealed in so far as they affect the redemption charges for the financial years subsequent to the 30th June, 1905.

Repeal of Clause 2 of Act 42 of 1902 in respect of redemption charges subsequent to 30th June, 1905; provision for balance of redemption charges and application of Railway Surplus 1905-6 to meet deficiency on other Services.

The unredeemed portion of the sums of £885,000 and £125,000 mentioned in the said Clause shall, from and after the 1st July, 1906, be a first charge against any surplus of Railway Revenue received over the Expenditure charged to the Railway Vote until the whole amount is discharged, provided that the amount so charged shall not exceed in any one year the sum of £252,500.

The Railway Capital Account shall be relieved of the amount forming the surplus of Railways Revenue over Expenditure for the financial year 1905-06, which sum shall be taken and applied towards meeting the deficiency for the said year in connection with services other than Railways.

8. All advances which by law are required to be made, subject to repayment, to cover the costs of survey of any native location, mission or other land, including all such advances as have been made, but not repaid at the date of the promulgation of this Act, shall be met out of the sum raised under the provisions of this Act. A separate account shall be kept of all such advances, and any moneys paid in adjustment of advances already or hereafter made according to law shall be credited to the said Account.

Loan for survey of Native Locations and Mission Lands.

9. The provisions of the foregoing section shall apply, *mutatis mutandis*, to fencing advances made under the provisions of Section 11 of Act No. 17 of 1891.

Loan for Fencing Advances.

10. A separate account shall be kept of all amounts expended under the provisions of this Act for forest plantation extensions, and all Revenue received from such extended plantations shall be credited to the said account. Any Revenue received in excess of the amounts authorized by this Act to be raised by loan for forest plantations shall be paid to the Sinking Fund Commissioners and be applied towards the reduction of any portion of the existing Public Debt of the Colony or in respect of any debt now or hereafter created either permanently or temporarily.

Separate account to be kept for Forest Plantation extensions.

Revenue in excess of loan raised to be applied to Sinking Fund.

No. 37—1906.

Provisions for compensation to Native occupiers of land at Port St. Johns and survey of such land.

11. In respect of the sum of £6,300 mentioned in Part I. to Schedule "C" to this Act, the amount of £4,800 to be paid as and for compensation to the native occupiers of the lands appropriated for disposal in the neighbourhood of Port St. John's shall, notwithstanding anything to the contrary contained in the fifth section of Act No. 11 of 1897 or any other law, be a first charge against the proceeds of sale of such lands, and the balance shall be applied towards the cost of survey of such lands subject to repayment by the purchasers at the sale thereof.

Certain moneys to be applied to Post Office Store Reserve.

12. The value of the fire stock of telegraph material held by the Postmaster-General, amounting to £3,145 13s. 10d., is hereby authorised to be added to the Stores Suspense Account created by Section 1 of Act No. 43 of 1905, as well as a sum of £452 8s. 9d., representing the value of certain material belonging to the Telegraph Capital Account which was recovered in connection with the dismantling of the Aliwal North—Lady Grey section of Aliwal North—Palmietfontein line of telegraphs, and for the purpose of providing further capital for the Stores Suspense Account of the Post Office it shall be lawful for the Governor to apply the sum of one pound five shillings and two pence, being the unappropriated balance of the amount provided under Schedule "D" of Act 29 of 1904 for the cost of raising certain loans.

Conversion of Treasury Bills into Stock.

13. It shall be lawful for the Governor to authorise the conversion of the Treasury 4 per cent. Bills amounting to £2,000,000 issued in London in or about April, 1904, into Cape of Good Hope Consolidated Stock.

Additions to Schedule of Act No. 12 of 1900.

14. The provisions of Sections 1 and 3 of the Sinking Fund Extension Act No. 12 of 1900 shall apply in respect of all void Money Orders and unclaimed Postal Notes, and the following items shall be added to the Schedule of the said Act:—

- (1) Any sum which may under any Act or Regulation be payable to the Sinking Fund Commissioners for the purpose of reducing the capital liability of any Government undertaking.
- (2) Unclaimed surplus cash in hands of postmasters and country clerks of the Post and Telegraph Offices, and unclaimed Savings Bank Deposits referred to in the said Schedule shall be paid over to the Sinking Fund Commissioners after the lapse of twenty-five years with accrued interest thereon.

No work until funds available.

15. No expenditure in connection with the works specified in Schedules "B" and "C" to this Act shall be incurred until the Treasurer shall have notified that the funds for such works are available.

Short Title.

16. This Act may be cited as the "Public Loans Act, 1906."

SCHEDULE A.

	<i>Estimated.</i>		
	£	s.	d.
1. Proportion of Expenses (£189 6s. 6d.) and unearned interest (£43 4s. 11d.) incurred in raising £4,305 under Schedule D of Act No. 29 of 1904	232	11	5
2. Deficit on Sub-Section "Erection and Equipment of Private Wires" Schedule C of Act No. 36 of 1899	361	11	0
3. King Williamstown to Umtata (Additional Wire)	2,030	0	0
4. Clanwilliam to Van Rhynsdorp (Additional Wire)	724	0	0
5. Springbokfontein to O'okiep (Additional Wire)	100	0	0
6. Cape Town to Somerset West (Additional Wire)	400	0	0
7. Central Telegraph Office, Cape Town (Substitution of accumulators for primary batteries)	1,750	0	0
8. Plettenberg Bay — Storms River (New Line)	665	0	0
9. Bedford—Glencliff (New line)	470	0	0
10. Telephone Exchange Area—East London	1,600	0	0
11. New Private Wires	2,013	14	2
12. New Telephone Exchanges	2,000	0	0
13. General Purposes	1,696	16	9
	£14,043 13 4		

SURPLUS BALANCES.

	<i>Estimated.</i>		
	£	s.	d.
1. Act 36 of 1899, Schedule C, Duplication of Private Wires	367	14	10
2. Act 31 of 1902, Schedule B, Private Wires and Telephone Exchange, Cradock	3	4	7
3. Schedule B, rebuilding main lines	695	19	9
4. Act 43 of 1905, Schedule D, item 1, Alice-dale to Cradock, rebuilding line	9,622	12	7
5. Schedule B, item 2, Port Elizabeth to Rosmead, additional line	1,032	19	8
6. Schedule B, item 6, Exchange Area, Cape Town and Suburbs	393	3	8

		<i>Estimated.</i>		
		£	s.	d.
7.	Schedule B, item 7, Exchange Area, Port Elizabeth	28	7	10
8.	Schedule B, item 8, Exchange Area, Kimberley	463	5	0
9.	Schedule B, item 9, Exchange Area, East London	39	12	8
10.	Schedule B, item 10, Exchange Area, Queenstown	7	17	5
11.	Schedule B, item 11, Exchange Area, Grahamstown	32	1	11
12.	Schedule B, item 12, Exchange Area, King William's Town	4	19	1
13.	Schedule B, item 14, Exchange Area, Mossel Bay	2	4	6
14.	Schedule B, item 24, Private Wires	12	4	3
15.	Schedule D, item 2, King William's Town to Queenstown, additional line	100	18	5
16.	Schedule D, item 7, Napier to Elim new line	227	15	5
17.	Schedule D, item 8, Deviation to Stanford	501	7	9
18.	Schedule D, item 9, Ceres to Prince Alfred's Hamlet	137	15	1
19.	Schedule D, item 11, Port Alfred to West Bank, new line	10	1	6
20.	Schedule D, item 12, Robertson to Lady Grey (MacGregor) new line	129	2	11
21.	Schedule D, item 13, Loop line to Klipkraal	19	16	3
22.	Schedule D, item 14, Whittelea to Poplar Grove, new line	45	9	2
23.	Schedule D, item 15, Loop line to Longlands	98	1	10
24.	Schedule D, item 27, General Purposes	66	17	3
		<hr/>		
		£14,043	13	4
		<hr/>		

SCHEDULE B.

COMMISSIONER OF PUBLIC WORKS.

WORK.	Amount under Act 43 of 1905.	Total Estimated Expenditure.	Already raised.	To be raised.	Remarks.
	£	£	£	£	
1. Alexandra Hospital: New Buildings at Oude Molen.	21,000	80,000	5,250	7,500	On account.
2. Robben Island: Additional Works	21,000	21,000	9,450	11,550	To complete.
3. Gaols and Convict Stations.	62,825	62,825	26,250	36,575	To complete.
4. Woodstock Public Offices and Police Station, &c., Cape.	12,600	12,600	5,250	5,000	On account.
5. Upington Bridge, Caledon, and Approaches.	1,575	1,685	1,050	635	To complete.
6. Klaas Smits Bridge, Queens-town.	6,720	5,080	4,620	460	Total cost £7,620. D.C. pay one-third, £2,540.
7. New Law Courts: Cape.	175,000	175,000	5,000	20,000	On account.
8. Kowie Bridge, Bathurst, on the £ for £ principle	7,500	5,000	2,000	3,000	Total cost £10,000.
9. Road from Hondeklip Bay to Wallekraal, Namaqualand.	6,000	6,000	1,500	4,500	To complete.
Total ...	314,220	369,190	60,370	89,220	

SCHEDULE C.

I.—*Prime Minister.*

Survey of Native Locations, Mission and other Lands ...	£10,000	
Fencing Advances under Act No. 15 of 1891	2,000	
Compensation to Occupiers of Location Lands at Port St. John's, appropriated for purposes of disposal	£4,800	
Survey of such Lands	1,500	
	<hr/>	6,300
		<hr/>
		£18,300

II.—*Colonial Secretary.*

Loans under Acts 11 of 1882 and 25 of 1904 :—		
School Authorities	200,000	
Local	100,000	
	<hr/>	300,000

III.—*Postmaster-General.*

New Private Wires	1,000	
Telephone Exchange area :—		
Paarl	500	
Oudtshoorn	500	
	<hr/>	1,000
Trunk Lines	6,000	
	<hr/>	8,000

IV.—*Secretary for Agriculture.*

Tokai Forest Plantation Extension	20,000	
Kluitjes Kraal "	20,000	
Fort Cunynghame "	20,000	
Port Elizabeth Drift Sands, including House for Superintendent...	10,000	
Concordia	12,000	
	<hr/>	82,000

V.—*Commissioner of Public Works.**Residences for Civil Commissioners.*

Middledrift	1,000	
Alice	1,500	
Cathcart	2,000	
Bedford	1,500	
Port Elizabeth	3,500	
Swellendam	1,200	
	<hr/>	10,700

Lighthouses.

L'Agulhas (Total estimate, £12,500)	6,000
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Public Offices.

Vryburg (Total estimate, £6,400)	3,000	
Bedford	3,000	
Mafeking (Total estimate, £6,400)	2,000	
Adelaide	3,000	
Seymour	3,000	
Paarl (Preliminary estimate, £8,000, additional to £4,114 from the In- surance Fund)	4,000	
East London Borough Police Bar- racks (Additional to Act 43 of 1905)	3,400	
Cape Town : New Colonial Office (Total preliminary estimate, £60,000). To commence	3,000	
		<hr/> 24,400

Post Offices.

Murraysburg	1,000	
Willowmore	1,000	
Worcester	1,500	
Grahamstown	1,500	
Paarl	2,000	
Sundry Additional Accommoda- tion	2,000	
		<hr/> 9,000

Hospitals and Asylums.

Grahamstown Chronic Sick Hospital General (Additional to Act 43 of 1905)	2,000	
	10,000	
		<hr/> 12,000

General.

<i>Local Works Loans</i> , administered by Public Works Department under Act No. 11 of 1882 in aid of construction of Roads, Bridges, Hospitals, etc.		20,000
<i>Boring</i> : Subsidy for contract Water boring and experimental deep boring		100,000

ROADS.

Barkly East.

Main Roads : Deviation and recon- struction	1,100
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Barkly West.

General grant in aid of Road reconstruction (Additional to Act 43 of 1905) 1,000

Bechuanaland.

Roads: Kuruman, Vryburg and Construction generally (Additional to Act 43 of 1905) ... 2,000

Caledon.

Palmiet River to Villiersdorp: Section Vygeboom to Villiersdorp: Construction. To continue work in hand ... £2,100

Cathcart.

Havelock Hill Deviation: Construction ... 3,300
Windvogel Berg Deviation: Construction. To continue work in hand ... 3,000

Clanwilliam.

Main Road: Reconstruction. £ for £ with Divisional Council 1,000

Kimberley.

Schmidtsdrift Road: Reconstruction. £ for £ with Divisional Council ... 1,200
Windsorton Pont to Railway: Construction. £ for £ with Divisional Council... 1,200

Knysna.

Main Road: Reconstruction. Special grant 1,500

Mount Fletcher and Maclear.

Naude's Nek towards Maclear: Construction 5,000

Piquetberg.

Sandveldt Roads: Construction. To continue work in hand 1,500

Swellendam.

Southey's Pass: Reconstruction. £1 to 10s. with Divisional Council 2,000

Uniondale.

Coega to Long Kloof: Construction of developing Roads and feeders to Railway ... 1,000

 26,900

BRIDGES.

Barkly East.

Kraai River, Moshesh's Ford (Total preliminary estimate, £15,000). To commence 5,000

Barkly West.

Vaal River Bridge : Purchase of	...	10,000
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Cathcart.

Klipplaat River	6,000
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King William's Town.

Keiskama River Hoek, near Keiskama	...	3,530
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Mafeking.

Molopo River	2,200
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Worcester.

Hollespruit. £ for £ with Divisional Council		1,500
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Smallebladeren. £ for £ with Divisional Council	3,650
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31,880

GENERAL WORKS.

Matatiele and Mount Currie.

Umzimvubu Bridge : Approaches (Additional to Act 43 of 1905 : Bridge Construction, in hand)...	£2,200
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Clanwilliam.

Lamberts Bay Warehouse and Landing and Shipping Appli- ances, etc....	1,000
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3,200

IRRIGATION.

Calvinia.

Brand Vlei : New Works	4,000
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Kenhardt.

Buchuberg Irrigation Scheme (Total estimate, £35,000)	10,000
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Herbert.

Douglas Irrigation Scheme : New Works	3,000
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17,000

£261,080

RECAPITULATION OF SCHEDULE C.

Prime Minister	£18,300
Colonial Secretary	300,000
Postmaster-General	... ..	8,000
Secretary for Agriculture	... ..	82,000
Commissioner of Public Works	... ..	261,080

£669,380

ACT

To Authorize the raising of a Loan for the purpose of certain New and Additional Railway Works and Services.

[Assented to 21st August, 1906.]

Preamble.

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

Governor authorised to raise the sum of £720,723.

1. For the purposes set forth in Schedules A, B and C to this Act it shall be lawful for the Governor to raise by Loan either temporarily or by means of Colonial or Consolidated Stock, to be issued in this Colony or in England under the provisions of "The Cape of Good Hope General Loans Act, 1881," as amended by the "Cape of Good Hope General Loans Acts, 1883, 1888 and 1892," the sum of £720,723, which amount shall be expended on the items specified in the Schedules, no excess on any one item being available to cover a deficit on any other item.

£55,000 to be paid to credit of Railway Working and Maintenance Vote.

2. It shall be lawful for the Governor to authorize to be paid to the credit of the Railway Working and Maintenance Vote, 1905-6, a sum of £55,000, being portion of the amount of £125,000 set forth opposite the item "Re-laying, Re-grading and Strengthening of Bridges," Schedule A to this Act.

Additional Appropriation for purposes of Act 42 of 1902.

3. It shall be lawful for the Governor to appropriate for the purposes of Act 42 of 1902—item "Additional Rolling Stock" as an addition to the provision of £885,000 made therein, the sum of £25,090 received from the Inter-Colonial Council, being the final payment in respect of the balance of the account for damage to Rolling Stock during the War, and credited to Act 42 of 1902—item "Additional Rolling Stock."

Treasurer's Certificate.

4. No expenditure under this Act shall be incurred for any new works until the Treasurer shall have notified under his hand to the Commissioner that the funds for such work are available.

Short Title.

5. This Act may be cited as the "New and Additional Railway Works and Services Act, 1906."

Schedule A.

SCHEDULE A.

Doubling Portions of Line	£57,000
Additional Accommodation for Railway Employees	50,000
Additional Water Supply	20,000
Additional Accommodation at Stations, Sidings, Platforms, Goods Sheds, etc.	37,500
Locomotive Workshops, Steam Sheds, etc.	25,000

Surveys	15,000
Additional Fencing	20,000
Additional Signals	15,000
Relaying, Regrading and Strengthening of Bridges	125,000
Ice-making Machinery and Cold Chambers	50,000
Electric Lighting	50,000
Railway Schools	11,000
	<hr/>
	475,500
Cost of raising Loan	23,775
	<hr/>
	<u>£499,275</u>

SCHEDULE B.

Schedule B.

Sea Point Line—Additional	£23,795
Port Elizabeth-Avontuur Line—Addi- tional	800
Aliwal North-Lady Grey Line—Addi- tional	10,500
Cost of raising Loan—under Act 29 of 1904	514
Cost of raising Loan—under Acts 25 of 1884; 32 of 1891; 21 of 1892; and 20 of 1897	17,468
Cost of raising Loan—under Acts 24 of 1896; 36 of 1899; and 9 of 1900	7,254
Cost of raising Loan—under Act 42 of 1902	66,662
Cost of raising Loan—under Act 26 of 1904	40,735
	<hr/>
	167,728
Cost of raising Loan	8,386
	<hr/>
	<u>£176,114</u>

SCHEDULE C.

Schedule C.

Subsidy, South Western Railways author- ized under Act 16, 1904	£16,800
Subsidy, Riverside-Mossel Bay—Additional Supervision of Subsidized Lines	1,375
	25,000
	<hr/>
	43,175
Cost of raising Loan... ..	2,159
	<hr/>
	<u>£45,334</u>

[No. 39—1906.]

[August 21, 1906.]

ACT

To Constitute Fiscal Divisions.

[Assented to 21st August, 1906.]

Preamble.

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

Repeals.

1. So much of the "Constitution Ordinance" and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Establishment of New Fiscal Divisions: Kuruman, Maraisburg, and Pearston.

2. It shall be lawful for the Governor, by Proclamation to be issued for that purpose, to form certain portions of the existing Fiscal Divisions of (1) Vryburg, (2) Cradock, Middelburg and Tarkastad; (3) Somerset East, Jansenville and Graaff-Reinet, into new divisions for fiscal purposes to be known respectively as (1) the Fiscal Division of Kuruman, (2) the Fiscal Division of Maraisburg and (3) the Fiscal Division of Pearston; and such Proclamation shall define the several boundaries of the new Divisions and of the old Divisions as altered by such Proclamation.

Elections of Divisional Councils for the old and the new Districts.

3. On a date to be fixed by the Governor in such Proclamation or subsequent Proclamation, there shall be fresh elections of members of the Divisional Councils of the respective Divisions of Vryburg, Cradock, Middelburg, Tarkastad, Somerset East, Jansenville and Graaff-Reinet, as altered, and an election of members of the Divisional Councils of the new Divisions of Kuruman, Maraisburg and Pearston as constituted under this Act; and on publication in the *Gazette* of the names of the persons so elected in manner provided by the Divisional Councils Act, 1889, the seats of the existing Councillors for the respective Divisions of Vryburg, Cradock, Middelburg, Tarkastad, Somerset East, Jansenville and Graaff-Reinet shall become vacant.

Application of laws.

4. The provisions of the said Act, and of every other law relating to Divisional Councils, shall apply to the Divisions constituted under this Act, and to the Divisions to which any part of the said Divisions belonged, and such former Divisions shall then be so limited and bounded precisely as if no Divisional Council in or for such Division had ever been elected. Provided that the persons who shall be registered as voters for the Divisional Council of any such former Division which, down to the date fixed by Proclamation issued under the provisions of Section two of this Act, comprised the whole or any part of the new Divisions of Kuruman, Maraisburg and Pearston, as the case may be, and who, in accordance with the said Act, are duly qualified to be registered as voters and to vote, and are not disqualified by reason of any sentence of any competent Court or

any sentence legalised by Act of Parliament, as voters for the Divisional Council of the new Divisions aforesaid, shall respectively be entitled to vote at the elections of Councillors for the Divisional Councils of such new Divisions.

5. The provisions of Act No. 24 of 1858 entitled "An Act to regulate the respective rights of certain Divisions in regard to certain Road Rates" shall, so far as applicable, *mutatis mutandis*, apply to the new Divisions of Kuruman, Maraisburg and Pearston, respectively, and to the Divisions to which the said new Divisions in whole or in part respectively belonged before the issue of such Proclamation, just as though such new Divisions were named in the Schedule to Act No. 12 of 1857.

Application of Act No. 24 of 1858.

6. Notwithstanding the creation of the new Divisions of Kuruman, Maraisburg and Pearston under this Act, such new Divisions and every part thereof shall, for the purposes of Parliamentary elections, continue to form part of whatever electoral divisions such new Divisions or part thereof respectively belonged to, before the date of such Proclamation.

Electoral Divisions unaffected.

7. This Act may be cited as the "Kuruman, Maraisburg and Pearston Fiscal Divisions Act, 1906."

Short title.

No. 40—1906.]

[August 21, 1906.]

ACT

To Amend the Law relating to the Allotment of Agricultural Lands.

[Assented to 21st August, 1906.]

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

Preamble.

1. It shall be lawful for the Governor, with the consent of Parliament, to assign lands not being arable lands as commonage for the holders of allotments under the tenure recommended by the Tembuland Commission (1882-1883).

Commonage may be assigned by Governor to holders under Tembuland Commission Tenure.

2. Notwithstanding anything to the contrary contained in Act No. 47 of 1899, or any other law, the following conditions appearing in the title deeds of erven in the several villages, in the District of Elliot, shall from and after the promulgation of this Act cease to have effect and shall be rendered null and void, namely :—

Cancellation of conditions in Titles restricting transfer and hypothecation of allotments in Elliot Villages.

That the land hereby granted shall not be alienated or transferred to any person or persons unless the consent of the Governor to such alienation, and the approval of such person or persons as new proprietor or proprietors, shall have been first had and obtained.

5212 THE AGRICULTURAL LANDS FURTHER AMENDMENT
EXTENSION ACT, 1906.

No. 40—1906.

That no person or persons possessing land elsewhere shall be entitled to hold this allotment.

That the proprietors shall be bound, at the expiration of the first year from the date of entering into occupation of the land hereby granted, to bring at least one-fourth ($\frac{1}{4}$) of the arable land under cultivation.

That the land hereby granted shall not in any way be hypothecated as security for debt.

Short title.

3. This Act shall be read as one with "The Agricultural Lands Further Amendment Act, 1899," and may be cited as "The Agricultural Lands Further Amendment Extension Act, 1906."

No. 41—1906.]

[September 7, 1906.]

ACT

To Amend the Workman's Compensation Act No. 40 of 1905.

[Assented to 31st August, 1906.]

Preamble,

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

Amendment of sub-section 3 of section fourteen of Act 40 of 1905.

1. Sub-section 3 of section fourteen of Act No. 40 of 1905, entitled the "Workman's Compensation Act, 1905," shall be amended, and the words "or has wilfully done anything calculated to retard his recovery, and has retarded his recovery accordingly" shall be read as if inserted at the end of the said sub-section.

Amendments in sections eleven, twenty-two, twenty-five and twenty-six of Act 40 of 1905.

2. In sections eleven and twenty-two of the said Act, after the words "Regard shall be had in fixing such amount to the workman's necessities," and in sections twenty-five and twenty-six, after the words "dependent's necessities," the following words shall be read as if inserted therein: "Provided that subject to section twenty-nine no account shall be taken in such calculation of any monies derived or to be derived from any Benefit Society, Sick Fund, Organization, Club, Life Assurance, or Savings Bank."

Amendment of Section forty-one of Act 40 of 1905.

3. In section forty-one of the said Act the words "or every renewal of such policy," shall be read as if inserted after the words "policy of insurance" in the said section.

Short Title.

4. This Act may be cited as the "Workman's Compensation Act Amendment Act, 1906."

No. 42—1906.]

[September 7, 1906.

ACT

To Prohibit the use of certain foreign substances in Wine, Brandy, Whisky and Spirits.

[Assented to 31st August, 1906.]

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

1. This Act may be cited for all purposes as "The Wine, Brandy, Whisky and Spirits Act, 1906," and shall come into operation on a day to be fixed by the Governor by Proclamation in the Government Gazette. Short title and date of coming into operation.

I. INTRODUCTORY.

2. In this Act, unless the context otherwise requires :— "Administering Officer" means the Officer appointed by His Excellency the Governor in Council to administer this Act. Meaning of "Administering Officer."

3. The Governor may, by notice in the Gazette, appoint one or more persons, qualified by technical training, and possessing competent knowledge, skill and experience, to be analysts under and for the purposes of the provisions of this Act, and may from time to time remove him or them as he shall deem proper ; provided, that no person shall be appointed an analyst under this section who shall be engaged, directly or indirectly, in any trade or business connected with the sale of such articles of diet as are provided for in and by this Act. Appointment of Analysts.

4. Notwithstanding anything contained in "The Sale of Food and Drugs and Seeds Act, 1890," or in any other Act which may deal with any of the articles of diet provided for in this Act, the provisions of this Act shall prevail. Act to override contrary legislation.

II. WINE.

5. In this Act, unless the context otherwise requires :— "Wine" means the product solely of the alcoholic fermentation of the juice or must of fresh grapes. Interpretation clause.

"Dry wine" means wine produced by complete fermentation of the sugar contained in the juice or must of the fresh grapes from which it is made.

"Sweet wine" means wine containing sugar derived from the juice or must of the grapes from which it is made, and not produced from imported raisins.

"Sparkling wine" means wine surcharged with carbonic acid gas, and to which cane sugar and pure wine spirit may or may not have been added, and includes champagne.

“Pure wine spirit” means the rectified distillate resulting from the distillation solely of wine or must.

“Natural Wine” or “Pure Natural Wine” means the product solely of the alcoholic fermentation of the juice or must of fresh grapes without the addition of any foreign substance as hereinafter defined, before, during, or after the making of the same.

Natural wines not to contain foreign substance.

6. No person shall sell, advertise, offer, keep, expose, or deliver for sale, whether wholesale or retail, or exchange or authorise, direct or allow the sale, under the name, label, or designation of “natural wine” or “pure natural wine” or “natural dry wine” or “pure natural dry wine” or “natural sweet wine” or “pure natural sweet wine” or “sparkling wine,” any substance except natural wine, natural dry wine, natural sweet wine, or sparkling wine, to which, before, during, or after the making of the same, no foreign substance has been added.

Meaning of “foreign substance.”

7. The term “foreign substance” used in this Act.

(a) Shall include the following and such others as the Governor in Council, on recommendation of the Administering Officer may by regulation from time to time declare and publish in the *Government Gazette* as foreign substances, for the purposes of this section, viz. :—Ethers, essential oils, bitter almond, cherry laurel, flavouring substances, alkaloidal substances, compounds of barium, fluorine, magnesium, strontium, bismuth, arsenic, lead, zinc, aluminium, tin, copper, boron, derivatives of naphthol (abradorol, etc.), sulphuric acid, formalin or formaldehyde, salicylic acid, or other antiseptics (except sulphurous oxide as provided for hereinafter), glycerine, saccharine, dulcine, sucrovin, starch sugar, invert sugar, cane sugar (except in the case of champagne), impure spirit containing more than one per mille of fusel oil, organic or mineral colouring matters, gums, and any mixture containing any of these substances; but

(b) Shall not include the following and such others as the Governor in Council on the recommendation of the Administering Officer may by regulation from time to time declare and publish in the *Government Gazette* :

- (1) Yeast or leaven.
- (2) Substances such as isinglass, gelatin, eggs, albumen, Spanish clay, kaolin, or tannin for the purpose of clarification.
- (3) Common salt, provided that the total amount of chlorine in the wine, calculated as sodium chloride does not exceed half a gramme per litre or thirty-five grains per gallon.

- (4) Sulphate of lime, metabisulphite of potassium or sulphurous oxide, provided that the total amount of sulphuric oxide calculated as potassium sulphate does not exceed two grammes per litre or one hundred and forty grains per gallon.
- (5) Tartaric acid.
- (6) Natural products of grape-vine leaves or flowers.
- (7) Pure wine spirit, pure wine brandy or spirit distilled from sound wine at not less than thirty-eight degrees over proof, for the purpose of increasing the alcoholic strength to the extent not exceeding twenty-eight per centum of proof spirit, or sixteen per centum of alcohol by volume in the case of dry wines, or thirty-five per centum of proof spirit or twenty per centum of alcohol by volume in the case of sherries, ports, and sweet wines, or forty-three per centum of proof spirit or twenty-five per centum of alcohol in the case of imported wines, alcohol in either case being absolute alcohol of specific gravity 0.7938 and measured at the temperature of sixty degrees of Fahrenheit's thermometer.

8. No person shall sell, advertise, offer, expose, or deliver for sale any wine to which has been added water; or cane sugar in quantity exceeding eight ounces per gallon; or salicylic acid in quantity exceeding four ounces per 127 gallons.

Sale of wines to which water, cane sugar or salicylic acid has been added.

9. No person shall sell, advertise, offer, expose or deliver for sale, whether wholesale or retail, or exchange, or authorise, direct or allow the sale of wine containing more than the following quantities of sulphurous oxide, namely:—

Sale of wine to which sulphurous oxide has been added.

(a) In the case of dry wine, fourteen grains of free and combined sulphurous oxide, or one-and-a-half grains of free sulphurous oxide per gallon, and

(b) In the case of other wines, twenty-five grains of free and combined sulphurous oxide or two-and-a-quarter grains of free sulphurous oxide per gallon.

10. Nothing in this Act shall be deemed to prohibit the sale of any fermented beverage made from fruit or sources other than fresh grapes, and labelled or branded or designated by any name including the word "wine"; provided that the label, or brand, or designation includes the name of the fruit or source from which it is made, and that the name of the fruit or source from which it is made is given on or in the label or brand or designation in letters of the same size as that of the letters of the word "wine."

Fermented beverages made from sources other than fresh grapes.

No. 42—1906.

Sale of un-fermented grape juice.

11. No person shall manufacture or have in his possession for the purpose of sale, or sell, advertise, offer, keep, expose, or deliver for sale, whether wholesale or retail, or exchange or authorise, direct or allow the sale of any unfermented grape juice to which there has been added any substance the addition of which to wine is prohibited, or hereafter shall be prohibited under this Act; provided that nothing in this section shall be construed to place any restriction upon the manufacture or sale of temperance beverages or sacramental wine unless these contain more than three per centum of proof spirit.

Sale of Sparkling Wines.

12. No person shall manufacture or have in his possession for the purpose of sale, or sell, offer, keep, expose or deliver for sale, whether wholesale or retail, or exchange or authorise, direct, or allow the sale, under the name of champagne, of sparkling wine in which the excess of carbonic acid gas arises from direct admixture of the same.

Flavouring and Colouring.

13. The flavouring of wine other than natural wine and the colouring thereof by means of pure caramel shall not be deemed to be an offence against this Act.

III. BRANDY, WHISKY AND LIQUEUR.

Meaning of different varieties of brandy.

14. In this Act, unless the context otherwise requires:—

“Brandy” means the distillate resulting from the distillation solely of

- (a) Wine or must;
- (b) Must and grape husks;
- (c) Grape husks and water.

“Pure wine brandy” means the unrectified distillate resulting from the distillation solely of pure wine or must; the volatile constituents of which distillate (except water, as provided for in section fifteen) are derived entirely from the above named materials; provided that the alcoholic strength of such pure wine brandy be not lower than 25 degrees under proof, and not higher than 22 degrees over proof.

“Pure grape brandy” or “grape brandy” means the unrectified distillate resulting from the distillation solely of wine or must with grape husks; the volatile constituents of which distillate (except water, as provided for in section fifteen) are derived entirely from the above named materials; provided that the alcoholic strength of such pure grape brandy be not lower than 25 degrees under proof, and not higher than 12 degrees over proof.

“Dop Brandy” means the unrectified distillate resulting from the distillation solely of grape husks and water; the volatile constituents of which distillate (except water as provided for in section fifteen) are derived entirely from the above named materials; provided that the alcoholic strength of such dop brandy be not lower than 25 degrees under proof.

“Whisky” means a spirituous liquor derived from grain by fermentation and distillation, the volatile constituents of which (except water, as provided for in section fifteen) are derived solely from the above material.

“Malt Whisky” means whisky derived solely from malt.

“Blended Whisky” means whisky containing not less than 25 per cent. of malt whisky.

15. It shall not be deemed unlawful to reduce the strength of brandy or whisky by means of pure water, provided that such addition does not reduce such strength below 25 degrees under proof. Reduction of strength of brandy.

16. No person shall manufacture or have in his possession for the purpose of sale, or sell, advertise, offer, keep, expose or deliver for sale, whether wholesale or retail, or authorise, direct or allow the sale, under the name of “brandy” or “whisky” of any substance except brandy or whisky. Manufacture and sale of brandy and whisky.

17. The addition to brandy, whisky or wine spirit of cayenne pepper, tobacco, bluestone, or any substance whose addition is not expressly provided for in this Act shall be deemed a contravention of this Act. Addition to brandy of cayenne pepper, &c.

18. The flavouring of brandy other than pure wine brandy or grape brandy, or the addition to any class of brandy, for sweetening purposes, of pure cane sugar previously made into a syrup (provided that the total quantity of sugar so added does not exceed one and a half ounces per gallon) or the colouring of the same by means of pure caramel or by the material derived from the wood of the cask in which it is stored shall not be deemed an offence against this Act. When flavouring of Brandy no offence.

19. No person shall sell, offer, expose, or deliver for sale or authorise, direct, or allow the sale of any Colonial brandy unless the bottle or receptacle containing such brandy is marked, branded, or labelled in such manner as legibly to set forth whether such brandy is brandy, pure wine brandy, pure grape brandy, or dop brandy as defined in section fourteen. Labelling of bottles or receptacles containing brandy.

20. No person shall sell, offer, keep, expose, or deliver for sale as or under the name of Colonial Liqueur any article in the manufacture of which any spirituous liquor other than pure wine spirit or brandy may have been used. Sale of “Colonial Liqueur.”

No. 42—1906.

What is
"Colonial
Liqueur."

21. No person shall manufacture or have in his possession for the purpose of sale, or sell, advertise, offer, keep, expose or deliver for sale, whether wholesale or retail, or authorise, direct or allow the sale under the name of "Colonial Liqueur" of any article which has not been manufactured either:

- (a) By maceration in pure wine spirit, or brandy of fresh or dried fruit, or peels of aromatic plants, leaves, herbs, roots or seeds, to which extract has been added subsequently a syrup made of pure cane sugar or honey; or
- (b) By redistillation of a macerated extract prepared as above, to the resulting distillate of which a syrup made of pure cane sugar or honey has been added.

Provided that in no case the alcoholic strength of any liqueur sold in this Colony or imported into this Colony for sale shall be less than 30 per cent. of alcohol by volume.

Provision
for use of
real essence of
mint.

22. Nothing contained in the preceding section shall be so construed as to prohibit the use of real essence of mint in the manufacture of any liqueur offered or exposed for sale.

V. GENERAL.

Labelling of
bottles and re-
ceptacles.

23. No person licensed to sell by retail shall sell, offer, expose, or deliver for sale, or authorise, direct or allow the sale of any wine, brandy, whisky or liqueur, unless the bottle or other receptacle wherein such wine, brandy, whisky or liqueur, may be contained is marked, labelled, or branded, in distinct letters, with the name and address of both the said retail dealer and, if bottled in the Colony, the name and address of the bottler, and in the case of imported wine, brandy, whisky or liqueur the name and address of the original importer.

Recipes or
formulas for
adulterating
liquors.

24. No person shall manufacture or have in his possession for the purpose of sale, or sell, advertise, offer, keep, expose or deliver for sale, whether wholesale or retail, or authorise, direct or allow the sale of any recipe or formula whatever for adulterating any wine, brandy, whisky or liqueur.

Existing
Stocks.

25. As soon as possible after the promulgation of this Act the Administering Officer shall take note of the stocks in hand in the stores of wine merchants and holders, and sufficient time shall be allowed to enable them to dispose of any existing stocks which would otherwise be considered as contravening the provisions of this Act.

Powers of
Entry.

26. Any person generally or specially authorised for the purpose by the Administering Officer or by any person duly appointed by him in that behalf, or by any Resident Magistrate, or by any person duly appointed by him in that behalf, may at any time, on producing a written authorisation, enter into and inspect any vineyard, store-room, wine-cellar, bonded or free store, vessel, shed, shop, hotel, or other place, or premises, which

he may have reasonable ground for believing is kept or used for the making, storing, selling, or exposing for sale of any article of diet bearing a designation popularly or commercially used as a designation for wine, brandy, whisky, or liqueur, or bearing a name in which the word wine, brandy, whisky, or liqueur occurs, and may purchase, at a reasonable price, such a sample of such article as may be required for the purpose of analysis under this Act; and shall, subject to the Administering Officer's direction, forward for examination and analysis such sample to any analyst appointed under this Act.

27. Any purchaser of any article of diet provided for in this Act shall be entitled to obtain from any analyst appointed under this Act, on payment to such analyst of the cost thereof, an analysis of such article by such analyst, and to receive from him a certificate of the result of such analysis, provided that nothing herein contained shall be taken to impose upon any such purchaser the necessity to obtain such analysis and certificate before instituting any complaint or proceeding under this Act if he shall have sufficient evidence otherwise.

Certificates of results of analysis.

28. Any person in charge of any article of diet referred to in section twenty-six refusing to allow the amount required for analysis to be taken by the person offering to purchase and authorised as hereinbefore provided shall be guilty of an offence against this Act.

Obstruction of Officers.

29. All the provisions of this Act shall apply to wine, brandy, whisky, and liqueur imported into this Colony.

Act to apply to imported wine, brandy, and liqueur.

30. No person shall import into this Colony, for purposes of sale, or sell, offer or expose for sale, within this Colony, under any name, label, brand, or designation provided for in this Act, any article of diet provided for in this Act, which is not of the nature, substance and quality of the article designated by such name, label, brand, or designation, or demanded by any person who may purchase the same.

Importation of wines, &c., not corresponding to brand or label.

31. From and after the taking effect of this Act all articles of diet provided for in this Act, imported as merchandise and landed at any port in this Colony may be subject to examination by the Customs or other officers appointed in that behalf, and samples may, when deemed necessary by such officers, be taken and with all convenient speed be examined by an analyst as aforesaid, and if, upon such analysis, the same shall be found to be in contravention of this Act, the same shall be forfeited and destroyed or otherwise disposed of as the Treasurer of the Colony may direct.

Examination of imported wines, &c.

32. The person acting as analyst in any given case shall furnish a certificate as may be provided for by regulation of the Governor in Council on the recommendation of the Administering Officer and published in the *Government Gazette*.

Analyst's certificate.

No. 42—1906.

Procedure
for submit-
ting articles
for analysis.

33. Any person who has purchased any article of diet as provided for in this Act and who intends to submit the same for analysis, shall, after the purchase has been completed, forthwith notify to the vendor or his agent his intention to have the same analysed, and shall then and there divide the same into three parts and shall place each part in a separate glass receptacle and shall leave one such part with the vendor or his agent and shall retain one such part for future comparison and shall submit the remaining part for analysis as hereinbefore provided.

Removing
or tampering
with seals.

34. Any person improperly removing or tampering with the seal, mark or fastening of any wrapper, cover or receptacle containing any sample or part of a sample taken for purpose of analysis shall be guilty of an offence against this Act.

Evidence of
analyst's cer-
tificate.

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

Court may
order sample
to be sent to
Administer-
ing Officer.

36. The Court before which any complaint is made against any person for an offence against this Act may, upon the request of either the complainant or defendant, cause the part of the sample retained by the purchaser to be sent to the Administering Officer who shall thereupon direct the Head of the Government Analytical Department to make a final analysis thereof and give a certificate to such Court of the result of such analysis.

Limitation
of actions.

37. All proceedings against the person charged with violating any provision of this Act shall be commenced within two calendar months from the time of purchase from such person for test purposes of the article of diet, for the sale of which in contravention of the terms of this Act the vendor is rendered liable to prosecution.

Penalties.

38. (1) Any person who contravenes any of the provisions of this Act or of any regulations thereunder shall be guilty of an offence against this Act, and shall be liable to a penalty of not exceeding Twenty pounds for a first offence against any such provision, and in default of payment he shall be liable to imprisonment with or without hard labour for a term not exceeding three months unless such fine be sooner paid, and for a second or subsequent offence to a penalty not exceeding Fifty pounds and in default of payment to imprisonment for any term not exceeding six months with or without hard labour, and for a third offence to

a penalty not exceeding one hundred pounds or to imprisonment for any term not exceeding twelve months with or without hard labour, or to both such fine and imprisonment: provided that any violation of the provisions of section twenty-three shall not be punished by a fine exceeding five pounds, or in default of payment by imprisonment with or without hard labour for a term exceeding one month.

(2) Every person guilty of an offence against this Act shall, in addition to the penalty imposed, be liable to pay such amount as the Court may award for the costs and expenses incurred in the taking of proceedings against such guilty person, including the expenses incurred by the prosecution in obtaining the analysis.

39. If there be sufficient defence in any prosecution under this Act for the accused to prove that he had no knowledge of the adulteration complained of, and was not a party to it, he shall be discharged from the prosecution.

No guilty
knowledge
sufficient de-
fence.

40. (1) The Governor in Council may make regulations as to any matters whatsoever not being contrary to the provisions of this Act necessary to give effect to this Act.

Regulations.

(2) All such regulations shall be published in the *Government Gazette* and when so published shall have the force of law, and shall be judicially noticed, and shall be laid before both Houses of Parliament within 14 days after the same shall have been made if Parliament be then sitting, and, if not, then within 10 days after the next sitting of Parliament.