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STATUTES

OF THE

CAPE OF GOOD HOPE,

1652-1905.

BEING A REVISED REPRINT OF THE AUTHORISED EDITION ISSUED IN 1895

BY

H. TENNANT AND E. M. JACKSON,

TO WHICH HAVE BEEN ADDED THE ACTS OF PARLIAMENT PASSED IN THE SESSIONS HELD DURING THE PERIOD 1896–1905.

REVISED AND EDITED

BY

E. M. JACKSON.

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VOL. III.

1894—1905.

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No. 1—1894.] Repealed by Act 32 of 1917. [June 26, 1894

ACT.

To Amend Act No. 43 of 1885, entitled "Act to Amend the Law relating to the Courts of Resident Magistrate."

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:—

Amendment in Section 1, Act 43, 1885. 1. The words "by whom the preparatory examination was taken," where they occur in the first section of "The Magistrates' Jurisdiction Act, 1885," shall be and the same are hereby repealed.

Short title. 2. This Act may be cited as "The Magistrates' Jurisdiction Amendment Act, 1894."

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No. 2—1894.] [June 26, 1894.

ACT

To Provide for the Payment of Persons Summoned to Serve as Jurors in Criminal Cases.

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:—

Payment of jurors.

1. Every person summoned under the provisions of Act No. 22 of 1891, entitled "Act to Consolidate and Amend the Law relating to Juries," to attend before any Court to serve as a Juror for the trial of criminal cases, and attending in obedience to such summons, shall be entitled to receive remuneration according to the following scale:—

(*a*) When he resides within a radius of five miles of the Court to which he is summoned, he shall be allowed five shillings for every day or fraction of a day he is required to attend the sitting of the Court;

(*b*) When he resides beyond five miles of the Court to which he is summoned, he shall be allowed five shillings for every day or fraction of a day he is required to attend the sitting of the Court; and in addition thereto, one shilling and sixpence for every six miles or fraction of six miles actually travelled by him in proceeding to, and to be travelled in returning from, the Court to which he is summoned.

Payments defrayed out of revenue.

2. All payments under the provisions of the preceding section shall be defrayed from the public revenue of the Colony.

Taking effect and short title.

3. This Act shall come into operation on a day to be fixed by proclamation (1) in the *Gazette* by the Governor, and shall be cited as the "Payment of Jurors in Criminal Cases Act, 1894."

No. 3—1894.] [June 26, 1894.

Act to Apply a further Sum not exceeding Eighty-three Thousand Six Hundred and Sixty Pounds Sterling for the Service of the Year ending the 30th June, 1894.

[Spent.]

No. 4—1894.] [June 26, 1894.

Act to Apply a Sum not exceeding Eight Hundred Thousand Pounds Sterling towards the Service of the year ending the 30th day of June, 1895.

[Spent.]

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[1] See Proclamation No. 293, 1894; Gazette, 28th August, 1894, proclaiming that this Act shall come into operation on the first day of September, 1894. Extended to Transkei, Tembuland and East Griqualand by Proclamation 372a, 1894.

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No. 5—1894.] [September 25, 1894

ACT

To Provide for the Annexation of the Country known as Pondoland. (1)

Preamble.

WHEREAS by resolution passed in both branches of the Legislature, it has been declared to be expedient that the country known as Pondoland, comprising the Territories of East and West Pondoland, should be annexed to the Colony: And whereas it is the intention of Her Majesty the Queen to issue Her Royal Letters Patent to authorise the Governor of the Cape of Good Hope, by Proclamation under his hand and the public seal of this Colony, to declare that from and after a day to be therein mentioned, the said country should be annexed to and form part of this Colony, in case the Legislature of the Colony should have passed an Act providing that the said country should become a part of this Colony: And whereas it is expedient that such an Act should be passed: 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:—

Governor may proclaim Pondoland to be annexed to the Colony.

1. From and after such day as the Governor shall, pursuant to the powers in that behalf contained in any Royal Letters Patent which may be issued for that purpose by Proclamation under his hand and the public seal of the Colony, fix in that behalf, the country in the Preamble to this Act mentioned, and with the name of Pondoland, shall be annexed to and become a part of this Colony.

Incorporation of East and West Pondoland in Griqualand East and Tembuland respectively.

2. From and after the date of such Proclamation as aforesaid, the Territory known as East Pondoland shall become a part of that portion of the Colony known as Griqualand East; and the Territory known as West Pondoland shall become a part of that portion of the Colony known as Tembuland; and the said Territories shall be subject to such Laws, Statutes and Ordinances as have already been proclaimed by the High Commissioner, and such as, after Annexation to the Colony, the Governor shall from time to time by Proclamation (2) declare to be in force in such Territories: Provided always that all such laws made under or by virtue of this Act shall be laid before both Houses of Parliament within fourteen days after the beginning of the Session of Parliament next after the Proclamation thereof as aforesaid, and shall be effectual, unless in so far as the same shall be repealed, altered or varied by Act of Parliament.

Resident Magistrates and clerks included in Civil Service of colony.

3. From and after the date of such Proclamation aforesaid, the officers appointed by the Governor of East and West Pondoland for the administration of affairs in those Territories shall, notwithstanding anything contained in Acts Nos. 22 of 1879, 31 of 1888,

[1] Extended by Proclamation No. 338 of 1894 to East and West Pondoland.
[2] Amplified by § 1, Act 29, 1897, which see (p. 3846).

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3 of 1880, 14 of 1882, 5 of 1891, 42 of 1885, 23 of 1886, and 34 of 1892, and the regulations framed thereunder, be taken and deemed to have been duly appointed to the offices of Magistrates and Clerks respectively in the Civil Service of this Colony, save and except that the aforesaid persons appointed as Clerks shall be subject to all the laws and regulations framed thereunder relating to the Civil Service Law Examination, and save as above excepted the said Magistrates and Clerks shall in all other respects be subject to the provisions of the aforesaid Acts. No. 6—1894.

4. This Act may be cited as the "Pondoland Annexation Act, 1894." Short title.

No. 6—1894.] Rep. by Act 22 of 1916. [July 17, 1894.

ACT.

To authorise the raising of a Public Loan of Two Hundred Thousand Pounds for the purpose of prosecuting and improving the Harbour Works of Table Bay, and providing greater facilities for the conduct of the Business of the Port.

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 two hundred thousand pounds sterling for the purpose of prosecuting the harbour works of Table Bay, and of effecting the improvements at the Port. Power to raise loan of £200,000 for improvement of Table Bay Harbour Works, &c.

2. The application of the moneys to be raised as aforesaid for the above purpose shall be entrusted to the Table Bay Harbour Board, and the said Harbour Board shall in respect to such application have and exercise all the powers conferred upon such Board by any law. Application of moneys by Harbour Board.

3. Save in cases in which it may be expressly provided by law to the contrary, the capital and interest of all loans raised on the guarantee of the public revenue, for the purpose of prosecuting and improving the Harbour Works of Table Bay, shall in the first instance be chargeable upon the revenues of the Table Bay Harbour Board, and such Board 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 of such loans. Capital and interest of loans chargeable upon revenues of Table Bay Harbour Board.

4. This Act may be cited as "The Table Bay Harbour Loan Act, 1894." Short title.

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Whole Act. Repealed by 1923 Act 17, sec. 50.

No. 7—1894.] [August 7, 1894.

ACT.

To Provide for the Registration of Births and Deaths.

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:—

PART I.

GENERAL.

Operation of Act and short title.

1. This Act shall come into operation throughout the Colony and all territories annexed thereto on the first day of January, 1895, and may be cited as the "Births and Deaths Registration Act, 1894."

Interpretation clause.

2. In the interpretation of this Act the following terms shall be construed as follows:

"House" means and includes the whole or part of any tenement, any hut, tent, convict-station, prison, lock-up, hospital, asylum, public or charitable institution, cart, carriage, wagon, truck, van, and any other place of residence, vehicle or premises in or upon which any person may be born or die.

"Occupier" means and includes in respect of any convict-station, prison, lock-up, hospital, asylum, or public or charitable institution, every superintendent, gaoler or medical or other officer in charge of such convict-station, prison, lock-up, hospital, asylum, or public or charitable institution; in respect of any house let in separate apartments, any person residing in such house who is the person under whom such lodgings or separate apartments are immediately held, and in all other cases the owner when in occupation thereof, and every lessee or other person in occupation or having the charge, care or custody thereof.

"Field-cornet" includes not only all field-cornets and assistant field-cornets, but also all headmen of areas or communities in areas specially reserved for natives anywhere within this Colony and in all territories annexed thereto.

"Body" means and includes any human dead body and the body of any still-born child.

"Burial Place" means and includes any burial ground whether public or private, or any place whatsoever wherein is buried or intended to be buried one or more bodies.

"Burial" means and includes not only any burial in earth interment or other form of sepulture but also the cremation of any body.

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"Birth" means and includes the birth of any viable child whether such child shall be living or dead at the time of birth.

Registrar of Births and Deaths to be appointed.

3. The Governor may from time to time appoint and, as occasion may require, may remove a Registrar to be styled the Registrar of Births and Deaths, whose office shall be the central register office for all notices of births and deaths and for all such returns as shall be required by any rules or regulations under this Act to be rendered thereto by Deputy Registrars.

Appointment of Deputy Registrars.

4. The Governor may from time to time appoint and, as occasion may require, may remove officers to be styled Deputy Registrars for the different magisterial districts, and whenever at any time there shall not be any such officer so appointed for any district, the Resident Magistrate for such district shall *ex officio* be the Deputy Registrar.

Assistants to Deputy Registrar.

5. The Governor may appoint and assign duties to, and remove as occasion may require, persons to assist the Deputy Registrar in any district, and may require any field-cornet to undertake and carry out the duties of Assistant to a Deputy Registrar.

Rules and regulations.

6. The Governor may from time to time frame regulations for the management of the register office, for the guidance in the execution of their duties of the Registrar, the Deputy Registrars Assistants to Deputy Registrars, Field-cornets, and all persons charged by this Act with the performance of any duty, for the more effectual carrying out of the provisions of this Act, for obtaining particular information respecting all births and deaths occurring in this Colony, for prescribing the nature and extent of such information, and for prescribing any forms, certificates, notices or registers to be used in connection therewith, and for regulating the use of, and the correction of errors and making of alterations in any such forms, certificates, notices or registers; and may from time to time alter, amend or repeal any such regulations, and substitute others in their place, and such regulations when published in the *Gazette* shall have the full force of law, and by such regulations the Governor may impose for the contravention thereof penalties not exceeding in any case a fine of forty shillings sterling: Provided, however, that the said regulations shall always allow information to be given verbally to the officials who forthwith records the same; or by the filling up of a form, to be supplied gratis, with a solemn declaration appended thereto, made before a minister of religion, a medical practitioner, or a Justice of the Peace, which form shall be delivered to the officer appointed to receive the same.

Births and Deaths Registration Books to be kept.

7. Books shall be kept by the Registrar of Births and Deaths, which shall be called the "Births Registration Book" and the "Deaths Registration Book" respectively, in which shall be recorded such information as to births and deaths as may be prescribed by regulations under this Act.

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Certificates of dates of births and deaths to be given.

8. Every person interested shall be entitled, upon payment of such fee as may be prescribed by such regulations as aforesaid, to receive from the Registrar of Births and Deaths or a Deputy Registrar, a certificate signed by him as to the date, and such other information as shall have been registered of the birth or death of any person in such form as may be prescribed by such regulations; and in the case of the birth of any person the date and place of birth and the sex and the name of the mother and if legitimate the name of the father of such person; and in the case of the death of any person the date and place of the death of such person shown upon the production of any such certificate as aforesaid, shall for all legal purposes be deemed *primâ facie* to be correct.

Repeal of the Voluntary Births Registration Act, 1880, and certain bye-laws.

9. The Voluntary Births Registration Act, 1880, (1) and all rules, regulations, or bye-laws of any municipality, borough, or corporate town or Village Management Board whereby at the coming into operation of this Act any duty may be imposed upon any person to give notice of or register any birth or death are hereby repealed, and no such rules, regulations, or bye-laws made after the coming into operation of this Act shall be legal or binding upon any person: Provided that nothing in this section contained shall be taken to prevent the Governor from appointing any officer of any municipality, borough or corporate town or Village Management Board to assist any Deputy Registrar within the meaning of the fifth section of this Act.

All books, registers or records of births and deaths kept in the custody of any person in accordance with the provisions of the Voluntary Births Registration Act, 1880, or in accordance with any such rule, regulation, or bye-law as is referred to in this section of this Act shall, in manner prescribed by regulations under this Act, be sent to the Registrar of Births and Deaths or to some Deputy Registrar to be sent by him to the Registrar.

All such books, registers or records as aforesaid when received by the Registrar of Births and Deaths shall be by him preserved or dealt with in manner prescribed by regulations under this Act, and every "Births Registration Book," kept under the provisions of the Voluntary Births Registration Act, 1880, and sent to and received by the Registrar of Births and Deaths, shall be deemed to be a book kept by him in accordance with the seventh section of and for all purposes of this Act.

Duties of Deputy Registrars and their assistants to inform themselves of births and deaths.

10. It shall be the duty of every Deputy Registrar, Assistant to a Deputy Registrar, and Field-cornet, to inform himself carefully of every birth or death which happens within his district or sub-district, as the case may be, and after the expiry of the time allowed under this Act for giving any notice or information of any such birth or death, if such notice or information shall not have

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been given, the Deputy Registrar or Assistant to the Deputy Registrar, may, by notice in writing under his hand require any person bound to give information under this Act to attend within such time as shall be specified in such notice at the office of such Deputy Registrar or Assistant or at any other place mentioned in such notice, there to give to such Deputy Registrar or Assistant, or to any other person as may be named in such notice, such information as may be necessary concerning the birth or death as the case may be.

When an inquest is held on any body or in respect of any death no person shall, with respect to such body or death, be liable to attend any requisition of any Deputy Registrar or Assistant to a Deputy Registrar as aforesaid.

Duty of Deputy Registrar on receiving notice of a birth or death.

11. On receipt by the Deputy Registrar of any notice, information, memorandum, return or certificate in respect of a birth or death, given or forwarded under the provisions of this Act, the Deputy Registrar shall examine the same and cause any defect or inaccuracy therein to be supplied or corrected as far as may be possible; and for the purposes of this section he may require any person bound to give information under this Act, to attend and give information in the manner in the last preceding section mentioned.

Registration to be within twelve months of birth or death.

12. No birth or death shall be registered after the expiration of twelve months from the date of such birth or death, except with the written authority of the Registrar of Births and Deaths, for registering the same, and except in the manner prescribed by regulations under this Act.

Procedure when birth of child is registered and no name is given, or the name given is altered.

13. When the birth of any child has been registered, and the name, if any, by which it was registered is altered, or if it was registered without a name, when a name is given to it, the parent or guardian of such child or other person authorised by regulations under this Act to procure such name to be altered or given, may within twelve months next after the registration of the birth, deliver to the Deputy Registrar of the district wherein the birth of such child has been registered, a certificate in the form prescribed by regulations under this Act, and signed by the father, mother or guardian of the child or such other person; and the Deputy Registrar on receipt of such certificate and on payment of such fee as may be prescribed by such regulations as aforesaid shall, without any erasure of any original entry, forthwith enter in a Births Registration Book, or in such other book as may be prescribed by the said regulations, the name mentioned in the said certificate as having been given to the child, and shall forthwith send the said certificate, with all required information, to the Registrar of Births and Deaths.

Illegitimate children.

14. In the case of an illegitimate child no person shall be required to give information under this Act as the father of such child, concerning the birth of such child, and a Deputy Registrar

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or Assistant to a Deputy Registrar shall not enter in the register the name of any person as the father of such child except at the joint request of the mother and of the person who shall in the presence of such Deputy or Assistant to such Deputy Registrar acknowledge himself in writing to be the father of such child, which acknowledgment shall be embodied in the certificate or register, and such person shall together with the mother sign in the presence of such Registrar the notice, certificate or register as the case may be.

New-born child found exposed.

15. In case any live new-born child or any body shall be found exposed, the person finding the same shall as soon as may be give notice to some police constable, field-cornet, or justice of the peace, and any police constable, field-cornet or justice of the peace having cognizance of the discovery of such child or body, or if a new-born child, any person in whose charge such new-born child shall be placed, or any person holding any official enquiry into, or being aware of any or the circumstances relating to such exposure, shall forthwith give to the Deputh Registrar or an Assistant to the Deputy Registrar of the district wherein such child or body shall be found, such notice or information as may be prescribed by regulation under this Act.

Proceedings under Inquest Act, 1875, to embrace certain enquiries.

16. Every person holding an inquest or enquiry under the provisions of "The Inquests Act, (1) 1875," with regard to any death shall inquire into such particulars in respect of the death as may be prescribed by such regulations as aforesaid, and shall forthwith furnish such particulars to the Deputy Registrar of the district.

Returns by trustees or custodian of public cemeteries and burial places.

17. The trustees of every public cemetery, or in case of any burial ground vested in any church or public body, the custodian of such cemetery, or the public body, shall from time to time, in accordance with regulations under this Act, render returns similar to those prescribed by the twenty-third section of the Act No. 3 of 1883, setting forth the name or names and nationality, the last known address, the dates of the death and of the burial, and, so far as ascertained, the cause of the death of any person, whose body shall be buried in such burial place.

Information by undertakers.

18. Every undertaker or other person having charge of any funeral shall obtain and supply, as far as practicable, to the trustees of any public cemetery or to any such public body or custodian of such cemetery as aforesaid in whose cemetery or burial ground, as the case may be, it has been arranged that the burial shall take place, such information as may be necessary to enable the said trustees, custodian or other body as aforesaid to frame the required return in respect of any such interment.

Penalty for failure to give notice, information, &c.

19. Any person, company, or body of persons who shall without reasonable cause or excuse fail or neglect to give or forward any

[1] No. 22.

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notice, information, memorandum, return or certificate required by this Act or by any regulation made thereunder to be given or forwarded, shall forfeit a sum not exceeding forty shillings, unless in any other section of this Act some other penalty is expressly provided, to be recovered by any informer in the Court of a Resident Magistrate having jurisdiction; provided that no person shall be condemned to forfeit such sum if any other person shall duly have given the required notice, information, memorandum, return or certificate.

Penalty for false statement.

20. Every person who shall wilfully make or cause to be made for the purpose of being inserted in any notice or information, or in any registration book of births or deaths any false statement touching any of the particulars required by this Act or by any regulation made thereunder to be made known and registered, shall on conviction thereof be subject to the same pains and penalties as if he were guilty of perjury.

PART II.

Registration of Births and Deaths in Urban Areas.

Application of Part II of this Act.

21. Part II of this Act shall apply to and be in force within the area within the local limits of any municipality, borough, or corporate town, or any area in which the "Villages Management Act, (1) 1881," is in operation, and such other areas as the Governor may from time to time define and proclaim urban areas.

Duty of father or mother, or occupier of house, in case of birth of child.

22. In the case of every child born alive after the coming into operation of this Act, it shall be the duty of the father and mother of the child, and in default of the father and mother, of the occupier of the house in which to his or her knowledge the child is born, and of each person present at the birth, and of the person having charge of the child, within forty-two days next after the day of such birth, to give such notice or information thereof, as shall be prescribed by regulations under this Act to the Deputy Registrar of the district or to an Assistant to such Deputy Registrar, and every such Deputy Registrar or Assistant to such Deputy Registrar, shall register and deal with such notice or information in the manner prescribed by such regulations

Duty of medical practitioner or midwife in case of still-born child.

23. In the case of any still-born child, any medical practitioner or certificated midwife, who was in attendance at the birth, or any medical practitioner who has examined the body of such child, shall sign and give to one or other of the persons required by this Act to give information concerning the birth, a certificate stating that such child was not born alive, and any such person who would, if the child had been born alive, have been required by this Act to give information concerning the birth, shall deliver such certificate as aforesaid to the Deputy Registrar of the district or Assistant to such Deputy Registrar, or if no medical practi-

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tioner or certificated midwife was present at the birth, or no medical practitioner has examined the body of such child, such person shall make or deliver a solemn declaration that such child was not born alive, and such Deputy Registrar or Assistant to a Deputy Registrar upon receiving such notice or information as aforesaid, accompanied by such certificate or solemn declaration, shall forthwith, or so soon after as he is required, give without fee or reward, either to the person giving the notice or information concerning the birth, or to the undertaker or other person having charge of the burial of the still-born child, an order under his hand authorising burial.

Duty of relatives and others in case of death of any person.

24. The adult relatives of the deceased present at the death of, or in attendance during the last illness of, or dwelling with the deceased, and in default of such relatives, every person present at the death of any person dying after the coming into operation of this Act; and the occupier of the house in which any death, shall have happened, or, in case of the death of such occupier, every adult inmate of such house; and the person causing any body to be buried, shall, within thirty-six hours of such death, give notice or information thereof, in manner prescribed by regulations under this Act to the Deputy Registrar of the district or to an Assistant to such Deputy Registrar, and every such Deputy Registrar or Assistant to such Deputy Registrar shall register and deal with such notice or information in the manner prescribed by such regulations.

Duty of medical practitioner in case of death of patient.

25. In the case of the death of any person who has been attended duringg his last illness by a medical practitioner, that practitioner shall, unless he shall believe that such death was not the result of natural causes, forthwith sign and give to some person required by this Act to give notice or information concerning the death, a certificate stating to the best of his knowledge and belief the cause of death, and such person, shall within thirty-six hours from the receipt thereof deliver that certificate to the Deputy Registrar of the district or to an Assistant to such Deputy Registrar, as the case may be, and every such Deputy Registrar or Assistant upon receiving such notice or information as aforesaid accompanied by such medical certificate shall forthwith, or so soon after as he is required, give without fee or reward, either to the person giving the notice or information concerning the death, or to the undertaker or other person having charge of the burial, an order under his hand authorising burial.

Whenever any medical practitioner shall be unable to give the certificate of death as aforesaid he shall forthwith report such inability to the Resident Magistrate and to the Deputy Registrar of the district or Assistant to such Deputy Registrar.

Duty of Deputy Registrar in case of death of person not attended by medical practitioner.

26. In the case of the death of any person who has not been attended during his last illness by a medical practitioner the Deputy Registrar of the District or Assistant to such Deputy

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Registrar to whom such notice or information of such death is given as aforesaid shall, if no inquest or other proceedings have been or are being instituted under the provisions of "The Inquests Act, (1), 1875," make such enquiry, in the manner mentioned in the tenth section of this Act, into the cause of such death as he shall deem necessary; and if such Deputy Registrar or Assistant shall be satisfied as to the cause of death being such as to warrant his so doing, he shall give an order as aforesaid authorising burial.

As often as after making such enquiry as aforesaid such Deputy Registrar or Assistant shall not be satisfied as aforesaid as to the cause of death, such Deputy Registrar or Assistant shall forthwith report to the Resident Magistrate all the circumstances of the case.

Duty of magistrate on receiving report of medical practitioner or Deputy Registrar.

27. As often as any Resident Magistrate shall receive any such report as aforesaid from a medical practitioner or the Deputy Registrar of the district or any Assistant to such Deputy Registrar, such Resident Magistrate shall, according as in his opinion the circumstances of the case require, hold an inquest for the purpose of ascertaining the cause of death in manner provided by "The Inquests (1) Act, 1875, or by any order under his hand authorise burial.

A magistrate holding any inquest or enquiry under the provisions of "The Inquests Act, (1), 1875," shall at the conclusion of such inquest or enquiry, or sooner if he thinks fit, by an order under his hand authorise burial.

Every order made in pursuance of this action shall be given to the relative of the deceased or other person who causes the body to be buried, or to the undertaker or other person having charge of the burial, and the Resident Magistrate making such order shall forthwith furnish to the Deptuy Registrar of the district, or Assistant to such Deputy Registrar who shall have registered or who would, but for such inquest, have registered such death, such particulars of such order or death, as may be prescribed by regulations under this Act.

Delivery of order authorising burial.

28. Every such order as herein before mentioned of a Deputy Registrar, Assistant to a Deputy Registrar, or a Resident Magistrate, shall be delivered by the person receiving it from such Deputy Registrar, Assistant to a Deputy Registrar or Resident Magistrate, to the person who buries any body, or performs any funeral or religious service in connection with any burial; and any person to whom such order was given by the Deputy Registrar, Assitant to a Deputy Registrar or Resident Magistrate, who fails so to deliver or cause to be delivered the same shall be liable to a penalty not exceeding forty shillings.

Duty of person burying without such order.

29. Save in case of urgent necessity, to be defined by regulations, no buiral shall take place without an order authorising

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burial, and the person who buries any body or performs any funeral or religious service in connection with the burial of any body as to which no order under this Act is delivered to him, shall, within thirty-six hours after the burial, give notice thereof in writing to the Deputy Registrar, or an Assistant to a Deputy Registrar, of the district from which such body shall have been brought for burial or within which such burial or funeral or religious service has been performed, and any person contravening this section shall be liable to a penalty not exceeding ten pounds.

Penalty for non-delivery to Registrar of certificates granted by doctor or midwife.

30. If any person to whom a certificate is given by a medical practitioner or certified midwife in pursuance of this Act fails to deliver that certificate to the Deputy Registrar of the district, or Assistant to such Deputy Registrar, he shall be liable to a penalty not exceeding forty shillings.

Duty of undertaker when coffin contains more than one body.

31. Any undertaker or other person who encloses in any coffin for burial or brings or causes to be brought for burial any coffin containing more than one body shall deliver to the person who buries or performs any funeral or religious service in connection with the burial of such coffin, notice in writing signed by such undertaker or other person, and stating to the best of his knowledge and belief such particulars in respect of each such body as may be prescribed by such regulations as aforesaid; and the person to whom such notice in writing shall be delivered as aforesaid shall within thirty-six hours forward the same to the Registrar or Deputy Registrar, or an Assistant to a Deputy Registrar.

Every person who fails to comply with this section shall be liable to a penalty not exceeding ten pounds.

PART III.

Registration in Areas other than Urban.

Application of Part III. of Act.

32. Part III. of this Act shall apply to any part of the Colony or Territories annexed thereto in which Part II. shall not be in operation.

Duty of parents in case of birth of child.

33. In the case of every child born alive after the coming into operation of this Act, it shall be the duty of the father and mother of the child, and in default of the father and mother, of the occupier of the house in which to his knowledge the child is born, and of each person present at the birth, and of the person having charge of the child, within three months next after such birth to give such notice or information thereof as shall be prescribed by any regulations under this Act to the Deputy Registrar of the District, or to an Assistant to such Deputy Registrar, or to the nearest field-cornet, or to any police officer, and every such assistant or field-cornet or police officer shall forthwith give notice of such birth to the Deputy Registrar.

Duty of relatives in case of death of any person.

34. The adult relatives of the deceased present at the death of, or in attendance during the last illness of, or dwelling with the deceased, and in default of such relatives every person present at

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the death of any person dying after the coming into operation of this Act; and the occupier of the house in which any death shall have happened, or, in case of the death of such occupier, every adult inmate of such house; and the person causing any body to be buried, shall, within three months next after the day of such death, give notice or information thereof, in the manner prescribed by regulations under this Act, to the Deputy Registrar of the district, or to an Assistant to such Deputy Registrar, or to the nearest field-cornet or to any police officer, and every such Assistant or field-cornet or police officer shall forthwith give notice of such death to the Deputy Registrar.

Governor may make regulations prescribing forms for native locations.

35. Notwithstanding anything to the contrary contained in the thirty-third, thirty-fourth or any other section of this Act, the Governor may, by regulations prescribe and define different forms of notices of births and deaths to be used in native locations in this Colony or any of the territories annexed thereto, and may by such regulations prescribe and define the persons by whom, the time and manner in which, and the locations wherein the due use of any such form of notice of any birth or death shall be deemed to constitute a sufficient compliance with the provisions of this Act, and every notice of birth or death duly given by any person authorised by such regulations to give such notice shall be deemed to constitute a sufficient notice of such birth or death for the purposes of this Act, and no person other than a person prescribed by such regulations shall be deemed to be under any duty to give any notice under any provision of this Act of any birth or death for giving notice of which provision is made by such regulations.

PART IV.

Registration of Births and Deaths occurring on Shipboard.

Duty of master of ship in case of birth of a child on board.

36. If any child shall be born on board any British or Colonial vessel, or any vessel which, not being a British or Colonial vessel, carries passengers to or from any port in this Colony as the port of destination or the port of departure of this vessel, in any port of this Colony or at sea while trading to any port of this Colony, the master or officer in charge of the said vessel shall forthwith make a minute in the vessel's log of particulars so far as is known, of the date of birth of such child, and whether living or dead, and the name (if any) and sex of such child, and the name and surname, rank, profession or occupation, nationality and last place of abode of the father, and the name and surname and maiden surname, nationality and last place of abode of the mother, and the name of the vessel wherein the birth took place, and shall forthwith at such port or on the arrival of such vessel in any port of this Colony as the case may be, send or hand a certificate of the said minute to the chief Customs officer at such port, or if there be no Customs officer, to the nearest field-cornet, who shall transmit the same to the Deputy Registrar of the district: Pro-

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vided that this section shall apply only in the case of children born of parents who reside or intend to reside in this Colony.

Duty of master of ship in case of any death on board.

37. The thirtieth section of the Act No. 16 of 1857 (1) is hereby repealed, and if after the coming into operation of this Act any person shall die on board any British or Colonial vessel or any vessel which, not being a British or Colonial vessel, carries passengers to or from any port in this Colony as the port of destination or the port of departure of such vessel, in any port in this Colony, or at sea on board of any such vessel while trading to any port in this Colony, the master or officer in charge of the said vessel shall forthwith make a minute in the vessel's log of particulars, so far as is known, of the date of the death, name and surname, sex, age, rank, profession or occupation, nationality and last place of abode and cause of death of such person, and the name of the vessel wherein the death took place, and shall forthwith at such port or on the arrival of such vessel in any port of this Colony, as the case may be, send or hand a certificate of the said minute to the Chief Customs officer at such port, or if there be no Customs officer, to the nearest field-cornet, who shall transmit the same to the Deputy Registrar of the District.

No. 8—1894.] [August 7, 1894.

ACT

To Incorporate the East London Chamber of Commerce.

Preamble.

WHEREAS there exists an association of merchants and others at East London, called and known as the "East London Chamber of Commerce," formed for the purpose of promoting and protecting the trade of that place:

And whereas it is expedient to incorporate such Association in order the better and more effectually to carry out its objects: 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:—

What persons shall form the Chamber.

1. The several persons who are or who may from time to time become shareholders in, or subscribers to, the Association in the preamble to this Act mentioned, shall be and are hereby united into one body corporate, under the name or title of the "East London Chamber of Commerce," for the purpose of promoting, encouraging and protecting the trade of that port and commercial interests generally.

The Chamber to have perpetual succession and a common seal and right to hold landed property.

2. The Association, hereby incorporated by the name of the "East London Chamber of Commerce," shall have perpetual succession and a common seal, and by such name shall and may, from time to time, sue and be sued in any competent court, and shall have power to acquire, (2) take, hire, purchase and hold, and

amended by Ord. No 8 of 1913

[1] Port Regulations.
[2] See § 10 Act 39, 1905 (p. 4948).

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to sell, lease, deliver, transfer, or otherwise lawfully dispose of landed and other property, and such landed or other property, subject to any engagements affecting the same, shall be vested in the Association in its corporate name, and without the necessity of each individual member being mentioned in the deed or deeds of transfer, grant or grants, or conveyances thereof; and any such lease or leases shall in like manner be in the name of the Association and not in the name of the individual members thereof.

Liability of members.

3. Every member of the said Chamber shall be liable in respect of debts incurred during his membership for a sum of (£10) ten pounds sterling and no more; and such sum shall be additional to the subscription payable by him in respect of the current year.

Power to make, alter or rescind regulations.

4. The said corporation hereby created shall have power, from time to time, to make, rescind or alter rules and regulations as to the admission of its members, and for the manner of and procedure in the election from time to time by the said Chamber of a member of the East London Harbour Board, as provided in section four of the East London Harbour Board Act, (1) 1893, the expulsion of any such members, and for the general good management and guidance of the Association, and the furtherance of its objects.

Existing rules to continue in force until new rules made, and present office holders to remain in office.

5. Until any new rules and regulations, as in the last preceding section mentioned, shall have been framed by the corporation hereby created, the existing rules and regulations of the Association shall be and continue in force; and all persons now holding office shall continue to hold office in accordance with, and subject to the provisions of such rules and regulations.

How transfers, leases, &c., to be executed.

6. All transfers, leases, powers to transfer, contracts, powers to sue and defend, or other instruments to be executed by the said Chamber for any of the purposes of this Act, or if the said rules and regulations, or of the said Chamber, shall be executed by the chairman in his absence by the vice-chairman, and the signature of the secretary and the seal of the Association shall be affixed thereto.

Short title.

7. This Act may be cited as the "East London Chamber of Commerce Act, 1894."

No. 9—1894.] [August 7, 1894.

ACT

To Amend Section One Hundred and Four of "The Cape Town Municipal Act, 1893."

Preamble.

WHEREAS the Town Council of the City of Cape Town (hereinafter styled the Council) have authority under "The Cape Town Municipal Act, 1893," to borrow money without obtaining the consent of enrolled voters of the Municipality, so long as the total indebtedness of the Council does not exceed £662,000:

(1) No. 18, 1893, is repealed by Act 36, 1896 (p. 3157), which see.

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No. 10—1894.

And whereas the inhabitants of the Municipality have suffered in the past from a scarcity of water, to provide against which in the future the Council are constructing a reservoir and water-works on Table Mountain, at an estimated cost of £50,000:

And whereas it is expedient that the capacity of the said reservoir should be increased by the construction of further works at an estimated cost of £57,000, and that for that and other reasons the said Act should be amended by increasing the borrowing powers of the Council: 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:—

Act 26 of 1893, section 104, amended.

1. Notwithstanding anything to the contrary contained in "The Cape Town Municipal Act, 1893," the one hundred and fourth section of the said Act shall be read and construed hereafter as if in the place of the figures "£662,000," at the end of the said section, were inserted the words and figures following, to wit, "seven hundred and nineteen thousand pounds, of which sum fifty-seven thousand pounds shall be devoted exclusively and only towards increasing the capacity of the contemplated reservoir now in course of erection on Table Mountain."

Short title.

2. This Act shall be cited as the "Cape Town Loan Act, 1894."

No. 10—1894.] Rep. by Act 22 of 1916 [August 7, 1894.

ACT

To Authorise the Raising of a Public Loan of Fifty Thousand Pounds for the purpose of prosecuting and improving the Harbour Works of Port Elizabeth, and providing greater facilities for the conduct of the Business of the Port.

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:—

Power to raise loan of £50,000 for improvement of Port Elizabeth Harbour Works, &c.

1. It shall be lawful for the Governor to raise by public loan a sum not exceeding fifty thousand pounds sterling for the purpose of prosecuting the harbour works of Port Elizabeth, and of effecting improvements at the Port as set forth in the Schedule to this Act.

Application of moneys by Harbour Board.

2. The application of the moneys to be raised as aforesaid for the above purposes shall be entrusted to the Port Elizabeth Harbour Board, and the said Harbour Board shall in respect to such application have and exercise all the powers conferred upon such Board by any law.

Capital and interest of loans chargeable upon

3. Save in cases in which it may be expressly provided by law to the contrary, the capital [1] and interest of all loans raised on the

[1] See § 4, Act 17, 1900 (p. 4286).

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guarantee of the public revenue, for the purpose of prosecuting and improving the Harbour Works of Port Elizabeth, shall in the first instance be chargeable upon the revenues of the Port Elizabeth Harbour Board, (1) and such Board 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 of such loans.

No. 11—1894.

revenues of Port Elizabeth Harbour Board.

4. This Act may be cited as "The Port Elizabeth Harbour Loan Act, 1894."

Short title.

SCHEDULE.

Reclaiming Land and Building Warehouses thereon	...	£22,000
Patent Slip	...	10,000
Concrete Retaining Wall	...	3,000
Locomotives and Rolling Stock	...	15,000
		£50,000

No. 11—1894.] [August 7, 1894.

ACT

To Authorise the Raising of a Public Loan of Forty Thousand Pounds for the purpose of prosecuting and improving the Harbour Works of East London, and providing greater facilities for the conduct of the Business of the Port.

[Repealed by Act 36, 1896.]

1 See Acts No. 23, 1890, and 36, 1896.

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No. 12—1894.

No. 12—1894.] [August 7, 1894.

ACT (1)

To Grant further Powers to the Borough Council of King William's Town.

Preamble.

WHEREAS it is expedient and desirable to further add to and amend the Ordinance No. 9 of 1864 of British Kaffraria, entituled "Ordinance to repeal the laws relating to the Corporation of King William's Town, and to make other provisions in lieu thereof," in order to confer upon the Mayor, Councillors and Burgesses of King William's Town additional powers, and to enable them to establish, take over, maintain and manage botanical gardens, public baths, parks, recreation grounds, and other buildings and grounds of utility, convenience and enjoyment to the inhabitants of King William's Town:

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 the House of Assembly thereof, in manner following:—

Additional powers conferred on Council to acquire and establish botanical gardens and public buildings and grounds.

1. It shall be lawful for the Mayor, Councillors and Burgesses of King William's Town, described in this Act as "the Council," in addition to the powers conferred on them by the Ordinance No. 9 of 1864 of British Kaffraria, or by any other Ordinance, Act or Proclamation, or any other authority whatsoever, to negociate with the Committee of Management, or with the Trustees of the Botanical Gardens at King William's Town, or with the Colonial Government, and to take over, on such terms as may be arranged, and as the Council may decide to be advisable, the Botanical Gardens and Public Baths in King William's Town, and to maintain and manage the same; and it shall also be lawful for the Council to establish, take over, maintain and manage such other botanical gardens, public baths, public halls, parks, recreation grounds, gardens, avenues, walks, esplanades, fountains, monuments, washhouses, latrines, urinals, slaughter-houses and markets, and such other buildings, erections and grounds as the Council may from time to time consider to be necessary or desirable, for the purposes of preserving and promoting the health, comfort, convenience, decency, prosperity and well-being of the town and of the inhabitants thereof, with power to the Council to relinquish or abandon the same or any part thereof, which it may be necessary or desirable to relinquish or abandon.

For purposes of this Act Council given powers it has for other matters.

2. 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,

[1] See § 12, Act 22, 1899 (p. 4110), Act 17, 1869 (p. 1133), § 27, 1905 (p. 4858).

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with regard to any other object or purpose, by any ordinance, Act, proclamation, or any other authority whatsoever.

Buildings, &c. vested in Council.

3. The right, title and property in and to all buildings, erections and grounds taken over or established under this Act shall be vested in the Council.

Charges incurred by Council to be paid out of Municipal funds.

4. 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.

Council may acquire engine, &c.

5. 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.

6. 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 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 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 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

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property. The persons volunteering as aforesaid and any 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 or the officer in charge shall have power to dispense with the services of any of them at any time.

Powers of police.

7. The police shall aid the brigade in the execution of their duties: they may also 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.

Indemnity clause.

8. 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.

Charges to be made by Council for use of brigade and water.

9. 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, the sum of not exceeding five 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 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.

Who to pay charges.

10. 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.

Salvage expenses.

11. 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 part thereof, for the purpose of

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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.

12. 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 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, the Council shall have an absolute lien upon the movable property so salved 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.

Apportionment of expenses.

Superintendent to make report on fires.

13. 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.

14. 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 ten, 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.

Short title and repeal of inconsistent laws.

15. This Act may be cited for all purposes as "The King William's Town Borough Ordinance Amendment Act, 1894," and shall be read as one with Ordinance No. 9 of 1864, Act No. 17 of 1869, and Act No. 21 of 1881, and anything in the said Ordinance or Acts repugnant to or inconsistent with this Act is hereby repealed.

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No. 13—1894.

No. 13—1894.] [August 3, 1894.

ACT

To Amend "The Villages Management Act, 1881."

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 in Section 5 of "Villages Management Act."

1. "The Villages Management Act, 1881," is hereby amended by the insertion after the words "in every such year," in the fifth section thereof, of the words "or such other day, not being a Sunday, in the first week of the said month, as the said Magistrate may by such notice annually appoint," and from and after the taking effect of this Act, the said Act shall be read and construed as so amended.

Amendment of Section 9 of Act 29 of 1881.

2. The ninth section of the Act 29 of 1881, called the "Villages Management Act, 1881," is hereby amended by the insertion of the words "shall resign his seat on the Board or," between the words "board" and "shall" in first line of the said section.

Short Title and effect of Act.

3. This Act shall be read as one with the said Act, and may be cited as "The Villages Management Act, 1881, Amendment Act, 1894."

No. 14—1894.] [August 3, 1894.

ACT

To Increase the Power of the Municipal Council of Graham's Town.

[Repealed by Act 18, 1902. Pages 3337—3339.]

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No. 15—1894.] [August 3, 1894.

ACT [1]

To enable the Town Council of the City of Cape Town to close or divert public streets, thoroughfares and lanes, and for the disposal of the title therein, and particularly to enable the Council to close and transfer to the Colonial Government such parts of Strand Street and adjoining Streets as may be required by the Colonial Government for Railway purposes.

Preamble.

WHEREAS the Colonial Government have entered into negotiations with the Town Council of the City of Cape Town, hereinafter styled "The Council," for the acquisition for railway purposes of that part of Strand Street, in Cape Town, which extends from the

[1] So much of this Act as is inconsistent with Act 28, 1902, is repealed.

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Railway Crossing near the entrance to the Castle up to, but not including, Adderley Street, and for the acquisition for similar purposes of the streets adjoining thereto which lie between the Cape Town Railway buildings and the lines running therefrom on the one side and the goods station on the reclaimed land near the sea, and the lines running therefrom on the other side:

And whereas from time to time it may be advisable in the public interest that certain public streets, thoroughfares and lanes within the Municipality of Cape Town should be closed or diverted:

And whereas it is expedient that authority should be given to the Council to alienate to the Colonial Government upon such terms as may be fixed by agreement or arbitration, all rights and title in and to that part of Strand Street aforesaid, and the other streets aforesaid for the purposes aforesaid, and it is also expedient that power should be given to the Council to close or divert, under necessary safeguards for the protection of the public, public streets, thoroughfares and lanes which, in the opinion of the Council, it will at any time be in the public interest to close or divert, and that power should be given to the Council to dispose of the title to any public street, thoroughfare or lane in so far as the same may be closed or diverted:

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, in manner following, to wit:

Council authorised to transfer Strand and certain other streets to Colonial Government.

1. The Council is hereby authorised to close and transfer to the Colonial Government such part of Strand Street as aforesaid, and of the other streets aforesaid adjoining thereto, upon such terms and conditions as may be mutually arranged, and failing mutual arrangement, then upon such terms and conditions as may be fixed by arbitration; provided that the powers conferred by this section shall not be exercised by the Council until the Colonial Government shall have acquired the rights of all owners of land contiguous to such part of Strand Street or any other of the aforesaid streets either by agreement to purchase or arbitration.

General authority given as to closing and diversion of streets, &c.

2. Notwithstanding that the Council shall not have acquired the whole of the properties on both sides of any street, thoroughfare or lane, the Council is hereby invested with authority to close or divert for public purposes any street, thoroughfare or lane, the property in which is vested in the Council, and may from time to time dispose of the property in any such street, thoroughfare or lane, which may be closed or diverted; provided that the closing or diversion of any such street, thoroughfare or lane shall be subject to the provisions of sections one hundred and fifty-six and one hundred and fifty-seven of the Act No. 26 of 1893, and that the notice required by the terms of the said one hundred and fifty-sixth section to be served on the various persons interested in the land intended to be expropriated shall be served on the owners or

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No. 16—1894.

reputed owners, lessees or reputed lessees, and occupiers of all properties abutting upon and adjoining the street, thoroughfare or lane which it is proposed to close or divert, who shall *mutatis mutandis* have the rights in the said sections given to the persons interested in land intended to be expropriated.

Duty of arbitrators.

3. In any case of the closing or diversion of any street, thoroughfare or lane, in the event of arbitration to decide the sum payable by way of compensation to any person, the arbitrators shall estimate and deduct the benefit or advantage derived or to be derived by such person by reason of such closing or diversion.

Short title.

4. This Act shall be read as one with the Act No. 26 of 1893, and may be cited as the "Cape Town Streets Act, 1894."

No. 16—1894.] [August 3, 1894.

ACT

To Provide for vesting the Management and Control of the Port Office and Officials of the Harbour of Port Elizabeth in the Port Elizabeth Harbour Board.

[Repealed by Act 36, 1896. Pages 3343—3344.]

No. 17—1894.] [August 3, 1894.

ACT

To apply a Sum not exceeding Forty Thousand Pounds Sterling for the Construction and Equipping of a Lunatic Asylum.

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:—

Construction of a Lunatic Asylum.

1. For the purpose of constructing and equipping a Lunatic Asylum upon a site adjoining the existing Valkenberg Lunatic Asylum, it shall be lawful for the Governor to apply a sum of forty thousand pounds sterling out of moneys authorised to be raised under the provisions of "The Temporary Loans Act (1), 1883."

Short title.

2. This Act may be cited as the "Valkenberg Lunatic Asylum Act, 1894."

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No. 18—1894.] [August 3, 1894.

Repealed by Act 12 of 1911

ACT

To Provide for the Inspection of Private Mines and Alluvial Diggings, and the Regulation of certain Works therein.

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 repugnant Laws.

1. So much of "The Precious Stones and Minerals Mining Act, (1) 1883," or of any other law as may be repugnant to or inconsistent with the provisions of this Act is hereby repealed.

Meaning of mine and alluvial digging.

2. For the purposes of this Act "mine" and "alluvial digging" shall, respectively, be taken to mean every place where precious stones, coal, minerals, or ores, are being won or worked which has been or shall be declared by the Governor, by Proclamation in the *Gazette*, under the provisions of this Act, to be a mine or alluvial digging as the case may be, and shall include the local limits as defined by such Proclamation of such mine and alluvial digging respectively.

Governor may make rules for protection of life and limb in private mines and diggings

3. It shall be lawful for the Governor, by proclamation in the *Gazette*, from time to time to make, alter or revoke such rules for regulating the works and machinery and the manner of carrying on such works, and the working of such mine or alluvial digging, and of such machinery at or in any mine or alluvial digging, proclaimed as such under this Act, which is situated on private property, not subject to a reservation of precious stones and minerals in favour of the Crown, and which has not been proclaimed a mine or alluvial digging, as the case may be, under the provisions of "The Precious Stones and Minerals Mining Act (2) 1883," or at any area held under the Mineral Lands Leasing Act No. 9 of 1877, as amended by Act No. 15 of 1883, as may be deemed necessary for the protection of life and limb in such mine, or alluvial digging, or area.

Penalties for contravention of rules

4. Every such rule shall upon being so proclaimed have the force of law at and for the mine, digging, or area referred to in the proclamation in the last section mentioned, and every person who shall contravene any rule so proclaimed as aforesaid shall be liable to a fine not exceeding one hundred pounds, or in default of payment thereof, to imprisonment with or without hard labour for any period not exceeding three months.

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[1] No. 20.
[2] No. 19.

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No. 19—1894.

Appointment of officers.

5. It shall be lawful for the Governor from time to time to appoint at or for any such mine, digging, or area, such inspectors or other officers as may be deemed necessary for the purpose of carrying out the provisions of this Act or of any rules made in pursuance thereof, and from time to time fix and determine the duties and authorities of such inspectors or other officers.

Short title.

6. This Act may be cited for all purposes as "The Private Mine Inspection Act, 1894."

No. 19—1894.] [August 3, 1894.

ACT

To Amend "The East London Harbour Board Act, 1893."

[The Act 18, 1893, is repealed by Act 36, 1896, which see (page 3659).]

Section 1 on Repeal. Act 25 of 1934

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No. 20—1894.] [August 24, 1894.

ACT [1]

Repealed by act 14 of 1911 See 1.

To Amend the Law relating to Scab in Sheep.

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.

A. PRELIMINARY.

Taking effect of Act. 1. This Act shall take effect on and after the first day of November, 1895, except (1) as to districts in which the existing Scab Acts are already in force, in which districts it shall take effect on and after the first day of March, 1895, and (2) as to any divisions in which, in manner provided by regulations made by the Governor, the majority of voters for members of the Divisional Council who are sheep farmers shall have expressed their wish that the operation of the Act should extend to such division, in which the Governor may accordingly before the first day of November, 1895, proclaim this Act to be in force on and after a date to be fixed by Proclamation: Provided that no person registered as a voter for Divisional Council purposes shall be entitled to vote who shall be registered as such in respect of immovable property situated within the limits of any municipality or village under the Village Management Act of 1881, or who shall not be the owner of at least one hundred sheep; and provided that the list of Divisional Council voters shall forthwith after

[1] Amended by Act 28, 1899 (p. 4136). See also Act 10, 1902 (p. 4373), giving a special indemnity for violation of this Act and of Act 28, 1899 in consequence of War and Rebellion.

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the passing of this Act be amended in accordance with the regulations made by the Governor so as to show the voters possessing the necessary qualifications as to sheep.

Suspension of Act in certain districts.

2. It shall be lawful for the Governor, during times of drought, by proclamation in the *Gazette* to suspend the operation of any portion, save and except Part VI. of this Act, within all or any of the districts of this Colony, for such period as the Governor may seem fit.

Repeal of laws.

3. From and after the taking effect of this Act, the laws mentioned in the Schedule, to the extent therein set forth, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, are hereby repealed, save as to acts done, rights acquired, liabilities incurred, offences committed, or proceedings taken before the taking effect of this Act in any part of this Colony.

Definition of terms.

4. 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 respectively assigned to them, that is to say:—

"Chief Inspector" means the chief inspector of sheep appointed under this Act.

"Assistants" mean officers appointed to assist the Chief Inspector.

"Inspector" (1) means an officer appointed under this Act (28, 1899) to have charge of an area which shall in general consist of two or more Field-cornetcies or portions of Field-cornetcies.

"Sheep" includes goat.

"Flock" means two or more sheep running together.

"Owner" as applied to sheep means every person claiming jointly or in severalty any right, title, or interest in any sheep in his possession, and shall include every person having charge, control or management of sheep, as well as the owner of land in respect of sheep belonging to his servants and running on such land.

"Owner" as applied to land means every person, partnership association, Council, Board or Corporation in whom land, whether held jointly, severally, or as commonage is vested, or who have the charge, control or management of any land; or the lessee or the occupier of any land.

"Infected" as applied to a flock means any flock of sheep in which one or more sheep are infected.

"Infected" as applied to sheep means:—

(1) Any sheep infected with the disease called scab.

(2) Any sheep forming part of a flock in which any sheep are so infected.

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[1] Printed as amended by § 3, Act 28, 1899, which see (page 4137).

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(3) Any sheep on board any vessel or boat, or in any yard, enclosure, carriage, wagon or truck in which there are any infected sheep.

(4) Any sheep on board any vessel or boat, or in any yard, enclosure, carriage, wagon or truck in which there have been within six weeks any infected sheep, unless such yard, enclosure, carriage, wagon or truck shall have been effectually scoured with some scab-destroying preparation previously to being occupied by such first mentioned sheep and since the removal of such infected sheep.

(5) Any sheep which have been infected, until the expiration of the time for which an order to cleanse has been granted;

and shall for the purposes of the provisions of this Act dealing with the removal of infected sheep, include any sheep which have within four weeks been mixed with infected sheep.

"Notice" means a verbal notice or a notice in writing delivered in manner following, that is to say, by delivering the same personally or by leaving the same at, or posting the same addressed to the office or address of any inspector, or at, or to, the usual or last known place of abode in the Colony of the owner or other person, or by affixing such notice at the dwelling-house, homestead or other conspicuous place on the farm of such owner or person.

"Premises," for the purposes of sections eight, nine, and ten, means any station, paddock, farm-yard, stock-yard, kraal, shed, sleeping-place, shearing-shed, dipping-place, stable-shed, building or place where sheep are depastured, kept, housed or confined.

"Premises," for the purposes of sections eighteen, means any kraal, shed or building in which sheep are kept, housed or confined.

"To dip" means to plunge or immerse in a dipping tank containing such effective scab-destroying preparation, as may from time to time be prescribed by regulation.

"Dipping tank" means a tank or dipping receptacle, portable or otherwise constructed or provided to the satisfaction of the inspector.

"Clean certificate" means a certificate granted by a veterinary surgeon or inspector for and in respect of sheep to the effect that such sheep are not infected.

B. Appointment of Officers.

Chief Inspector and assistants.

5. It shall be lawful for the Governor to appoint a chief inspector of sheep, and such assistants as may be necessary, who shall, under direction of the Minister, be charged with the administra-

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tion of this Act, and with the duties hereinafter set forth; and from time to time to remove or dismiss such chief inspector or assistants.

6. [Repealed by Act 28, 1899.]

7. In case the inspector through death, resignation, suspension or otherwise, shall be unable to fulfil the duties assigned to him under this Act, it shall be lawful for the Minister, until the election of a successor, which shall take place immediately, to appoint a substitute who shall act in the intervening period.

Substitutes for Inspectors.

8. Every inspector shall have full power at any time to inspect any sheep within any area (2),as the case may be, for which he is appointed, and for that purpose, and generally for the purpose of his duties under this Act to enter in and upon any land or premises in such area (2) whereon or wherein any sheep may be kept,driven,

Power allowed to Inspectors.

[1] Areas, see § 4, Act 28, 1899 (p. 4137).
[2] Printed as amended by § 4, Act 28, 1899.

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or depastured, and shall have, exercise, and discharge within such area respectively, the several rights, powers, authorities and duties hereinafter mentioned.

Obstructing Inspector in execution of duties.

9. No person shall refuse to allow any inspector to enter upon any land, pasturage or premises, or to examine any sheep, or shall attempt to impede or hinder any such inspector from examining such sheep or premises, or shall obstruct him in the execution of his duties under this Act; and every person shall when requested by any such inspector, in accordance with regulations made by the Government, render him every reasonable assistance in the execution of such duties.

Chief Inspector to have power to enter upon any land or premises.

10. (1) It shall be lawful for the chief inspector to enter upon any land or premises in this Colony for the purpose of supervising or directing the discharge of the duties of the inspector of the area in which such land or premises are situated; such chief inspector shall, for the purposes of this Act, be vested with all the powers in any area of any inspector of such area: provided that the assistants to the chief inspector, when they act under authority of such officer, shall have the right of supervising and directing the carrying out of the duties of the inspectors of such areas, and accompanying them in the discharge of such duties: and provided, further, that in the absence from any area of the inspector, any assistant, when thereto authorised by the chief inspector, shall have the rights of entering upon premises conferred upon such inspectors.

C. Dips and Dipping-tanks.

Sheep dips and dipping receptacles carried free on Railways.

11. All receptacles used expressly for the purpose of dipping sheep, and all effective scab-destroying preparations, and all tobacco and sulphur intended solely for the purpose of dipping sheep under the provisions of this Act, shall be carried (2) free of charge on the Government Railways, subject to such conditions as to a declaration to be made as to the use for which such sulphur and tobacco are required, and such regulations as to payment of rebate, and generally such rules and regulations as the Minister may from time to time prescribe by notice in the *Gazette*; and it shall be lawful for the Governor at least six months before the taking effect of this Act to establish a dip depôt with one or more branches in every district, at which depôt or branches thereof one or more efficient scab-destroying preparations shall be supplied for dipping purposes at cost price to Government at the depôt to any owner of sheep applying therefor, upon the Government being satisfied that such preparations are required for the purpose of dipping sheep.

Construction of Dipping Tanks on Farms.

12. Every owner of land who shall not, at least one month before the date of the taking effect of this Act in respect of such land, have in readiness a dipping tank and necessary kraals with

[1] Printed as amended by § 4, Act 28, 1899.
[2] See also §§ 16, 17, Act 28, 1899 (p. 1140).

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all appliances and material, to be approved of by the inspector of the area (1) as the case may be, for dipping all sheep running, depasturing, or kept on such land, shall be deemed to be guilty of a contravention of this Act, unless such owner can show that he is entitled to the use of sufficient and approved dipping tanks and kraals existing on adjoining lands: provided that it shall be lawful for such inspector with the consent of the chief inspector, after reasonable notice to the owner, upon any contravention of the provisions of this section, himself to cause such dipping-tank and necessary kraals to be constructed or provided at the cost of such owner, such cost to be recovered in any competent court: Provided also that any lessee who may have been obliged to construct upon the land leased by him a dipping tank, and kraals, and appliances of a fixed and permanent nature, to fulfil necessarily the requirements of this section, shall after the expiry of the lease of such land have recurrence upon the owner from whom he may have leased such land to the amount of the then value of such dipping-tank, kraals and appliances.

Measuring and gauging tank.

13. Every such tank shall be measured and gauged by such inspector, who shall also either mark the total and graduated capacity of such tank on the inside thereof, in accordance with the regulations, or shall provide the owner of the said land with a properly marked measuring-rod.

Cost of tank on commonage.

14. Half of the cost of providing a dipping-tank and necessary kraals for dipping on any commonage attached to any town or village shall be paid for by the owner of such commonage, and half out of the public revenue.

Taking effect of four preceding sections.

15. The four last preceding sections shall take effect three months before the taking effect of this Act, as provided by section one in different parts of the Colony.

PART II.

Simultaneous Dipping of all Flocks.

Simultaneous dipping.

16. During a period of four consecutive months commencing on the first day of (2) November, 1895, and during a second period of four consecutive months commencing on the first day of November, (2) 1896, there shall be simultaneous dipping, in manner hereinafter described, of all sheep in the Colony; provided that it shall be lawful for the Governor to extend such periods to five months respectively in any part thereof as hereinafter provided for, in which, on account of drought, inclemency of weather, or the condition of the sheep therein or other good cause, he shall deem it expedient so to extend the same: and provided further that, during the second period aforesaid, no owner shall be obliged under this part of this Act to dip sheep in respect of which he shall hold a certificate from the inspector of the area (1) as the case may be, that such sheep are free from scab.

[1] Printed as amended by Act 28, 1899 (p. 4136).
[2] Amended by § 14, Act 28, 1899, §§ 14 *et seq* (p. 4140).

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Simultaneous dipping twice.

17. In each of the abovementioned periods of four months or five months as the case may be, within such portion of such periods not exceeding six weeks as shall be determined by Government Notice published, after consultation between the Minister and the Divisional Council, not more than two months before the taking effect of this part of this Act in the year 1895, and before the first day of November, 1896, every owner of sheep shall at intervals of not less than ten or more than fourteen days between each dipping, twice dip such sheep; and it shall be lawful for every inspector to be present at any dipping under this part of this Act within his (1) area, as the case may be, and if it shall appear to such inspector that the same is not properly and efficiently carried out in accordance with the provisions of this Act, it shall be lawful for such inspector to supervise any such dipping, and to give instructions for efficiently carrying out the same, and if any owner shall wilfully refuse or neglect to carry out the reasonable instructions so given as aforesaid, it shall be lawful for such inspector to take such sheep and to cleanse them, and the costs thereby incurred may be recovered by such inspector in any court of competent jurisdiction, and the Government shall be liable for any loss or damage occasioned to such owner by any proceedings under this section, to the extent and subject to the provisions hereinafter provided by section 52.

Disinfection of kraals and sheds, &c.

18. (2) It shall be the duty of every owner of sheep during the time allowed for dipping as aforesaid to thoroughly cleanse and disinfect the premises in or on which such sheep were housed or confined; provided that the disinfecting material required for that purpose shall be supplied by the inspector to such owner free of charge, and provided that instead of disinfecting it shall be lawful for the owner to fence off the whole or any portion of such premises.

Removal of stock during simultaneous dipping.

19. (2) During the said period of four months or five months, as the case may be, no [infected] sheep (3) shall be removed from any (1) area as the case may be, in which dipping under this part of this Act shall not yet have been carried out, into any other (1) area, as the case may be, in which such dipping shall have been carried out, except upon a certificate, setting forth that such sheep have been twice dipped under the provisions of this Act, and every owner wilfully removing or aiding or allowing or permitting or causing to be removed any such sheep, contrary to the provisions of this section, shall be deemed to be guilty of a contravention of this Act.

PART III.

Intermediate (4) Dipping of Infected Sheep.

Operations suspended.

20. The provisions of this part of the Act shall be in force in any (1) area forthwith after the taking effect of this Act therein,

[1] Printed as amended by Act 28, 1899.
[2] See § 18, Act 18, 1899.
[3] Sheep to mean "infected" sheep for Part III., Act 28, 1899. See § 18 (p. 4141).
[4] See § § 19, *et seq.*, Act 28, 1899 (p. 4141).

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but shall be suspended within any (1) area as proclaimed under part II. of this Act during the period of six weeks within which simultaneous dipping shall be in operation in such (1) area.

Duty of owner of infected sheep to give notice and to dip.

21. Whenever the owner of any flock shall become aware or shall have reasonable grounds to suspect that the same or any sheep in such flock have become infected, he shall within seven days thereafter give notice thereof to the inspector of the (1) area in which such flock shall be, and shall forthwith proceed to make proper and diligent efforts to cleanse such sheep. Every owner failing to make such efforts or to give such notice within seven days as aforesaid, shall be deemed to be guilty of a contravention of this Act.

Duty of Inspector to inspect sheep periodically.

22. Every inspector shall once at least in every four months inspect all sheep within his district, and shall also immediately upon receiving any such notice as in the preceding section mentioned, inspect the flock in respect of which such notice shall have been given; and if upon any such inspection it shall appear to any such inspector that any sheep are infected, such inspector shall give the owner of such sheep an order, in writing, to cleanse the said sheep within six weeks from the date thereof.

Proceedings to be taken on refusal of owner to carry out instructions.

23. If any owner shall refuse to carry out any reasonable instructions given by the inspector as to cleansing his sheep, or if at the expiration of six weeks from the granting of the Order to cleanse, it shall appear to any inspector that sheep in respect of which such order was granted are still infected, the inspector shall be entitled to exercise the powers provided for in section seventeen; and the Government shall be liable for any loss or damage occasioned to such owner by any proceedings under this section to the extent and subject to the provisions hereinafter provided by section fifty-two.

Removal of sheep during period of order to cleanse.

24. During the period for which an order to cleanse any sheep is given, such sheep shall not be removed from the place or farm where they then are to any other place, other than some other adjoining place or farm also occupied by the owner of such sheep, and any person removing or aiding in, or causing, or allowing or permitting the removal of such sheep, contrary to the provisions of this section, shall be deemed to be guilty of a contravention of this Act.

PART IV.

General Removal of Sheep.

Removal of scab-by sheep.

25. No owner of sheep shall save in accordance with the provisions of this Act remove or cause or permit to be removed any infected sheep from the place or farm on which they shall be, except to some adjoining place or farm, also occupied by the owner of such sheep, and any person so removing or causing or

[1] Printed as amended by Act 28, 1899.

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permitting the removal of such sheep shall be guilty of contravening the provisions of this Act; provided that such sheep are not moved for the purpose of slaughter or in times of drought or migrating from summer to winter veldt, or *vice versa*, or removed for the purpose of being impounded under the provisions of the laws relating to pounds.

Inspector or owner to give pass to person in whose charge sheep are removed.

26. The owner of any sheep not infected which are removed from off the place or farm on which they shall be to any place other than some other adjoining place or farm occupied by him shall procure from the inspector of the area in which such place or farm is situated, or shall himself give to the person in whose care or under whose charge such sheep are removed, a pass setting forth the name and address of the owner of such sheep, the name of the person in charge thereof, together with the number, destination and description of the sheep, which pass shall be exhibited to any inspector under this Act, land-holder, magistrate, justice of the peace, field-cornet or constable, or any police officer demanding the same. And every owner who shall remove any sheep without issuing or procuring such a pass, and every such person in charge of such sheep who shall refuse to exhibit such pass on the demand of any such inspector or land-holder, magistrate, justice of the peace, field-cornet, constable or police officer shall be deemed to be guilty of a contravention of this Act.

PART V.

Removal of Sheep by Public Roads.

Duty of such person on scab breaking out.

27. Every person in charge of any sheep while such sheep are being moved along any public road shall forthwith on any of such sheep becoming infected dip the flock to which such sheep belong at the nearest available dipping-tank near such public road, and if through the refusal of the adjoining owners of land or of dipping-tanks, or any other sufficient cause, it is impossible for such person to dip the sheep forthwith, he shall forthwith if possible hand-dress all such sheep as are visibly infected. Notwithstanding such hand-dressing, such person shall thereafter dip the said flock at the nearest available dipping-tank, and shall again dip such flock within not less than ten nor more than fourteen days after such first dipping; and if such person shall be unable to dip such sheep at any dipping-tank near such public road he shall dip such sheep at the first town or village having a commonage upon which a dipping-tank is situated. Such person shall, upon arrival at such town or village, give notice of the infection of the sheep to the resident or acting resident magistrate of the district, or the nearest special justice of the peace if there is no such resident or acting resident magistrate; and it shall be the duty of such magistrate, acting magistrate or special justice of

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the peace, as the case may be, to forthwith give notice of the arrival of such infected sheep to the inspector of the area within which such town or village or commonage is situated; or in the absence of such inspector to the substitute appointed as hereinafter provided.

Appointment of substitute in absence of dipping inspector.

28. Every inspector for any area in which any commonage supplied with a dipping-tank is situated shall, upon his temporary absence from the town or village to which the said commonage is attached, appoint a substitute to act during his absence as an inspector for such commonage in respect of infected sheep moved along a public road; and it shall be the duty of such inspector upon such appointment to forthwith give notice to the resident magistrate of the fact of his leaving and of the appointment of the substitute and the name and address of such substitute, and it shall be the duty of the resident or acting resident magistrate to fix such notice in a conspicuous place in the Court-house of such town or village. In case such inspector shall be absent from such town or village and no substitute shall have been appointed as aforesaid, the resident or acting resident magistrate of the district in which the commonage is situated, or in his absence the chairman of the Municipality or the Village Management Board, as the case may be, of the town or village to which such commonage is attached, shall appoint a substitute to act during such absence as an inspector in respect of infected sheep moved along a public road.

Duty of officer or substitutes in respect of travelling sheep at commonage.

29. Upon receipt of the notice in the twenty-seventh section mentioned, the inspector, substitute, or other person in the preceding section mentioned, as the case may be, shall supervise the dipping of the said infected flock of sheep, which shall only be required to be dipped once, and shall issue instructions with regard thereto, and no such person in charge of such infected flock shall wilfully refuse to obey such reasonable instructions.

Officer may take and dip such sheep at cost of owner.

30. If through any cause the person in charge of such sheep is unable to dip the flock himself, or to provide the necessary means or expenses for dipping such flock, or if it shall appear to such inspector, substitute, or other person, that the said flock are not being thoroughly and effectually dipped, it shall be lawful for him to take the said flock and dip them, and all expenses thereby incurred may be recovered from the owner or seller or purchaser of such flock, whichever it shall be who shall have removed such flock, in any competent court, and the Government shall be liable for any loss or damage occasioned to such owner by any proceedings under this part of this Act, to the extent hereinafter provided by section fifty-two.

Duty of officer after such sheep have been dipped at commonage.

31. After such dipping as aforesaid, the inspector, substitute, or other person, as the case may be, shall make an endorsement upon the pass under which such sheep are being removed: or if there

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be no such pass shall make out a document to be handed to the person in charge of the said sheep, stating that the sheep had been dipped under his supervision, the date thereof, the name of the town or village where dipped, the number of sheep in the flock, the marks thereof, if any, the names of the owner, seller or buyer as the case may be, the name of the person in charge, and any other details, as to description or otherwise, which will lead to the identification of the said flock, and thereupon it shall be lawful for the person in charge of such flock to continue the removal of such flock to their destination; and it shall be the duty of such inspector, substitute, or other person aforesaid, if possible, to give notice either through the post or by any other available speedy and inexpensive means to the resident or acting resident magistrate, or chairman of the Municipality or Village Management Board, as the case may be, of the next town or village, if any, not less than from eight to nine days' journey for sheep by the public road on the route to be followed by such sheep, where there is a commonage attached, and upon which a dipping-tank is situated, that certain sheep, describing their numbers and marks as well as may be, under the charge of a person, naming him, and describing him as well as may be, had been dipped by him or under his supervision, had left the town or village, naming it, upon a certain day, and the date thereof, along the public road towards such next town or village.

Duty of person in charge after such dipping.

32. Every person in charge of such sheep after leaving such town or village in the commonage-tank of which such sheep shall have been dipped as aforesaid, upon arriving with such sheep at a town or village not less than from eight to nine days' journey by road to which a commonage shall be attached, and upon which a dipping-tank is situated, shall give the same notice as in the twenty-seventh section provided, and thereupon all the provisions of the sections twenty-seven to thirty-one, inclusive, shall apply.

Depasturing of sheep on commonage.

33. For the purpose of dipping sheep on commonages under this part of this Act it shall be lawful, anything to the contrary in any law notwithstanding, for such sheep to be kept and depastured on any such commonage during the time necessary for such dipping, upon payment to the owner of such commonage by the owner or person in charge of such sheep of such fee not exceeding sixpence per hundred per diem over and above the time allowed by regulations for grazing rights to travellers on such commonage for such sheep so kept and depastured as aforesaid, as the owner of such commonage shall appoint: Provided that it shall be lawful for the owner of such commonage to isolate such infected sheep on a sufficient portion of the commonage to be set apart for such purpose; and provided further that sheep depastured on or being upon such commonage shall not be deemed to be infected by reason of their being so depastured.

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PART VI.

Removal from Areas in which operation of Act is suspended.

Removal of sheep from areas in which Act is suspended.

34. No owner of sheep shall remove any sheep from any part of the Colony in which the operation of this Act or any part thereof is suspended into any area in which the Act or any part thereof shall be in operation, without having twice dipped his sheep, whether infected or not infected, within fourteen days, before the date of removal and at an interval of not less than ten days between each dipping. Each of the said dippings shall take place under the supervision and to the satisfaction of the inspector of the area from which such sheep are removed; and if such dipping shall not be done to the satisfaction of such inspector then such inspector shall dip such sheep once or twice as he shall think fit, at the cost of the owner, which cost may be recovered from such owner in any competent court; and upon such dipping having taken place to the satisfaction of such inspector, he shall give a certificate to the owner of such sheep setting forth the name of such owner, his address, the intended destination, and the number of the sheep and the marks thereof, if any, and the date or dates upon which the sheep were dipped: And no owner of sheep shall remove any infected sheep from any place or farm within an area in which the operation of this Act or any part thereof is suspended, to any other place within the said area not being an adjoining place or farm, also occupied by the said owner, save by complying with the conditions of Part IX of this Act, which shall be taken as if herein set forth.

PART VII.

Removal to Pounds.

Removal of sheep to pound.

35. The foregoing provisions of this Act with regard to the removal of sheep shall not apply to sheep which may be removed to any pound in conformity with the law relating to pounds, provided that every person sending such sheep to the pound shall, if such sheep are infected with scab, and if such pound is not situated on the adjoining farm, forthwith dip such sheep before sending them to the pound, and a pass setting forth that such dipping has taken place, and the date thereof, shall be given by him in respect of such sheep to the person taking such sheep to the pound, which pass shall be exhibited on demand to the inspector, field-cornet or poundmaster; and any person who shall remove, or cause, or aid, or permit any such sheep to be removed contrary to the provisions of this section, and any person taking such sheep to the pound who shall wilfully refuse to exhibit such pass on demand, shall be deemed guilty of a contravention of this Act; and the owner of every such infected sheep shall be bound to pay to the person so dipping in respect of such dipping such sum as may be due under a tariff which shall be framed for that purpose by the

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Council of the division within which the person so dipping shall reside. No. 20—1894.

Duty of poundmaster.

36. Every poundmaster shall, before receiving any sheep to be impounded, if they are infected, inspect the pass in the preceding section mentioned, and if the pass shall be produced and be in compliance with the terms of the preceding section he shall dip such sheep at not less than ten or more than fourteen days from the receipt thereof. And in case such pass shall not be produced or shall not be in compliance with the provisions of the preceding section, such poundmaster shall twice dip such sheep within fourteen days and at an interval of not less than ten days, and shall be entitled to recover from, or deduct from any amount payable to, the person impounding, the cost incurred for the dipping, and shall be entitled to recover any other or farther cost incurred for dipping from the owner of such sheep. And the said poundmaster shall segregate such flock, and keep it wholly separate from any other impounded sheep which are not infected.

PART VIII.

Removal of Slaughter Sheep.

Removal of slaughter sheep.

37. The foregoing provisions of this Act with regard to the removal of infected sheep shall not apply to sheep which are removed for the purpose of being slaughtered; provided that no person shall remove, cause, permit, allowed to be removed, or assist in removing, such sheep save and except under the following conditions:—

(*a*) Before being so removed such sheep shall be properly dipped once under the supervision of an inspector.

(*b*) Such sheep before being so removed shall be marked with a special paint or tar mark.

(*c*) No such sheep shall be so removed unless the owner shall have obtained an order of the inspector for their removal. Such order to set forth the number of sheep and marks, if any, the destination, and to whom forwarded, and the date or dates upon which they were dipped.

(*d*) The person in charge of any sheep removed under the provisions of this section shall be obliged to exhibit to any inspector, land-holder, field-cornet, railway station-master, or police officer demanding the same, the order authorising such removal.

PART IX.

Removal of Sheep in times of (1) Drought.

Removal of sheep in time of drought.

38. Every owner of sheep who owing to drought or the necessity of changing pasturage, and in case of dipping be dangerous having

[1] The divisions of Calvinia, Carnarvon, Ceres, Clanwilliam, Fraserburg, Kenhardt, Namaqualand, Prieska, Sutherland and Van Rhynsdorp to be treated as one division or district, and more particularly for purposes of this Part IX., § 23, Act 28, 1899 (p. 4142).

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regard to the condition of the sheep shall be desirous of removing infected sheep from the grazing ground on which they are being depastured, shall give notice thereof to the inspector of the (1) area in which such sheep shall be, and upon receipt of such notice it shall be the duty of such inspector, if satisfied that the exigencies of the drought or dry season or the necessity of changing pasturage are such as to necessitate the removal of such sheep, to issue an order to such owner setting forth the name of the owner, his address, and number and description and destination of such sheep, and upon receipt of such order it shall be lawful for such owner to remove such said sheep to their destination, and upon the arrival at such destination, the owner shall report the fact thereof to the inspector of the (1) area in which such destination is situated, and such owner shall properly dip such sheep as soon thereafter as such sheep can bear it without danger, provided the owner of such sheep shall give reasonable previous notice to farmers over whose farms he is entitled to pass by road, and that it be unlawful so to pass into any area in which the hitherto existing Scab Acts are now in force, and provided that before granting such order such inspector as aforesaid may direct and supervise the dipping of such sheep if satisfied that it can be carried out without danger, and shall direct hand-dressing if dipping be dangerous: And provided, lastly, that if it is desired to remove sheep under such an order to any destination beyond the limits of the division or district in which the (1) area is situated from which the sheep are to be removed, the consent and approval, either of the chief inspector or of one of his assistants, or of all inspectors of (1) areas through which such sheep shall pass beyond such limits, shall be obtained before such sheep shall be removed beyond such limits without previous dipping.

Duty of officer if dipping neglected or improperly done.

39. If the inspector of such last mentioned (1) area shall be satisfied that such dipping has been neglected, or has not been properly and efficiently carried out, it shall be lawful for him to take the said sheep and to dip them at the expense of the owner, and all costs incurred may be recovered from the owner of such sheep.

PART X.

Servants' Stock.

Dipping of servants' stock, recovery of costs.

40. It shall be lawful for any owner of land to recover from any person in his service or employment a sum calculated at the rate of one penny per sheep per dipping for any sheep belonging to such person which shall have been dipped by him under the provisions of this Act, or which shall have been dipped by any inspector at the cost of such owner under the provisions of this Act.

[1] Printed as amended by § 4, Act 28, 1899.

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Dipping of servants' sheep on dismissal of servant.

41. Every owner of land who shall cease to employ any person commonly known in the Colony as a bywoner, or who shall dismiss any person in his service or employ, who shall be the owner of any sheep which may be infected or which may have mixed with any infected sheep, shall before removing or allowing or permitting to be removed such sheep, segregate and separate such sheep, and shall either dip or cause them to be dipped in a thorough and efficient manner, and thereupon, the expense of such dipping being paid, he shall issue to such bywoner or person in his employ or service a pass in the English or Dutch language, written or signed by himself, setting forth his own name and address, the name and capacity of the person to whom the sheep belong, the number and marks of the sheep, if any, the fact that they have been dipped, and the date thereof.

PART XI.

Locations.

Construction of tank in location.

42. It shall be lawful for the Minister to cause to be provided and erected in any Native Location a dipping-tank, and the kraals necessary for dipping, and the cost of so doing may be recovered in manner hereinafter set forth.

Infected sheep in Native locations.

43. If upon any inspection of sheep, or upon any information received, it shall appear to any inspector that any sheep running, depastured, or kept on any Native Location within his district, and belonging to any occupant or occupants of such location, are infected, it shall be lawful for such inspector forthwith to take such sheep, and to cause the same to be cleansed.

Costs of construction of tanks and dipping in locations.

44. As often as any sum shall have been paid or expenses incurred under the two preceding sections of this Act, the occupiers of huts in such location who shall be owners of sheep, shall be jointly obliged to pay the sum or expense so paid or incurred.

PART XII.

Removal of Skins.

Disinfection of trucks.

45. Every railway truck which shall have been used for carrying sheep, or skins of sheep, shall, immediately after the removal of such sheep or skins, be thoroughly disinfected by the responsible railway officer.

PART XIII.

Importation of Sheep from beyond the Seas or from the adjoining States or Countries.

Stock imported from over sea.

46. From and after the 1st day of December, 1894, no sheep brought from any place separated from the Colony by sea shall be landed from any ship, boat or vessel, except at one or other of the ports of Cape Town, Port Elizabeth, East London, Mossel Bay, or such other place or port as the Governor may from time to time proclaim in the *Gazette*.

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Any owner who shall either personally or by an agent or servant land or attempt to land, and the master or owner of any such ship, boat or vessel who shall knowingly permit to be landed any sheep elsewhere than at one of the said ports or places, shall be deemed to be guilty of a contravention of this Act.

Quarantine stations at sea ports and landing places.

47. There shall be established under such rules and regulations as to the establishment, maintenance, supervision and general working as the Governor shall from time to time proclaim in the *Gazette*, at or near the landing place at every such port or place mentioned in the preceding section, a quarantine station within which all sheep so brought from beyond the sea shall be placed immediately upon being landed, and no owner shall remove any such sheep from any such station, unless and until they shall have been inspected by a veterinary surgeon, or inspector, and a clean certificate granted in respect of them, and any owner who shall remove such sheep from any such station without having previously obtained such clean certificate in respect of them, shall be deemed to be guilty of a contravention of this Act.

Cleansing of infected stock imported by sea.

48. If upon inspection it shall appear to such veterinary surgeon, or inspector that such sheep are infected with scab, such veterinary surgeon, or inspector shall forthwith proceed to cleanse the same at the cost of the owner in terms of the seventeenth section of this Act, and upon their being cleansed shall give a clean certificate in respect of them.

Introduction of sheep across the border.

49. Subject to the provisions of the next section, no sheep shall from and after the taking effect of this Act be introduced into the Colony from any of the neighbouring States, Territories or Colonies save under such conditions and restrictions as the Governor may from time to time by proclamation in the *Gazette* declare and impose, and every person who shall introduce or cause or assist the introduction of sheep into the Colony from any State, Territory or Colony in violation of any regulation imposed by the Governor under the provisions of this section, shall be guilty of a contravention of this Act.

Sheep for exhibitions.

50. None of the preceding sections shall apply to sheep introduced into the Colony from any neighbouring State, Territory or Colony for the purpose of being exhibited at any agricultural show or other show or exhibition in the Colony; provided that no such sheep shall be so introduced unless and until a declaration has been made before a magistrate, justice of the peace, or railway stationmaster in such neighbouring State, Territory or Colony, stating that the same are free from scab, and are *bonâ fide* intended for the purposes of exhibition in this Colony, and stating the name of the show or exhibition at which they are to be exhibited; and such declaration shall be duly certified by such magistrate, justice of the peace or railway stationmaster as the case may be; and shall be forwarded with the sheep so introduced.

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To be consigned to secretary of show or exhibition.

51. No such sheep as in the preceding section mentioned intended for exhibition purposes shall be received upon the Cape Government Railways or upon any railways under the control and management of the Cape Government, unless they shall be consigned to the secretary of the agricultural show or other show or exhibition at which they are to be exhibited, and if any such sheep shall at any time be found within this Colony to be infected with scab, they shall be dealt with according to regulations to be framed by the Governor.

PART XIV.

A. General Compensation Clause.

General compensation clause.

52. Except where otherwise provided, whenever under the provisions of this Act sheep are dipped either directly by, or under the supervision of, any inspector, or substitute, and there shall be any loss by death, which is directly attributable to such dipping, the owner of such sheep shall be entitled to claim compensation from the Government for the loss of such sheep; provided that the Government shall not be liable to pay any compensation in case the said loss shall not amount to more than two per cent. of the value of the said sheep dipped as aforesaid, and in case of any dispute arising between any such owner and the Government as to the value of such deceased sheep, the provisions of the Lands and Arbitration Clauses Act, 1882, shall apply.

B. Costs, Regulations, Penalties.

Recovery of costs

53. Whenever it shall be impossible for the Government to recover the expenses, which shall include the costs of any legal proceedings, and the cost incurred in treating sheep in accordance with the provisions of this Act; it shall be lawful for the inspector of the area in which such sheep shall be, to sell a sufficient number of such sheep to cover all such expenses, and it shall be the duty of such inspector in respect of such monies so received, to pay the same into the public revenue and to render a full and proper account of such sale and the proceeds thereof.

C. Regulations and Penalties.

54. [Repealed by Act 28, 1899.]

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Penalty for contravention of Act.

55. Any person who shall contravene any of the provisions of this Act (1) shall, upon conviction, be liable to a penalty not exceeding the sum of twenty pounds; and every Court of Resident Magistrate shall have jurisdiction under this Act within the limits of its jurisdiction.

D. Miscellaneous.

Meaning of term "scab-inspector."

56. The term scab-inspector as used in the Cattle Diseases Act, 1893, shall be taken to mean any inspector appointed under this Act.

Short title.

57. This Act may be cited for all purposes as "The Scab Act, 1894."

SCHEDULE.

Laws repealed.

Laws Repealed.

Number and Year.	Short Title.	Extent of Repeal.
Act No. 28 of 1886...	The Scab Act, 1886	The whole.
Act No. 17 of 1887...	An Act to amend "The Scab Act, 1886"	The whole.
Act No. 33 of 1888...	An Act to amend and add to the Law for preventing the spread of Scab disease in sheep and goats	The whole.
Act No. 25 of 1889...	The Scab Acts Extension Act, 1889	The whole.
Act No. 7 of 1890...	The Scab Acts Amendment Act, 1890	The whole.
Act No. 9 of 1890...	The Scab Law Amendment Act, 1890	The whole.
Act No. 37 of 1891...	The Scab Act Amendment Act, 1891	The whole.
Act No. 15 of 1892...	The Pounds and Trespasses Act, 1892	The tenth section.

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(1) And of Act 28, 1899. See § 27.

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No. 21—1894.] [August 21, 1894.

ACT

To Amend the Police Offences Act, (1) 1882.

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 repugnant Laws.

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

Penalty for use of abusive language.

2. Every person who shall without provocation, and on any land not in the possession of such person, use any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace, or whereby a breach of the peace might reasonably be occasioned shall, upon conviction, be liable to a penalty not exceeding three pounds, or to imprisonment with or without hard labour, and with or without spare diet, for any term not exceeding thirty days, unless such penalty be sooner paid; and such person may further be required to find sureties to keep the peace for such period, not exceeding three months, as the Court before which such person is tried may deem necessary: Provided that nothing in this section contained shall apply within any area under the jurisdiction of any Municipality or Board of Village Management.

Act to be read with Act No. 27 of 1882.

3. This Act shall be read as one with "The Police Offences Act, (1) 1882," and as though the last preceding section were inserted in Part II of the said Act.

No. 22—1894.] [August 21, 1894.

ACT

To Amend "The Liquor Licensing Act, (2) 1883."

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 in "Liquor Licensing Act, 1883."

1. The "Liquor Licensing Act, (2) 1883," is hereby amended by the insertion, after the word "sold" in the sixth sub-section of the seventy-third section thereof, of the words "or deliver, or supply, or knowingly permit to be delivered or supplied"; and from and after the passing of this Act the said Act shall be read and construed as so amended:

Effect and short Title of Act.

2. This Act shall be read as one with the said Act, and may be cited for all purposes as "The Liquor Law Amendment Act, 1894."

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[1] No. 27, 1882.
[2] No 28, 1883 (p. 2118).

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No. 23—1894.] [August 21, 1894.

ACT

To Alter the Grazing Rights on the Hanover Commonage.

Preamble.

WHEREAS at the establishment of the village of Hanover, in the division of Hanover, certain grazing rights over the commonage were granted to, and conferred upon the purchaser of every erf sold, and whereas by the Hanover Transfer Act of 1882, the Hanover Municipal Council is bound to allow the same grazing rights in respect of every erf thereafter sold, and whereas it has been found impracticable owing to the size and nature of the Hanover commonage to exercise such grazing rights, and it is therefore expedient to annul the present provisions with regard to the grazing of stock upon the said commonage both in respect of erven already sold, and erven to be sold hereafter and to make other provisions instead thereof:

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:—

Annulment of existing grazing right in village of Hanover.

1. Notwithstanding anything contained in the third and fourth sections of the Hanover Transfer Act, (1) 1882, and the schedule therein referred to, the rights of grazing granted and conferred under the original conditions of sale of erven in the village of Hanover by the members of the Church Committee or under the provisions of the said Act, are hereby annulled.

Rights of grazing exercisable by present erfholders defined.

2. Every occupier of one or more erven within the municipal limits of the said village, which have been sold and transferred by the members of the Church Committee or by the municipal councillors shall have the right of grazing fourteen head of large stock, and twenty-five head of small stock upon the commonage: Provided that such stock shall be the *bonâ fide* property of the said occupier, or of some member of his family residing with him upon the said erf or erven.

Rights of erfholders who reside outside the municipal limits.

3. Where an owner of any such erf or erven has his permanent residence outside the limits of the municipality, it shall be lawful for him or for the person in occupation of the said erf or erven, with his permission, to exercise the said grazing rights only at such times as such owner or occupier or his family shall be actually residing upon the said erf or erven, or in the said village.

Apportionment of grazing rights where there is more than one occupier of an erf.

4. Where an erf is sub-divided or there is more than one occupier, the municipal councillors shall have the power, and they are hereby required to apportion the grazing rights appertaining to such erf among the several occupiers.

Rights of grazing exercisable by future erfholders defined.

5. The occupier of any erf or erven sold and transferred by the councillors after the passing of this Act shall have the right of grazing four head of large stock, and ten head of small stock upon

(1) No. 42.

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the said commonage, provided that such stock shall be the *bonâ fide* property of such occupier or of some member of his family residing with him upon the said erf or erven. No. 24—1894.

6. The term "large stock" shall mean ox, cow, calf, horse, mule, ass, bull, stallion or jackass; and the term "small stock" shall mean sheep, goat or ram. Definition of large and small stock.

7. Nothing in this Act contained shall be taken to prevent the framing of any regulations by the said councillors with regard to the registration in the municipal books of persons entitled to grazing rights under this Act, or of any other regulations for the management and protection of the said commonage, and the control of stock grazing thereon not inconsistent with the provisions of this Act. Right of Councillors to make regulations.

8. This Act may be cited as the "Hanover Transfer Act Amendment Act, 1894." Short title.

No. 24—1894.] [August 21, 1894.

ACT

So much of this act as may be repugnant to or inconsistent with Act No 11 of 1938 is repealed by Sec 1 of the later act.

To amend the Ordinances No. 86 and No. 10, 1848, regulating the affairs of the "Cape of Good Hope Savings Bank Society."

WHEREAS by the Ordinance No. 86, provision is made for establishing and regulating the Society, and by the Ordinance No. 10, 1848, certain amendments were made in the said Ordinance; and whereas it is desirable further to amend the said Ordinances, and to provide for the better management of the Society: 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.

Preliminary.

1. In this Act, if not inconsistent with the context, "Society" means the "Cape of Good Hope Savings Bank Society," established by the Ordinance No. 86; "Protecting Fund" means the fund hereinafter described in section seven; "Manager" means a "Member." Meaning of terms

2. So much of the Ordinance No. 86 and of the Ordinance No. 10, 1848, and so much of any other law as shall be repugnant to or inconsistent with this Act shall be and is hereby repealed. Repeal of laws.

3. The Society shall be a body corporate, with perpetual succession and a common seal, with power to alter and change the same from time to time, and shall by its corporate name be capable in law of sueing and being sued, and of 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 unrepealed provisions of the said Ordinances, and of this Act. Incorporation of society.

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Constitution of Society.

4. The Society shall consist of the Directors and Managers, and shall continue so long as there shall be so many members remaining and belonging thereto, willing to act, as shall be sufficient to constitute a Board of Directors.

Investments.

Investments by Society.

5. In addition to the mode of investment mentioned in the seventh section of the said Ordinance No. 86, the funds of the Society may be invested in any of the modes following:—

Proviso added by Act. No 11 of 1938 Sec

(1) Upon first mortgage of immovable property in South Africa. Provided.

(2) Upon the debentures specially secured by law or duly registered as a mortgage of any Divisional Council, or Municipality, in the Cape Colony, authorised to borrow money.

(3) Upon the public stocks or funds or debentures of the Government of any British Colony in South Africa or of the Orange Free State or South African Republic, provided that investments under this sub-section outside of this Colony shall not be made until a resolution authorising such mode of investment shall have been adopted by the annual or some special meeting of the Society.

Purchase of property by Society.

6. The Society may also purchase landed property for offices for the purposes of its business, or for the protection of its interests against loss upon investments.

Funds of the Society.

Protecting fund.

7. The accumulated funds on the 31st December next after the taking effect of this Act, representing such balance as may remain after providing for the payment to depositors of the full amount of capital deposited, with the interest thereon at the rates from time to time allowed, ~~and expenses of administration~~, shall be and remain vested in the Society as a Protecting Fund, to be held for the trusts and purposes in this Act declared of which £60,000, in public stocks of the Government of this Colony, shall forthwith after the passing of this Act be deposited with the Treasurer of the Colony, who may for sufficient cause at any time re-deliver any of them to the Directors on such conditions protecting the Fund as he may think fit; provided that the income of such Government stocks shall be annually received and invested or expended by the Directors for the purpose of the business of the Bank under this Act.

Words inserted & proviso added by Act. No 11 of 1938 Sec 4

& provided further

Payment of retiring allowance out of funds

8. The Society may also out of its funds provide for the payment of any superannuation or retiring allowance to any of its officers in consideration of long service, old age, or other sufficient cause.

New section 8 substituted by Act. No 11 of 1938 Sec 5

8 bis Act. 11 of 1938

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Of the Managers.

No. 24—1894.

Qualification managers.

9. The qualification for a Manager shall be that he is resident in Cape Town, or within a radius of ~~twenty~~ miles from the railway station in Cape Town.

Acts unseating managers.

10. If any Manager shall fail on three consecutive occasions either to attend when required for the performance of his rota of duty, or to provide a substitute to act for him, such Manager shall, unless his absence or failure be caused by illness, or other cause deemed sufficient by the Directors, or shall be by leave of the Directors, cease to be a Manager, and his position as such shall be vacated from the date of notice to that effect posted to his last known address.

Officers of society may receive and pay out deposits.

11. Notwithstanding anything contained in section twenty of the Ordinance No. 86, and section four of the Ordinance No. 10 of 1848, the Directors may authorise one or more of the officers of the Society to receive and pay out deposits, who shall report such receipts and payments for ratification to the first sitting of Managers.

Management of the Society's Business—Directors.

Management of society's business.

12. The business of the Society shall be conducted and managed by:

(1) The present Committee of Management, acting as a Board of Directors until the annual meeting to be held in the year 1895.

(2) A Board of Directors as hereinafter in this Act provided.

Retirement of present committee and election of new board.

13. At the annual meeting to be held in the year 1895:

(1) The present Committee of Management shall retire from office.

(2) A Board of nine Directors shall be elected.

Powers vested in directors.

14. All the powers by the said Ordinances conferred upon the Committee of Management are hereby vested in and may be exercised by the Directors.

Retirement of directors.

15. At each annual meeting to be held in the years 1896, 1897 and 1898, three of the Directors shall go out of office, such three to be determined by ballot of the whole nine in 1896, and by ballot of the remaining six in 1897. In the year 1898 and thereafter in each year, three Directors who have then been longest in office shall retire.

Vacancies in the direction.

16. If a vacancy shall arise in the direction from any cause, and the Director whose place becomes vacant would have retired at the next annual meeting, the vacancy so arising may be filled by the Board of Directors. And any Director so appointed by the said Board, or elected to supply such casual vacancy, shall continue in office for the remainder of the period during which his predecessor would have continued in office.

Manager eligible as director.

17. Any person appointed Manager is eligible to be elected a Director, and any retiring Director is eligible for re-election.

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Resignation, etc., of directors.

18. If any Director shall resign, die, become insolvent, assign his estate for the benefit of, or compromise with his creditors, be declared insane, or be absent from meetings of the Board during three consecutive months without leave from the Board, then in every such case his office shall become vacant.

Nomination of directors.

19. No person shall be eligible to be elected a Director or a Manager unless he shall have been nominated in writing signed by at least two Managers and delivered at the Society's office not less than fourteen days prior to the day on which an election is appointed to take place. The election of a Manager shall be by a majority of votes of the Managers attending a meeting of the Society.

Notice of nomination to members.

20. The Board of Directors receiving any such nomination shall give notice thereof by circular to members and by advertisement in one or more of the local newspapers not less than seven days prior to the day mentioned in the last preceding section.

Election of president and vice-president.

21. The Directors shall from time to time elect one of their number to be respectively President and Vice-President, who shall hold office as such for the year succeeding their election.

Quorum.

22. Any five of the Directors present at any meeting of Directors shall constitute a quorum for the transaction of business.

Meetings of directors.

23. The Directors shall meet together for the dispatch of business weekly, and they may adjourn and otherwise regulate their meetings as they see fit. The President may at any time, and shall at the request of two Directors summon a special meeting of the Directors.

Majority of votes to decide.

24. Questions arising at any meeting of the Board shall be decided by a majority of votes of the Directors present, and in case of equality the President, Vice-President, or member in the chair, shall have a second or casting vote.

Who to preside at meetings.

25. The President of the Society shall, if present, preside at all General Meetings; in his absence the Vice-President, shall if present, so preside, and in the absence of both, one of the Directors or Managers present shall be elected to preside thereat.

Ballot.

26. If at any General Meeting there are more Directors nominated for election than there are seats to be filled, or if upon any question a poll is demanded by at least three of the Managers present, the voting shall be by ballot.

Evidence of entry in book of proceedings.

27. At any General Meeting, unless a poll is taken, a declaration by the Chairman presiding thereat, that a resolution has been carried, and an entry to that effect in the book of the proceedings of the Society 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.

Poll, how to be taken.

28. If a poll is taken it shall be so taken in such manner as the presiding Chairman directs, and the result of such poll shall be deemed to be the resolution of the Society in General Meeting.

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In the event of an equality of votes at any General Meeting the presiding Chairman shall have a second or casting vote. No. 24—1894.

29. The Directors shall be paid out of the funds of the Society by way of remuneration for their services a sum not exceeding £2500 per annum, which sum shall be deemed part of the office expenses, and be divided between them in such proportions and manner as they may determine. Payment of directors.

30. Any Director or Manager may be employed to act for the Society as its attorney, notary or conveyancer, notwithstanding anything contained in section six of the Ordinance No. 86. Director or Manager may act as Society's attorney, notary or conveyancer.

31. The provisions of the sections numbered nineteen to twenty-two, inclusive, of the "Bank Act, (1) 1891," shall extend and apply to the Society; provided that the application mentioned in the said section nineteen, be made by not less than one-fourth of the managers then holding office as such, or, by depositors holding deposits to the amount of not less than one-half of the total deposits, shewn in the last published report or statement of the affairs of the Society. Application of Bank Act, 1891.

32. The Treasurer of the Colony shall appoint annually two persons who shall act as auditors, whose duty it shall be to make a report once a year to the managers upon the balance sheet and accounts of the Society; and in every such report they shall state, after careful examination of accounts, vouchers, and securities, whether, in their opinion, the balance sheet is a full and fair balance sheet and properly drawn up, whether it exhibits a true and correct statement of the Society's affairs, and, in case the auditors shall have called for explanation or information from directors or officers of the Society, whether such explanation or information have been satisfactory; and such report shall be read, together with the report of the directors, at the annual meeting of managers, and a copy of such report shall be sent to the Treasurer of the Colony, and also be published in the *Gazette*, within eight days after the same has been submitted to the meeting of managers: provided that the remuneration to such auditors shall not exceed one hundred pounds per annum except by consent of the directors, and shall be paid by the Society. Audit of accounts.

33. Every auditor shall be eligible for re-appointment, and in case any vacancy or vacancies occur in the office of auditor, whether by reason of the expiration of the period of service of any auditor or auditors, or by any other reason, such vacancy or vacancies shall forthwith be filled by the appointment of another auditor or auditors by the Treasurer of the Colony. Re-appointment of auditors, and vacancies how filled.

34. Every auditor shall have delivered to him, on his appointment as auditor, a list of all books kept by the Society, and shall at all reasonable times have access to the books and accounts of such Society; and if the Board of Directors shall fail at the Information to be supplied to auditors.

(1) No. 6.

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request of such auditor to direct the officers of the society to deliver such list, or refuse to allow such access, they and every officer failing to obey such directions shall be liable to a penalty not exceeding ten pounds for every day during which such failure or refusal shall continue.

Short title.

35. This Act may be cited as "The Cape of Good Hope Savings Bank Society Act, 1894."

No. 25—1894.] [August 31, 1894.

ACT [1]

To Provide for the Disposal of Lands and for the Administration of Local Affairs within the District of Glen Grey and other Proclaimed Districts.

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:—

Areas Affected.

Districts to which Act applicable.

1. The provisions of this Act shall apply to the district of Glen Grey, the boundaries of which shall be as described in Schedule D of this Act and in whole or in part, with such modifications as may be necessary, to such other districts or portions of districts in which the inhabitants are mainly aboriginal natives, as may be brought under their operation by Proclamation [2]: Provided that, save as to the Transkeian Territories, no such Proclamation shall be published until it has been laid before both Houses of Parliament for not less than one month; and provided further that notice shall be given in the *Gazette* of the intention to issue such Proclamation, at least one month before the laying of such Proclamation before either House.

PART I.

Creation of Locations and Granting of Allotments therein.

Land in Glen Grey not to be allotted without Governor's permission.

2. From and after the promulgation of this Act it shall not be lawful to allot to any person land within the locations situate in the district of Glen Grey, without the permission of the Governor.

Division of district of Glen Grey into Locations.

3. The land of the district of Glen Grey, exclusive of:—

(1) Lands already held by natives under ordinary quitrent title, or in freehold.

(2) Lands already alienated to which titles have been granted under Act 14 of 1878 or other Acts.

(3) Lands already granted to missions, either in freehold or in quitrent.

[1] Amended by Acts 15, 1899 (p. 4094), and 14, 1905 (p. 4833).
[2] See § 17, Act 41, 1895, as to Bechuanaland (p 3575).

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(4) Commonages attached to mission stations in which lands are held under individual tenure, viz: Mount Arthur, Bowden, Fransburg, Agnes, Zwartwater.
(5) Trading stations now established.
(6) The Lady Frere Commonage and township.
(7) Mineral leases already granted under Acts 9 of 1877, and 15 of 1883, and Government Notice No. 46 of 1884.
(8) Lands specially reserved by Government,

shall be divided into such number of locations in such manner as the Governor may direct, and the limits of each such location shall be indicated by the erection of proper and sufficient beacons.

Locations to be divided into allotments and granted to approved claimants.

4. Lists of persons in occupation of land in the said locations at the time of the taking effect of this Act, and of other persons claiming to have land alloted to them, shall be framed by an officer or officers to be appointed for the purpose by the Governor. The officer or officers so appointed shall make special recommendations as to granting a larger extent of land than the average size hereinafter mentioned to such person as may be in occupation of such larger extent at the date of the taking effect of this Act. The locations shall be surveyed, and the available extent of arable land therein, after due allowance has been made for commonage and for dwelling sites, and after allotments to claimants specially recommended, as hereinbefore provided, shall be divided into allotments of four morgen each, more or less, which shall be granted to such persons named on the lists hereinbefore mentioned, as the Governor shall approve.

Form of Title Deed. [1]

Form of Title Deed.

5. The title deed to be issued to persons specially recommended for allotments, and approved claimants, shall be subject to the conditions contained in and substantially in accordance with the form prescribed by the Schedule A to this Act and to such special servitudes as may be found to be necessary.

It shall not be competent for the registered holder of such land to mortgage the said land, or in any way to pledge his interest therein.

Commonages, and control of Locations by Boards.

Commonages, and reservation of Governor's rights in respect thereof.

6. The remaining extent of land in each location save as is hereinafter by clause eleven excepted, shall be reserved as commonage for the use of the registered holder in such location: Provided that the Governor shall at all times have the right, without compensation, to make roads, railways, drains, aqueducts, dams and water-furrows, and to conduct telegraphs over any of the commonages for the benefit of the public, and to take materials for these purposes, and to resume any portion of any commonage required for public purposes, also to establish convenient outspans

[1] Allotment may be surrendered and title cancelled. See § 1, Act 15, 1899. Unauthorised occupiers may be treated as vagrants. See § 6. Land not liable for execution for debt. § 4, Act 14, 1905. See § 10, Act 15, 1899, as to new licences.

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for the use of travellers, the extent and position of such outspans to be determined after due enquiry (1): Provided also that no road or thoroughfare at present passing over any commonage shall be altered or closed without consent of the Governor; and that all rights to precious stones and minerals at any time found on or in any commonage shall be reserved to the Crown, together with the right of access to any mines or works undertaken for mining or prospecting purposes by any person authorised by the Government, but subject always to the provisions of Act No. 44 of 1887 or any other Act to be hereafter passed with regard to prospecting and mining for precious stones and minerals.

Control of commonages vested in location boards.

7. Each location including the commonage shall be under the control of a board of three persons who shall be appointed by the Governor after the consideration of the wishes and recommendations of the resident holders of land in the location, determined and expressed in such manner as may be prescribed by regulations to be framed by the Governor. The members of the Board, who shall be resident holders of land within the limits of the location, shall hold office, during pleasure, for one year, but shall be eligible for re-appointment.

Causes of vacation of office by member of Board.

8. In case any member of the Board from any cause ceases to hold land, or shall be convicted of any criminal offence punishable by imprisonment without the option of a fine, or shall leave the limits of the community for the space of three calendar months, or shall fail to attend three consecutive meetings of the Board, or shall resign, or shall from illness, death, or other cause, become incapable of further service, such member's seat shall *ipso facto* be vacated, and it shall be lawful for the Governor to appoint another member of the said Board who shall hold office for the unexpired period during which the member whose seat has been vacated would have sat upon the Board, and who shall be eligible for re-appointment.

Headmen eligible as members of Board.

9. Headmen shall not be deemed to be ineligible for appointment as members of Location Boards by reason of their being in receipt of salary from public funds.

Regulations for Location Boards.

10. (2) It shall be lawful for the Governor, from time to time, to make, alter, and repeal regulations conferring upon Location Boards such of the powers vested in Village Boards of Management by the Villages Management Act, 1881, and subsequent enactments, as may be deemed to be desirable and applicable. 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

[1] And to reserve land for church or school purposes. § 11, Act 15, 1899.
[2] Printed as amended by § 6, Act 14, 1905.

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payable as aforesaid by, and received from, any particular location shall be expended and administered by the District Council within such location.

Erection of Buildings upon Commonage.

Grant of commonage land for building.

11. It shall be lawful for the Governor, subject to the concurrence of the Location Board as to the site, upon being satisfied that a registered holder is desirous of erecting a substantial house or other buildings upon the commonage, to grant to such person such extent of land not exceeding two-thirds of an acre [1] as he may deem necessary for that purpose, and the land so granted shall thereupon be held by such registered holder upon the terms and conditions prescribed by this Act in regard to arable lands.

Cost of Surveys.

Cost of Surveys.

12. The cost of the surveys required for the purposes of this Act, shall in the first instance be defrayed by the Government from funds to be provided by Parliament. Every approved claimant shall deposit with the Resident Magistrate of the district, or other duly authorised officer, one half of the cost of the survey of the allotment to be granted to him, in addition to a stamp duty of five shillings on the quitrent title, not later than three months after he shall have been called upon so to do, and the last day of the said period shall be deemed to be the date on which such deposit becomes due. For the purpose of this and succeeding sections the certificate of the Surveyor-General as to the cost of survey shall be final.

Repayment of cost of survey.

13. The cost of the survey over and above the amount to be deposited in terms of the preceding section shall be repaid by the registered holder in four equal annual instalments, the first of which shall be paid to the Resident Magistrate or other authorised officer within twelve months of the date on which the deposit mentioned in the preceding section becomes due.

Quitrent.

Quitrent.

14. [2] There shall be paid into the public revenue by each registered holder on such dates as may be prescribed in the title deed, or perpetual quitrent at the following rate:—

	s.	d.
For allotments of four morgen (more or less) ...	15	0
For every additional morgen beyond five	3	0

Provided that in respect of any building lots granted under the provisions of section eleven the amount of quitrent payable thereon shall be at such rate, not exceeding five shillings for each lot, as the Governor may direct.

Arrear Survey Costs and Quitrent.

Recovery of arrear survey costs and quitrent.

15. In case of default of payment of any of the annual instalments of the cost of survey, or of the [3] quitrent, within three

[1] Printed as amended by Act 15, 1899.
[2] Printed as amended by Act 15, 1899, and 14, 1905.
[3] Leper removed to an asylum may be exempted from payment. § 4, Act 15, 1899.

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months from the date on which any of them shall become due, it shall be lawful for the (1) Civil Commissioner to issue his warrant directed to the messenger of the court of the Resident Magistrate of the district requiring such messenger to levy and raise the amount stated therein by sale of the goods and chattels (1) belonging to the registered holder making default.

Cancellation of title deed in cases of continued default in payment of arrears.

16. Should such registered holder remain in default of payment (2) of the whole or part of the aforesaid instalments or of the quitrent for a period of one year, it shall be lawful for the Governor to cancel his title deed and to re-allot the land to any approved claimant not in possession of an allotment, on payment by such claimant of the unpaid instalments of the costs of survey if any: Provided that due notice of the intention of the Governor to cancel the title deed shall be posted by the Resident Magistrate of the district at the court-house, at the premises of the registered holder and at the office of the board of the location in which the allotment is situate, for a period of twenty-eight days.

PART II.

Alienation (3) and Transfer.

Alienation and transfer of land.

17. Whenever the approval of the Governor shall have been obtained to the alienation of land held under the provisions of this Act, the transferor shall complete the form of transfer to be endorsed on his title, which shall be substantially in the form set forth in Schedule B to this Act, and leave it—together with the sum of two shillings and sixpence, as, and for a stamp to be affixed to the said transfer—with the Resident Magistrate of the District for transmission by him to the Registrar of Deeds at Cape Town, for registration in the Deeds Office there.

Transfer in cases of death of holder of land.

When and as often as any holder of land under this Act shall die, the Resident Magistrate shall complete the form of transfer to be endorsed on the title, which shall be substantially in the form set forth in Schedule C to this Act, and shall in like manner transmit the same to the Registrar of Deeds at Cape Town for registration.

Regulations in regard to transfers.

18. It shall be lawful for the Governor to make, alter and repeal regulations for carrying out the provisions of the preceding section and to provide for the passing of transfer in cases where (the holder being dead) no transfer is asked for or where the title deed is not, or cannot, be produced.

Administration and Distribution of Estates.

Repealed by Act 27 of 1927

Administration of Estates of deceased holders of quitrent titles issued under provisions of this Act.

19. On the decease of any person who shall, at the time of his death, be the holder of a quitrent title issued under the provisions of this Act, all property belonging to such deceased person

[1] Printed as amended by Act 15, 1899 and 14, 1905.
[2] Leper removed to an asylum may be exempted from payment. § 4, Act 15, 1899.
[3] See § 1, Act 15, 1899

† Section seventeen so far as it requires registration of transfer by the Registrar of Deeds at Cape Town only is repealed by Act. No 47 of 1937 Sec 105 (1)

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Repealed by Act 38 of 1927 see 36

at the time of his death shall, subject to the provisions of section twenty-four of this Act, and subject to the terms of any testament executed in accordance with the law of the Colony, be administered and distributed according to the customs and usages of the tribe or people to which the deceased person belonged, relative to the administration and distribution of property left by deceased persons at their death: Provided that nothing in this section contained shall restrict or interfere with the power and authority hereinafter by the twenty-second section of this Act conferred upon the Governor. In case such person shall have died leaving such a legally executed will, his property save and except the allotment and other immovable property, shall be administered and distributed according to the law of the Colony relating to testate succession.

Estate freed from administration of Master, Resident Magistrate to settle controversies regarding distribution of property.

20. No letters of administration from the Master of the Supreme Court shall be necessary in regard to the administration of any such property, nor shall the said Master be called upon to interfere with such administration; but if any controversies or questions should arise between the relatives, or reputed relatives, of such deceased person regarding the distribution of the property left by him at his death, such controversies or questions shall be determined, according to native usages and customs, by the Resident Magistrate of the district.

Recovery of succession duty.

21. If it shall, in any case, come to the knowledge of the Civil Commissioner of the division that any succession which, from its amount or value, is liable to succession duty under the "Successions Duty Act, (1) 1864," has accrued to any successor of any such deceased person, then such Civil Commissioner shall claim and recover such succession duty and he is hereby, for that purpose, invested with the powers and functions which, by the said Act, are conferred or imposed upon the Master of the Supreme Court, and such duty shall be paid over by such Civil Commissioner into the Treasury.

Governor may define customs and usages to be observed in the administration and distribution of property.

22. It shall be lawful for the Governor, should he see cause so to do, to define or describe from time to time, by proclamation, the customs and usages to be observed in the administration and distribution of such properties as aforesaid, and the customs and usages defined by any such proclamation shall be observed, whether the same be in conformity with native customs and usages or not; and the Governor may also, by any such proclamation, lay down rules and regulations as to the course of procedure to be observed in regard to the administration and distribution of the property left by any such deceased person at the time of death.

Provisions to apply to natives not holders of allotments.

23. The provisions of sections nineteen to twenty-two of this Act shall apply to all natives resident in any location in the district in like manner as if every deceased native who was domiciled in any such location at the time of his death had been at that time the holder of a quitrent title issued under the provisions of this Act.

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(1) No. 5 (p. 919).

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Law as to Succession. (1)

Law regarding succession to property.

Repealed by Act 38 of 1929 Sec. 86.

24. The allotment and other immovable property of every registered holder shall not be capable of being devised by will, but upon his or her decease shall devolve upon and be claimable according to the rule of (1) primogeniture by one male person to be called the heir and to be determined by the following table: Provided that should any person entitled thereto as heir be already in possession of an allotment he shall have been right to elect 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 title of the allotment which he does not select shall thereupon be cancelled, and the land be re-allotted by the Governor:—

(2) (*a*) His eldest son of the principal house of his eldest son's eldest male descendant.

(*b*) If the eldest son have previously died without leaving any male descendant, the next son or his male descendant, and so on through the sons respectively, and through the several houses in their order.

(*c*) If no son or male descendants of any son be living, then the father.

(*d*) If no father, then the eldest brother of such deceased person of the same house, or his male descendant, and so —through the brothers of that house and their male descendants respectively.

(*e*) If no brother or male descendant of any brother of the same house be living, the eldest brother of the allied house of higher rank or next rank as the case may be, or his male descendant, and so on through the brothers of such allied house and their male descendants respectively.

(*f*) If no brother or male descendant of any brother of such allied house as aforesaid be living, the eldest brother or his male descendant of the left hand house (indhlu yasekohlo), where such house is recognised, in case such deceased person be of the principal house (indhlu enkulu) or, in case he be not of the principal house, the eldest brother or his male descendant of the house of higher rank or next rank as the case may be, and so on through the brothers or their male descendant respectively of the left hand house or of the house of higher rank as the case may be.

(*g*) If no brother or male descendant of any brother of any house, the eldest brother of the father of such deceased person, or his male descendant, and so on through the

[1] This law is qualified in favour of the widow by §§ 1 and 2, Act 14, 1905, which see (p. 4833.)

[2] This table is qualified in favour of widow. See Act 14, 1905, §§ 1 and 2.

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Repealed by act 38 of 1927 sec 36

brothers of his father and their male descendants respectively.

(*h*) Failing brothers or their male descendants, then to the grandfather or his male descendant.

(*i*) If there be no male descendant of such deceased person, the Crown, which may dispose of such property, or the proceeds thereof amongst the female members of the family of the deceased, if any, or their descendants, in such manner as the Governor may deem fit.

Disherison of heir

"Male descendant" shall mean a male descendant through males only.

25. In case any registered holder shall desire to disinherit his heir, either wholly or in part, for gross misconduct or incapacity to deal with or manage the heritable property, or through insanity or idiocy, it shall and may be lawful for the Resident Magistrate of the district on application of such holder to summon before him the heir so proposed to be disinherited, and in the presence of such heir or in his absence, in case he should neglect or refuse to appear at the time and place mentioned in the summons, to enquire into all the circumstances and to make such order in the premises as may seem meet, and record of such proceedings shall be kept by the Magistrate.

PART III.

Communal Tenure.

Communal tenure.

26. All land allotted under the provisions of this Act shall for the purposes of section seventeen of Act No. 14 of 1887, be deemed to be held on communal tenure.

List of Voters.

Revision of Parliamentary Voters' Lists.

27. It shall be lawful for the Governor, as soon as titles shall have been issued to the natives residing in the locations within the district, to appoint an officer with such assistants as may be necessary for the purpose of revising specially the Parliamentary Voters' Lists for the Field-cornetcies of Tambookieland in the Electoral Division of Queenstown, and West Waschbank, in the Electoral Division of Wodehouse.

Preparation of lists of voters.

28. The Revising Officer shall:—

(1) Frame for each Field-cornetcy a complete alphabetical list of persons who in his judgment are entitled to be registered as voters within such Field-cornetcy.

(2) Frame for each Field-cornetcy alphabetical lists (*a*) of persons previously registered whose names have been removed from the list of voters by reason of their not possessing the qualification required by law; (*b*) of persons not previously registered whose names have been added to the list.

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(3) Transmit to the Resident Magistrate of Glen Grey the said lists;

and shall be deemed to be a registering officer within the meaning of the Act No. 14 of 1887, as amended by the Act No. 9 of 1892.

Settlement of Voters' Lists by the Resident Magistrate.

29. On receipt of the said lists the Resident Magistrate shall post copies thereof in some conspicuous position, at or near the door of his court-room, for a period of twenty-one days, and shall affix thereto a notice appointing a day on which he will attend in his court-room for the purpose of revising, amending, and settling the list of voters for the said Field-cornetcies: the day so appointed shall not be less than twenty-one days from the date of first affixing such notice. Copies of the said notice shall be sent to the Field-cornets, Headmen, and Boards of Management.

Procedure as to settlement of Voters' Lists.

30. Upon the day so notified the Resident Magistrate shall proceed to settle the list of voters in the manner, *mutatis mutandis*, prescribed by sections twenty-five, twenty-six, and twenty-seven of the "Franchise and Ballot Act, (1) 1892."

Revised lists to be sent to Civil Commissioners of Queenstown and Wodehouse.

31. As soon as the Resident Magistrate shall have finally settled the lists he shall forward to the Civil Commissioners of Queen's Town and Wodehouse, respectively, the lists relating to the Field-cornetcies within their electoral divisions. The said Civil Commissioners shall thereupon, respectively, forward the voters' lists for their electoral divisions as thus amended to the Under Colonial Secretary for the purpose of being printed, and such lists shall become and be the voters' lists for those electoral divisions, respectively, until the next ordinary registration of voters shall have been completed.

Voters residing in Field-cornetcies of Tambookieland and West Waschbank outside the district of Glen Grey not affected.

32. Nothing in section twenty-eight of this Act shall be deemed to apply to registered voters in the said Field-cornetcies residing beyond the limits of the district of Glen Grey. The names of such voters shall be placed upon the new list of voters by the revising officer, without enquiry, and no question as to their qualification shall be considered at the court, to be held by the Resident Magistrate. Further, it shall not be competent for the revising officer to add to the lists the name of any person not residing within the said district.

PART IV.

Labour Tax.

[Sections 33-35 repealed by Act 14, 1905.]

(1) No. 9.

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Recovery of arrear labour tax.

36. (1) In case the said tax shall remain unpaid for a period of three months from the date upon which it becomes due, it shall be lawful for the Resident Magistrate to issue his warrant requiring the messenger of the court to levy and raise the amount due by sale of the goods and chattels of the person making default. Should the proceeds of such sale not be sufficient to meet the payment due, or should the person in default not be in possession of any property, he shall, if found at any time, at any place within the district, be deemed and taken to be an idle and disorderly person, and, upon conviction thereof, shall be subject to the provisions of section four of Act 23 of 1879, as amended by sections two and three of Act 27 of 1889, and become liable to the penalties prescribed therein; and upon a second or subsequent conviction, shall be liable to imprisonment with hard labour for a period not exceeding twelve months: Provided that upon payment of the amount due, together with any costs incurred, or upon his showing good and sufficient cause why he should be exempted from payment, the said person shall be relieved from the operation of this section.

PART V.

Establishment of "The District Council."

Deprivation of control by Divisional Councils of Queen's Town and Wodehouse in respect of Glen Grey.

37. The provisions of section four of "The Fiscal Divisions Extension Act, (2) 1879," are hereby repealed in so far as they relate to the district of Glen Grey: provided that from and after the date of any proclamation issued under the pro-

[1] Section 36 has force of law only as far as its provisions are applicable under § 51 of this Act or under § 7 of Act 15, 1899. See § 3, Act 14, 1905.

[2] No. 36.

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visions of the next succeeding section the provisions of the first mentioned section shall apply to the fiscal divisions of Queen's Town and Wodehouse as if a Divisional Council had been established for the district of Glen Grey; and the Divisional Councils of Queen's Town and Wodehouse shall thereupon cease to exercise any control, powers or functions, or to be liable or subject to any duties or obligations in respect of the district of Glen Grey, save in respect of rights vested or liabilities incurred before the date of such proclamation.

Establishment of "The District Council."

38. It shall be lawful for the Governor, by proclamation, to establish a Council, to be styled "The District Council," for the administration of local affairs within the district of Glen Grey.

Number of members of the District Council and mode of election.

39. The said Council shall consist of twelve members who shall be styled Councillors, and shall be appointed in the following manner:—

(1) Six councillors shall be nominated and appointed by the Governor.

(2) The members of the several Location Boards in the Field-cornetcies of Tambookieland, which shall be known as Glen Grey, and West Waschbank, which shall be known as Lady Frere, respectively, shall at meetings to be called by the Resident Magistrate, select three of their number to be recommended to the Governor for appointment as representatives of the field-cornetcy in the Council: Provided that should the Governor not deem it desirable that any one or more of the persons so selected should be appointed to the Council, he may call upon the members of the boards to nominate another suitable person or persons in his or their stead, and should they fail to do so, he may appoint such person or persons to the council as he may deem fit.

Duration of term of office of Councillors and date of entry upon office of Council.

40. The said Councillors shall, during pleasure, hold office for a period of three years, but shall be eligible for re-appointment. The first Council shall be appointed on a date to be fixed by the Governor, and thereafter the council shall enter upon office on the first day of October in every third year.

How vacancies in the Council to be filled.

41. In case any vacancy shall occur in the Council for any of the reasons mentioned in section eight of this Act, the Governor shall appoint another Councillor in accordance with the provisions of section thirty-nine of this Act, who shall hold office for the unexpired period during which the Councillor whose seat has been vacated would have held office, and shall be eligible for re-appointment.

Resident Magistrate *ex officio* Chairman of Council.

42. The Resident Magistrate of the district shall, *ex officio*, be an additional member of the Council, and shall, when present, preside as Chairman at all the meetings thereof.

Quorum of Council.

43. Meetings of the Council shall be convened and held in accordance with rules and regulations to be made by the Governor,

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as occasion may require, and at every meeting four Councillors with or without the Resident Magistrate shall form a quorum.

Election of Chairman in absence of Resident Magistrate.

44. At every meeting of the Council at which the Resident Magistrate shall not be present the Council shall, before proceeding to business, elect some Councillor present to be the Chairman of such meeting.

Chairman's vote.

45. The Chairman at any meeting shall, in regard to all questions that may come before such meeting, have a deliberative vote and a casting vote.

Councillor's remuneration.

46. It shall be lawful for the Governor to frame a tariff of fees and allowances to be paid to Councillors for attendance at meetings, and for the performance of such other duties as may be authorised by the Minister, and it shall not be lawful for any Councillor to accept any salary, allowance, fee or reward for any duty or service performed by him as such Councillor, except in accordance with such tariff, nor shall any Councillor become a contractor with the Council, or be interested directly or indirectly in any contract entered into with the Council. In case of any contravention by any Councillor of the provisions of this section, the seat of such Councillor shall *ipso facto* be vacated.

Rate to be levied by Council upon persons owning immovable property otherwise than under this Act.

47. For the purposes of this Act, it shall be lawful for the Council to levy a rate to be paid by all persons owning immovable property within the district otherwise than under the provisions of this Act: excepting holders of land described in sub-sections (2), (3), (5), (6) and (7) of section three of this Act: provided that such rate shall not in any one year exceed twopence in the pound on the value of the rateable property. For the purpose of this section the provisions of sections two hundred and forty-three and two hundred and forty-four of the "Divisional Councils Act (1), 1889," shall be deemed to apply to the district of Glen Grey.

Rate to be levied by Council on registered owners and natives capable of labour.

48. The Council shall also in each year levy a rate of not less than five shillings to be paid by every registered holder and by every other male adult native, resident in the district, who is fit for and capable of labour exclusive of natives in possession of lands under ordinary quitrent title or in freehold.

Payment of rates

49. The rates assessed under the provisions of the two preceding sections shall become due and payable at the office of the Council upon a certain day to be fixed by the Council, not being less than sixty days from the date upon which they were assessed, and the Resident Magistrate shall within seven days from the date of assessment post a notice of the day thus fixed, and of the amount of the rates, in some conspicuous position at or near the door of his court room, and shall forward copies thereof to the Field-cornets and Chairmen of the several Location Boards who shall make the same generally known; provided that the rate shall not be deemed to be invalidated merely by reason that the Resident

[1] No. 40.

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Magistrate may have failed to conform to the provisions of this section.

Recovery of arrear rates assessed under section forty-seven.

50. In the event of non-payment of the rate levied under the provisions of section forty-seven of this Act, the provisions of sections two hundred and sixty-seven to two hundred and seventy-four, both inclusive, of "The Divisional Councils Act (1), 1889," shall be deemed to apply.

Recovery of arrear rates assessed under section forty-eight.

51. In the event of default of payment of the rate levied under the provisions of section forty-eight of this Act the provisions of section thirty-six of this Act shall be deemed to apply.

Appointment of officers of the Council.

52. It shall be lawful for the Council to appoint such officers as may be necessary for carrying on the business of the Council provided that such appointments shall be subject to the approval of the Minister. Such officers shall hold office during the pleasure of the Council, and shall give such security for the due performance of their duties as may be fixed by the Minister.

Appropriation of rates.

53. All money raised or received by the Council from the rates referred to in sections forty-seven and forty-eight of this Act, and all other moneys raised or received from any other source, for the purposes of the Council, and not specially appropriated for purposes other than those in this section set forth, shall, subject to the approval of the Governor, be appropriated to

(1) The expenses of valuation of and assessment of property.
(2) The collection of rates under this Act.
(3) The salaries of the lawfully appointed officers of such Council and the payment of auditors.
(4) The payments by law authorised to be made to members of such Council.
(5) Any other charge or expense which such Council may lawfully incur, and as to which the Council may by resolution, approved of by the Governor, determine.
(6) The construction, maintenance, preservation, repair and improvement of main and district roads within the district, and the public dams upon such roads.
(7) The making or improving of any public road within the district, not being a main or district road.
(8) The construction and maintenance of bridges within the district.
(9) Contributing towards the cost of making or improving any road or bridge proposed to be made or improved under the one hundred and ninety-eighth or one hundred and ninety-ninth sections of the "Divisional Councils Act, 1889," in any adjoining division which would be of so much benefit to the inhabitants of the district of Glen Grey as to make it desirable that it should contribute to such work.

[1] No. 40.

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(10) Asserting by legal process the right of the public to any public road within the district, not being a main road, which the Council shall ascertain to exist and shall find to have been stopped up or otherwise obstructed by any person or persons whatsoever.
(11) Encourage the planting and cultivation of trees, in accordance with the Act No. 4 of 1876.
(12) Defray expenses necessarily incurred in connection with the definition of width of roads.
(13) Defray expenditure in connection with the eradication or destruction of Xanthium Spinosum or any other noxious weed or plant.
(14) Establishing and maintaining industrial and agricultural schools [1] and providing generally for the educational requirements of the people within the district.
(15) The eradication of Scab.
(16) The establishment and maintenance of tolls.
(17) The establishment and maintenance of pounds.
(18) The acquisition of land for any of the above purposes or for any other purposes of which the Governor may approve.
(19) Meeting expenditure necessarily incurred under section fifty-nine of this Act.
(20) Meeting expenditure not otherwise by law provided for.
(21) Generally all purposes for which money may lawfully be expended by such Council, and for which no sufficient special or other provision has been made by this or any other law: Provided that nothing in sub-section ten of this section contained shall be construed so as to require such Council to resort to legal process for the purpose therein contained or to prevent any person from resorting to such process to which he would but for this section be entitled.

The "local authority" in Act 11 of 1882, to include District Councils, or in Transkeian Territories General Council.

54. From and after the passing of this Act the term "local authority" in the "Local Works Loans Act, 1882," shall be deemed and taken to include any District Council constituted under the provisions of this Act, and any District or General Council constituted for the administration of local affairs within the Transkeian Territories by Proclamation.

Sections 198 and 199 of Act 40, 1889, to apply to District Councils.

55. The provisions of sections one hundred and ninety-eight and one hundred and ninety-nine of the "Divisional Councils Act, [2] 1889," shall apply to the District Council as if it were a Divisional Council under the provisions of the said Act.

Duties Governor may impose on District Councils or Councillors.

56. It shall be lawful for the Governor to assign to, or impose upon, the District Council or any Councillor any power, function, duty or liability that by law is or may be assigned to, or imposed upon, a Divisional Council or Councillor.

[1] Printed as amended by Act 15, 1899.
[2] No. 40.

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How to be sued.

57. The Council may sue or be sued by the name of "The District Council of Glen Grey," and may in all legal proceedings be referred to by that name or style.

Warrant to sue or defend.

58. In all suits and proceedings the warrant to sue or defend shall be signed thus: "By order of the District Council, A.B., Chairman."

Labour Bureau.

Formation of a labour bureau and provision for framing regulations for registration of persons fit and capable of labour.

59. The District Council shall receive at its office applications from public departments, contractors, firms and persons desirous of obtaining the services of native labourers from the district, and shall arrange for supplying the same and for the despatch of natives who shall take, or be desirous of taking, employment to the districts in which their services are required. It shall be lawful for the Governor to frame, alter and revoke rules and regulations providing for the registration by the Council of persons fit and capable of labour, and generally for carrying out the provisions of this section.

PART VI.

Liquor Licences.

Chairman of Lady Frere Village Management Board to be member of Licensing Court.

60. The Chairman of the Village Management Board of Lady Frere, or in case such Chairman shall be disqualified, some other member of the board who is eligible, shall be a member of the Licensing Court of the district.

District Council to nominate three members of Licensing Court in lieu of Divisional Council.

61. In place of the three members of the Divisional Council whose appointment to the Court is provided for by sub-section three of section twenty-eight of the Liquor Licensing Act, (1) 1883, the District Council shall choose three of their number to be members of the court. Such members shall be chosen by the Council in the manner provided by section thirty of the said Act, and shall hold office during the period mentioned in section thirty-two thereof.

Sections 13 to 15, Act 25, 1891, not to apply to Glen Grey.

62. From the 1st January, 1895, the provisions of sections thirteen to fifteen of the Liquor Act, 1891, shall cease to apply to the district of Glen Grey.

Local option provisions to operate in the district of Glen Grey.

63. The following provisions shall apply in regard to the granting and renewal of licences from the 1st day of January, 1895:—

(1) It shall not be lawful for the Licensing Court to grant a new licence unless there shall be lodged with the Resident Magistrate of the district, at least four days before the meeting of the Licensing Court to consider the application, a resolution passed by a majority of the members of the District Council approving of the issue of the said licence.

(1) No. 28

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(2) If the application is for the renewal of an existing licence it shall not be lawful for the Licensing Court to grant the said renewal in case there shall have been lodged with the said Resident Magistrate within the period aforesaid a resolution passed by a majority of not less than two-thirds of the District Council objecting to the said renewal, and in case it shall also be proved that written notice of the intention to lodge such resolution was given to the holder or person entitled to the benefit of the existing licence and to the owner of the licensed premises, if resident in this Colony, by some member of the said Council, at least one month before the date fixed by law upon or before which any application for a renewal of the licence in question should be made to the Resident Magistrate.

(3) The absence of such resolution as is above mentioned in sub-section (2) of this clause shall not render it imperative upon the Licensing Court to grant the renewal of the existing licence.

(4) Nothing here contained shall affect any licence or application for a licence in the township of Lady Frere.

Licensing Court may prohibit sale of liquor to natives at Lady Frere.

64. In case the Licensing Court shall, by a majority, so resolve at any annual meeting, no native shall be supplied with liquor at any licensed house in the township of Lady Frere, and any licensed person who shall contravene any such condition shall be liable, upon conviction, to the penalties prescribed by the seventy-fifth section of the Liquor Licensing Act, (1) 1883."

PART VII.

Regulations.

Governor to frame regulations.

65. It shall be lawful for the Governor to make, alter and revoke regulations for all or any of the following purposes, that is to say:—

(1) Prescribing the mode of valuation of immovable property liable to rates.

(2) Regulating the proceedings of the Council.

(3) Providing for the appointment of officers of the Council and regulating their duties.

(4) For the incidence, assessment and recovery of rates and taxes.

(5) For carrying out the duties assigned to the Council.

(6) Prescribing the mode of accounting for the revenue and expenditure of the Council and of auditing the same.

(7) Generally for the purposes of this Act.

(1) No. 28.

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Penalties for breaches of regulations.

66. Any regulation made under this Act may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches, but no penalty shall exceed twenty pounds sterling, and any such regulation may provide that in addition to any such penalty, any expense incurred by the Council in consequence of any breach of such regulation or in the execution of any work directed by any such 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.

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 one month if the penalty imposed do not exceed five pounds, or not exceeding three months if the penalty be above five pounds, and such person shall be detained and kept to hard labour accordingly unless he shall sooner pay the penalty.

Proof of regulations.

67. A copy of the *Gazette* containing any regulation shall be evidence of the due making and provision thereof.

Provision as to Commonages attached to certain Mission Stations.

Provision for bringing the locations of Mount Arthur, Zwartwater, Bowden, Fransburg and Agnes under this Act.

68. The provisions of sections seven to eleven and fifteen to twenty-six, inclusive, of this Act, shall apply to the locations of Mount (1) Arthur, Zwartwater, Bowden, Fransburg and Agnes, in which individual titles to allotments have been issued under authority of the Governor, and it shall be lawful for the Governor to withdraw the operation of the Villages Management Acts from any of the above mentioned locations in which they may be in force, and, for the purposes of this Act, to combine any one or more of the said locations with any location constituted under the provisions of section three of this Act.

Definitions.

Definition of terms.

69. For the purposes of this Act the following terms shall, unless the context otherwise requires, have the meaning herein assigned to them, namely:—

"Minister" means the Minister to whom the Governor shall assign the working of this Act.

"Registered holder" means the holder of a quitrent title issued under the provisions of this Act.

"Native" includes Kafirs, Fingoes, Basutos, Zulus, Hottentots, Bushmen and the like.

Short Title.

Short title.

70. This Act may be cited as the "Glen Grey Act, 1894."

[1] Mount Arthur may be established as a separate location, § 5, Act 15, 1899.

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Schedule A.

No. 25—1894.

Schedule A.

GLEN GREY.

Registered Folio
Audit Office,

ACT No. OF 1894.

Form of Title Deed.

LOCATION No.

LOT No.

In the Name and on behalf of Her Majesty VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

I DO HEREBY GRANT, on Perpetual Quitrent, unto

certain lot of land, situated in the district of Glen Grey, Location of being , Lot No. , containing which is represented and described in a Diagram, hereunto attached, with full power and authority henceforth to possess the same in perpetuity, subject, however, to the following conditions and regulations.

I. That the registered holder shall punctually pay, or cause to be paid on the first day of January, 189 , the Quitrent from to the thirty-first day of December , and thereafter in advance at the expiration of every twelfth month from the firstmentioned date, unto the Resident Magistrate of the district of Glen Grey, or unto such other officer as the Governor may appoint to receive the same, the sum of sterling as Quitrent for the said lot hereby granted, and paying stamp duty thereon.

II. That the piece of land hereby granted shall not be alienated or transferred, unless the consent of the Governor to such alienation, and the approval of the new holder shall have been first had and obtained.

III. That no canteen or shop for the sale of wines, spirituous liquors, beer, or malt liquors of any description, shall at any time be kept on the land hereby granted, on pain of the cancellation of this grant.

IV. That the registered holder shall be bound to erect and maintain conspicuous landmarks, so that each lot may be properly defined.

V. [1] That all property of the registered holder, both movable and immovable, shall be liable to execution for debt, subject to the conditions of clause II of this title.

VI. That all vacant land within the area as surveyed of the said Location No. called which has not been laid out in lots, and which does not consist of streets or reserves, where no depasturing is allowed by regulation approved by the Governor, is reserved as common pasture land for the said location,

[1] In any fresh title issued after 26th May, 1905, the following shall be inserted in lieu of Clause V.: "V. That the land hereby granted shall not be liable to execution for debt." See § 4, Act 14, 1905.

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subject to the provisions of sections six and eleven of the "Glen Grey Act, 1894," and the registered owners of all lots within the said location shall have the right to graze upon the said commonage, each such numbers of stock as shall be allowed to each lot by such local regulations as may be framed and approved by the Governor.

VII. That all roads and thoroughfares being or existing on the land hereby granted, whether described on the diagram or not, shall remain free and uninterrupted, unless the same be closed or altered by competent authority.

VIII. That the Governor shall at all times have the right to make roads, railways, dams, aqueducts, drains and water-furrows, and to conduct telegraphs over the land hereby granted for the benefit of the public, and to resume the whole or any portion of the said land if required for public purposes, on payment of compensation to the registered holder for any damage or loss so caused, and in case of disagreement as to the compensation to be awarded, such disagreement shall be settled by arbitration in the manner set forth, and in accordance with the provisions of the "Lands and Arbitration Clauses Act, 1882."

IX. That all rights to precious stones and minerals found on or in the land hereby granted shall be reserved to the Crown, together with the right of access to any mines or works undertaken for mining or prospecting purposes, by any person authorised by the Governor; but subject always to the provisions of Act No. 44 of 1887, or any other Act to be hereafter passed with regard to prospecting and mining for precious stones and minerals.

X. That the lot shall not be sub-divided nor sublet.

XI. That all water supply for irrigation shall be distributed amongst the registered holders of lots in the said location, according to such regulations as may be framed by the said holders or any committee, board or other like body approved by the Governor.

XII. That in case of rebellion of the registered holder or in the event of any of the above-mentioned conditions not being fulfilled, the land shall be liable to be forfeited to the Governor.

XIII. (1) 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.

[1] Printed as amended by § 5, Act 14, 1905. The amendment applies also to any title already issued under this Act.

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XIV. That the piece of land hereby granted shall be also subject to all such duties and regulations as either are already, or shall in future be established with regard to such lands. No. 25—1894.

Given under my hand and the Public Seal of the Colony of the Cape of Good Hope, at Cape Town, this day of

By His Excellency's Command,

Governor and High Commissioner.

.....

Surveyor-General.

Exd.

(Stamp 2s. 6d.)

Schedule B. Schedule B.

FORM OF TRANSFER.

Form to be endorsed on Title.

I, the within named ———, in consideration of £—— paid to me by ————, the receipt of which sum I do hereby acknowledge, hereby transfer to him all my right, title, and interest in and to the land held by me under this title ;—the approval of the Governor having been first had and obtained.

In witness whereof, I have hereto subscribed my name at——— this —— day of ——— 189

Signature or mark

Before me,

R.M.

(Stamp 2s. 6d.)

Schedule C. Schedule C.

FORM OF TRANSFER.

[By Resident Magistrate.]

Whereas I have satisfied myself that ———— the holder under this title has died, and that —— is entitled to be registered as the holder of this land in the place of the said ————

Now therefore, I hereby, with the approval of the Governor transfer all the right, title and interest the said late ——— had under this title unto ———— [giving name and relationship to deceased holder.]

R.M.

Date.

Schedule D.

BOUNDARIES OF THE DISTRICT OF GLEN GREY. Schedule D.

From the northernmost beacon of farm No. 16, Block 3, Wodehouse Division, along the boundaries of the following farms so as to include them in Glen Grey District,—Nos. 16, Block 3, Nos. 3, 4, 5 and 6,

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No. 26--1894.

Block 4, Extension No. 1, Klaas Myakiso's farm, No. 14, Block 4, and Nos. 4, 5, 6, 8, 9, 18, 19 and 20, Block 5, in the above Division, thence along the boundaries of the following farms in Queenstown Division so as to include them in Glen Grey District,—Nos. 13, 12, 10, 9, 4, 3 and 2, Block 10 Piet David's Farm, Government Ground, Nos. 6 and 5, Block 8, Nos. 7 and 6, Block 1, H. Mahonga's farm, P. Mahonga's farm, Kulu's farm, Zenzeli's farm, and No. 6, Block 2 to the Bolotwa River; thence along the Bolotwa River to the south-east beacon of Farm No. 8, Block 2; thence along the boundaries of farms No. 8, Block 2, and No. 2, Block 5, so as to include them in Glen Grey District, to the White Kei River; thence along the White Kei River to its junction with the Indwe River; thence along the Indwe River to the south-eastern beacon of farm No. 14, Block 2, Wodehouse Division; thence along the boundaries of the following farms in Wodehouse Division so as to include them in Glen Grey District,—Nos. 15, 16, 8 and 9, Block 2, No. 15, Block 1, Lady Frere Commonage, Nos. 13, 12, and 11, Block 1, No. 1, Block 4, and Nos. 13 and 16, Block 3, to the beacon first named.

No. 26—1894.] [November 6, 1894.

ACT

To Regulate Appeals in Civil Suits, Actions and Proceedings in the Native Territories. (1)

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. Section twenty-one of the "Administration of Justice Act, (2) 1882," and section six of the "Tembuland Annexation Act (3) 1885," and any law which may be repugnant to or inconsistent with any of the provisions of this Act, shall be and the same are hereby repealed.

Appeals in cases in which Europeans affected.

2. From and after the passing of this Act, an appeal shall lie from the judgment of any Court of Resident Magistrate in the territories set forth in the Schedule to this Act, either to the Supreme Court of the Colony of the Cape of Good Hope, or the Court of the Eastern Districts, or to a Circuit Court held within the said territories, in any civil suit, action or proceeding in which any one of the parties thereto is an European.

Appeals in cases in which natives affected.

3. In any civil suit, action or proceeding in which (4) natives alone are the parties to the suit no (4) appeal shall lie from the judgment of any Court of Resident Magistrate in the territories set forth in the Schedule to this Act, except to a Court consisting of the Chief Magistrate of the territory in which such suit, action

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[1] Extended by Proclamation No. 390 of 1894 to East and West Pondoland and by No. 391 of 1894 to the Native Territories

[2] No. 40 repealed by Act 35, 1896 (p. 3646)

[3] No. 3 (p. 2251).

[4] As to appeals where Europeans concerned. See Act 32, 1898 (p. 3996). The provisions of this Act are not affected see § 9, Act 35, 1904 (p. 4764).

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or proceeding shall have been instituted, and two assessors to be appointed by the Governor. No. 27—1894.

4. Appeals to the Court of the Chief Magistrate and two assessors, as provided in the last preceding section, shall be prosecuted in the manner provided by regulations framed by the Governor, and promulgated by proclamation in the *Gazette*. Procedure in appeals.

5. This Act may be cited as the "Native Territories Appeal Act, 1894." Short title.

SCHEDULE. Schedule.

(1) The territories known as Tembuland, Emigrant Tembuland, Gcalekaland and Bomvanaland.

(2) The country situated between the Bashee and the Kei, commonly known as Fingoland and the Idutywa Reserve, and the country situated between the Umtata and the Umzimkulu, commonly known as Nomansland, the whole being now known under the names of Griqua'and East and the Transkei.

(3) The territory known under the name, designation and title of Port of St. John's.

Repealed as to Municipalities within Ordinance No 10 of 1912 of Natal Governed by any Special Act or Ordinance See Schedule

No. 27—1894.] [August 21, 1894

(1) ACT

To Provide for the Procedure to be observed in the Institution of Actions against Divisional Councils or Municipalities for Damages.

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 repugnant laws.

1. So much of any law as is repugnant to or inconsistent with the provisions of this Act is hereby repealed, but such repeal shall not affect any right acquired or liability incurred before the taking effect of this Act.

Limitation in certain respects of actions for damages against Divisional Councils or Municipalities.

2. From and after the taking effect of this Act no action shall lie against any Divisional Council or Municipality for or in respect of damages sustained or alleged to have been sustained by reason of the default or neglect of such Council or Municipality in connection with any matter relating to the state of the roads, bridges or streets under its charge, unless within fourteen days of the happening of the event or cause in respect of which such damages are claimed, written notice thereof setting forth particulars of the alleged cause of action, of the damages alleged to have been sustained, and of the default or neglect complained of, shall have been given to the road inspectors of such Council or Municipality or to the member of such Council for that ward of the division in

[1] Extended to all Native Territories by Proclamation 166, 1904.

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No. 28—1894.

which the alleged cause of action arose, or to the Chairman or Secretary of such Council or in the case of a Municipality, to the Secretary or Town Clerk: Provided that on application to a superior court any person otherwise debarred by this Act from suing may be granted special leave to sue if such court be upon such application satisfied that the Divisional Council or Municipality proposed to be made defendant will be in no way prejudiced by reason of the delay of the notice required by this section, or be satisfied, having regard to any special circumstances, that the claimant could not reasonably be expected to have given the required notice; and provided further that the costs of any such application shall be in the discretion of such Superior Court, and may be given against the Divisional Council or Municipality if it shall be found to have unreasonably refused consent to the bringing of such action.

Short title.

3. This Act may be cited as "The Actions against Divisional Councils or Municipalities Procedure Act, 1894."

No. 28—1894.] Rep. by act 9 of 1916. [August 21, 1894.

ACT!

To Provide for the Registration of Designs.

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.

Definitions.

"Registrar" means Registrar of Deeds for the Colony.

"Design," in and for the purposes of this Act, means any design applicable to any article of manufacture or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern or for the shape or configuration or for the ornamentation thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, pressing or stamping, staining, or any other means whatever, manual, mechanical or chemical, separate or combined, not being a design for sculpture.

"Copyright" means the exclusive right to apply a design to any article of manufacture or to any such substance as aforesaid in the class or classes in which the design is registered.

"Proprietor" means the author of any new or original design, unless he executed the work on behalf of another person, for a good or valuable consideration, in which case such person shall be considered the proprietor; and

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every person acquiring for a good or valuable consideration a new and original design or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on whom the property in such design or such right to the application thereof shall devolve shall be considered the proprietor of the design in the respect in which the same may have been so acquired and to that extent, but not otherwise.

REGISTER OF DESIGNS.

Register of Designs.

1. A register of designs as defined by this Act and of the proprietors thereof shall be established and kept by the Registrar; and from and after the 1st September, 1894, a person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of any design as defined by this Act until and unless such design is registered in pursuance of this Act.

Register evidence of certain facts.

2. The register of designs shall be *primâ facie* evidence of any matters by this Act directed or authorised to be entered therein.

Exclusion of notices of trust.

3. There shall not be entered in any register kept under this Act, or be receivable by the Registrar, any notice of any trust expressed, implied or constructive.

Inspection of Register.

4. Every register kept under this Act shall at all convenient times be open to the inspection of the public subject to the provisions of this Act, and to such regulations as may be prescribed, and copies certified by the registrar of any entry in such register shall be given to any person requiring the same on payment of the prescribed fee.

Extracts from records.

5. Printed or written copies or extracts purporting to be certified by the Registrar of, or from any documents, register, or other books kept in the Deeds Registry Office under the provisions of this Act, shall be admitted in evidence in all courts and in all proceedings without further proof or production of the originals.

Jurisdiction of Supreme Court.

6. The Supreme Court may on the application of any person aggrieved by the omission without sufficient cause of the name of any person from any register kept under this Act, or by any entry made without sufficient cause in any such register make such order for making, expunging or varying the entry as the Court thinks fit, or the Court may refuse the application; and in either case may make such order with respect to the costs of the proceedings, as the Court thinks fit.

Questions the Court may decide.

7. The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact either upon pleadings or in such other manner as the Court may think fit, and may award damages to the party aggrieved.

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Rectification of Register.

8. Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the Registrar.

Certificates of Registrar to be evidence of contents.

9. A certificate purporting to be under the hand of the Registrar as to any entry matter or thing which he is authorised by this Act, or any rules and regulations made thereunder to make or do, shall be *primâ facie* evidence of the entry having been made, and of the contents thereof, for the matter or thing having been done or left undone.

REGISTRATION OF DESIGNS.

Registration of designs and certificate thereof.

10. The Registrar may on application by or on behalf of any person claiming to be the proprietor of any new or original design not previously published in this Colony register the design under this Act, and shall grant a certificate of registration to the proprietor of the design when registered.

Designs registered in more than one class.

11. The same design may be registered in more than one class.

Refusal of Registrar to register.

12. The Registrar may if he thinks fit refuse to register any design presented to him for registration, but any person aggrieved by such refusal may appeal therefrom to the Supreme Court, and due notice thereof shall be given to the Registrar. The said Court may make an order determining whether and subject to what conditions if any registration is to be permitted.

COPYRIGHT IN REGISTERED DESIGNS.

Copyright in designs registered.

13. When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.

Specimens to be furnished to Registrar.

14. Before delivery or sale of any articles to which a registered design has been applied, the proprietor must (if exact representations or specimens were not furnished on the application for registration) furnish to the Registrar the prescribed number of exact representations or specimens of the design; and if he fails to do so, the said Registrar may erase his name from the register and thereupon his copyright in the design shall cease.

Articles to be marked with the prescribed mark.

15. Before delivery or sale of any articles to which a registered design has been applied, the proprietor of the design shall cause each such article to be marked with the prescribed mark or with the prescribed word or words or figures denoting that the design is registered; and if he fails to do so, the copyright in the design shall cease, unless the proprietor shall show that he took all proper steps to ensure the marking of the article.

Inspection of designs during existence of copyright.

16. During the existence of copyright in a design the design shall not be open to inspection except by the proprietor or a person authorised in writing by the proprietor, or a person authorised by the Attorney-General, or by the Supreme Court, and furnishing such information as may enable the Registrar to identify the design, nor except in the presence of the Registrar, nor except on payment of the prescribed fee; and the person making

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the inspection shall not be entitled to take any copy of the design or of any part thereof; Provided that where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

Inspection when copyright has ceased.

17. When the copyright in a design has ceased, the design shall be open to inspection and copies thereof may be taken by any persons on payment of the prescribed fee.

Information to be furnished by Registrar as to existence of registration of a particular design.

18. On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the Registrar to identify the design, and on payment of the prescribed fee, it shall be the duty of the Registrar to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration and the name and address of the registered proprietor.

Copyright to cease under certain circumstances.

19. If a registered design is used in manufacture elsewhere than in this Colony, and is not used in this Colony within six months of its registration in this Colony, the copyright in the design shall cease.

Registration of subsequent proprietors of copyright in a registered design.

20. Where a person becomes entitled by assignment, transmission, or other operation of law to the copyright in a registered design, the Registrar shall on request and on proof of title to his satisfaction cause the name of such person to be entered as proprietor of the copyright in the design in the register of designs as the case may be. The person for the time being entered in the register of designs as proprietor of a copyright in a design shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licences as to or otherwise deal with the same, and to give effectual receipts for any consideration for such assignment, licence or dealing.

Fees.

Fees.

21. There shall be paid in respect of applications and registrations, and other matters under this Act the fees set forth in the schedule to this Act, and such fees shall be paid in stamps.

Rules.

Rules

22. The Registrar may, from time to time, with the consent of the Governor, make and when made, alter, annual, or vary such general rules as to the registry of designs, and as to the classification of goods for the purposes of this Act, and generally for the purpose of carrying into effect this Act, as he may deem expedient. Any rules made in pursuance of this section shall be forthwith laid before both Houses of Parliament if Parliament be then sitting, or if not then sitting then within ten days after the then next assembling of Parliament, and shall be of the same validity as if

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they had been enacted by Parliament: Provided that if either House of Parliament resolve, within one month after such rules have been laid before such House that, any of such rules ought not to continue in force, any rule in respect of which such resolution has been passed shall after the date of such resolution cease to be of any force, without prejudice nevertheless to the making of any other rule in its place, or to anything done in pursuance of any such rules before the date of such resolution.

LEGAL PROCEEDINGS.

Offences.

23. During the existence of copyright in any design

(*a*) It shall not be lawful for any person without the licence or written consent of the registered proprietor to apply, or cause to be applied, such design or any fraudulent or obvious imitation thereof in the class or classes of goods in which such design is registered, for purposes of sale to any article of manufacture or to any substance, artificial or natural, or partly artificial and partly natural.

(*b*) It shall not be lawful for any person to publish or expose for sale any article of manufacture or any substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, knowing that the same has been so applied without the consent of the registered proprietor.

Penalties.

Any person who acts in contravention of this section shall be liable for every offence to forfeit a sum not exceeding £50 to the registered proprietor of the design, who may recover such sum as a liquidated demand under Rule of Court No. 329: Provided that the total sum forfeited in respect of any one design shall not exceed one hundred pounds.

Action for damages by proprietor of any design.

24. Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may, if he elects to do so, as an alternative to the remedy in the preceding section mentioned, bring an action for the recovery of any damages arising from the application of any such design, or of any fraudulent or obvious imitation thereof, for the purpose of sale, to any article of manufacture or substance, or from the publication, sale, or exposure for sale by any person of any article or substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, such person knowing that the proprietor had not given his consent to such application.

OFFENCES.

False entries and writings.

25. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in such register, or produces, or tenders or causes it to be produced or tendered in evidence any such

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writing, knowing the entry or writing to be false, he shall be guilty of the crime of fraud.

Falsely describing a design as registered.

26. Any person who describes any design applied to any article sold by him as registered which is not so, shall be liable for every offence to a fine not exceeding five pounds, to be recovered in any competent court.

Evidence of representations that a design is registered.

27. A person shall be deemed for the purposes of this Act to represent that a design is registered if he sells the article with the word registered, or any word or words expressing or implying that registration has been obtained for the article stamped, engraved or impressed on or otherwise applied to the article.

INDUSTRIAL, INTER-COLONIAL AND INTERNATIONAL AND OTHER EXHIBITIONS.

How exhibition of a design affects registration.

28. The exhibition at an industrial, inter-colonial or international exhibition, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor of a design or of any article to which a design is applied, or the publication during the holding of any such exhibition of a description of a design shall not prevent the design from being registered, or invalidate the registration therof, provided that both the following conditions are complied with, viz.:—

(*a*) The exhibitor must, before exhibiting the design or article, or publishing a description of the design, give the Registrar the prescribed notice of his intention to do so, and

(*b*) The application for registration must be made before or within six months from the date of the opening of the exhibition.

SHORT TITLE.

Short title.

29. This Act may be cited as the "Registration of Designs Act, 1894."

Schedule.

SCHEDULE.

	£	s.	d.
For every application to register one design, for one or more articles included in one class	0	10	0
For every application to register more than one design for one or more articles included in one class, for each additional design after the first	0	5	0
For every application to register a design in respect of goods in different classes, for every class after the first to which such design is extended, an additional fee of	0	5	0
For the registration of a single design	2	0	0
Where the same person is registered at the same time for the same design in respect of goods in different classes, for the registration of one design in each class after the first, an additional fee of	0	5	0

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SCHEDULE—(*continued*).

Where the same person is registered at the same time for more than one design for one or more articles included in one class, for the registration of each additional design after the first	1	0	0
On every application to register a subsequent proprietor, in cases of assignment or transmission, the first design	1	0	0
For every additional design assigned or transmitted at the same time	0	5	0
For altering address in the register, for every design	0	5	0
For every entry in the register of a rectification thereof, or an alteration therein, not otherwise charged ...	0	10	0
For every certificate of registration	1	0	0
For every copy of such certificate	0	5	0
For inspecting register, for every quarter of an hour ...	0	2	0
On every application to Registrar under section 18 for information as to whether registration still exists in respect of a design	0	5	0
For certified copy of any entry, for first 100 words ...	0	2	0
Every subsequent 100 words or portion thereof ...	0	1	0
For the inspection of a design, under section 16 ...	0	5	0
" " " " 17 ...	0	2	0
For every copy of a design under section 17 ...	1	0	0
For every amendment of an application for registration of a design	0	5	0

No. 29—1894.] [August 21, 1894.

ACT

To authorise a Company to be styled "The Paarl Tramway Company (Limited)," to Construct, Equip, Maintain and Work a certain Line of Tramway.

Preamble.

WHEREAS it is desirable and expedient that a Company should be formed for the purpose of constructing, equipping maintaining the working a line of tramway through the township of the Paarl, between certain points as shown on the plans of the proposed tramway lines, as deposited with the Clerk of the House of Assembly and the Civil Commissioner of the Paarl:

And whereas a Syndicate has already been formed, who have undertaken to defray the preliminary expenses towards the promotion of the said company:

And whereas certain agreements have been made between Dirk Jacobus Aspeling van der Spuy, as the duly authorised Trustee of the said Syndicate, and as such acting for and on behalf of the intended Company, and the Chairman of the Municipality of the Paarl, duly authorised thereto by a meeting of householders of the said Municipality, and between the said Dirk Jacobus Aspeling van der Spuy, acting and duly authorised as aforesaid, and the

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Secretary of the Divisional Council of the Paarl, duly authorised thereto by a resolution of the said Divisional Council, and between the said Dirk Jacobus Aspeling van der Spuy, acting and duly authorised as aforesaid, and Charles Bletterman Elliott, General Manager of Railways, and as such acting for and on behalf of the Government of this Colony, by which agreements it was mutually agreed that certain rights should be granted to the said Syndicate or any Company to be formed by it or acquiring its rights, by the said Municipality, the said Council, and the said Government respectively, subject to certain terms and conditions in the said agreements set forth:

And whereas the said Syndicate have agreed to assign and make over to the Company formed under this Act all its rights under the said agreements:

And whereas it is desirable that certain rights, privileges and powers should be granted to and vested in the said Company for the furtherance and carrying out of the purposes aforesaid, subject to the terms and conditions set forth in the said agreements and in this Act:

And whereas certain surveys have been made and the plans and sections of the proposed tramway line are now deposited in the office of the Clerk of the House of Assembly and in the office of the Civil Commissioner of the division of the Paarl:

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:—

Interpretation clause.

1. In this Act, save where such meanings shall be inconsistent with the context, the following words and expressions shall have the following meaning:—

(*a*) "The Company" shall mean the Paarl Tramway Company (Limited).

(*b*) "The Municipality" shall mean the Municipality of the Paarl.

(*c*) "The Divisional Council" shall mean the Divisional Council of the Paarl.

(*d*) "The Government" shall mean Her Majesty's Government of the Colony of the Cape of Good Hope.

(*e*) "The Syndicate" shall mean the Paarl Tramway Syndicate.

(*f*) "Directors" shall mean Directors for the time being of the Company, including Managing Directors.

(*g*) "Officers and Employés of the Company" shall mean all persons lawfully employed by the Company or its Directors, in the laying down, constructing, equipping, maintaining and working of the said tramway.

(*h*) Words importing persons shall include Corporations.

Payment of yearly rental to Municipality.

2. The Company shall pay or cause to be paid to the Municipality annually a sum not exceeding ten pounds sterling as a yearly

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No. 29 1894.

rental, or consideration for the rights and privileges granted to the Company under the agreement with the Municipality, the first payment to be made one year after the date on which the first section of the tramway shall be open for public traffic.

Company to be formed and registered under Companies Act, 1892.

3. The Company shall be duly constituted and formed, and shall be registered with limited liability under the Companies Act of 1892, and shall have the requisite capital for carrying out the undertaking subscribed on or before the 31st day of December, 1895; and in default of such registration or of procuring the necessary capital on or before the date aforesaid, all the powers and privileges granted and conferred under this Act, and all rights claimable by the Company under the said agreements, shall lapse, cease and determine.

Commencement and completion of works.

4. The Company is hereby bound and required to commence the works to be constructed for the purposes of this Act on or before the 1st day of March, 1896, or such later date as the Municipality may, in writing, determine, and to complete the said works so as to be able to open the tramway for public traffic on or before the 31st day of December, 1897, or such later date as the Municipality may, in writing, determine, and failing either the due commencement, or the due completion of the said tramway within the time specified or such further time as aforesaid, all the rights and privileges granted and conferred under this Act and by the said agreements shall lapse, cease and determine; provided that should the works be duly commenced by the Company, but the Company should fail or make default in completing the whole of the said tramway within the time prescribed then the rights, powers and privileges granted and conferred under this Act and by the agreement with the Municipality shall only be exercisable by the Company in respect of the works already completed by it, but cease and determine as regards the uncompleted portion of the said tramway line.

Line of the proposed tramway.

5. The Company shall be and is hereby authorised and empowered, subject to the provisions of this Act and of the said agreements, to lay down, construct, equip, maintain, and work a single line of tramway to be worked either by animal or other motive power, through the township of the Paarl, with the necessary sidings, loops, crossings and points, for the conveyance of passengers and goods, commencing from a point at or near the goods shed of the Paarl Station of the Cape Government Railways goods yard, thence along the road or street leading from the said station and yard to the main road, thence along the said main road forming the main street through the township of the Paarl to the corner of the said main street and Lady Grey street, thence along Lady Grey-street over and across Lady Grey Bridge to a point on the western side of the Cape Government Railway line near the goods shed of Lady Grey Station, and from a point on this line at or near the corner of the said main street and Lady Grey street, along the

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said Main-street in a northerly direction until it reached the northern limits or boundary of the Municipality of the Paarl, as shown on the plans in the hands of the Clerk of the House of Assembly and the Civil Commissioner of the Paarl; provided that it shall be lawful for the Company to deviate from and vary the line of tramway or any siding or looping thereof, and alter the proposed sites for crossings and other works with the consent of the owner, or owners whose land shall be affected thereby, or in case of lands and property vested in the Municipality, the Divisional Council, or the Government with the consent of the Municipality, Divisional Council or Government as the case may be; provided further that in laying the tram rails over and across "Lady Grey Bridge," the Company shall be bound to lay their line on a level with the roadway over and across the said bridge, and in the centre of the bridge, and widen the approaches at either end thereof, in such manner as the said Divisional Council shall deem sufficient to provide stoppage room for vehicles intending to cross the said bridge, whilst waiting for the crossing of the traffic along the said tramway line; provided, further, that before the company shall be permitted to employ steam power for working the said tramway, or any portion thereof, the Directors shall be bound either to obtain the authority of Parliament, or to enter into an agreement with the Commissioners of the Municipality authorising the employment of steam power, which contract shall first be submitted to a meeting of householders of the Paarl, especially convened for the purpose, and approved of by a majority of at least two-thirds of those present at such meeting, before it may be acted upon, or have any binding force or effect.

Power as to adjoining land.

6. For the purposes of this Act the Company is hereby authorised and empowered, on its formation, to do all and each of the following acts and things in respect to land lying adjacent to and between the tramway lines of the proposed tramway and works as shown on the aforesaid plans, and in respect of any road, street or thoroughfare, over which the line of tramway shall pass, that is to say:

(*a*) To enter upon, take possession of, use, hold, and appropriate for the purposes of this Act any such land during the subsistence of the contracts referred to in the Preamble.

(*b*) To dig and make excavations and cuttings in, and make and construct walls, slopes, banks, bridges and culverts upon the said land.

(*c*) To place, make, construct and lay down upon, in and under such land, road, street or thoroughfare, sleepers, rails, points, crossings, pavements, signals, kerbing, loops, sidings, and any other constructions or works necessary and incidental to the laying down, constructing, equipping, maintaining, and working the tramway or any portion thereof.

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(*d*) To take, raise and carry away stones, clay, gravel, and other materials upon and from such land, road, street or thoroughfare.

(*e*) To build and erect buildings, store-houses, sheds, machinery and any other requisite for construction or maintenance of the said tramway line and tramway works.

(*f*) From time to time to do all and each of the aforesaid acts and things, and such other acts and things as may be necessary in order to improve, equip, maintain or work the tramway line and tramway works so made and constructed for the purposes of this Act: Provided, however, that in respect of every such act and thing done by the Company in respect of such land, road, street or thoroughfare, without agreement made and entered into with the owner, lessee or occupier thereof, before or after the passing of this Act, or without the consent of the Municipality, Divisional Council, or Government, in respect of such land, road, street or thoroughfare, vested in such Municipality, Divisional Council or Government, as the case may be; the Municipality, Divisional Council, Government or owners of such land, road, street or thoroughfare, as the case may be, shall be entitled to receive compensation from the Company, and the lessee or occupier shall be entitled to receive compensation for disturbance of his possession, or occupation, and for any injury that he may sustain by reason of the act or thing done.

Lands and Arbitration Clauses Act, 1832, to apply.

7. Whenever compensation shall be claimed from the Company under and by virtue of any of the provisions of this Act, or any difference, dispute, or question arise between the Company and the Municipality, the amount of such compensation and such difference, dispute, or question shall be determined by arbitration, and with regard to every such arbitration the provisions of the "Lands and Arbitrations Clauses Act, 1882," shall *mutatis mutandis* apply so far as they are not inconsistent with any of the provisions of this Act.

Duties of company on laying down line.

8. The Company in laying down and constructing the said line of tramway on, under and along any public road, street, or thoroughfare, shall place their rails in the centre, or shall deviate the said line either to the right or left side of the said road, street, or thoroughfare, as the Municipality shall determine; provided that such deviation to the sides of the said road, street, or thoroughfare, shall not necessitate a curve of lines of less than forty feet radius; and the Company shall with all convenient speed complete the work for which the same shall be broken up and fill in the ground, and reinstate and make good the said road, street, or thoroughfare opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road,

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street, or thoroughfare shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept there every night during which such road or street or thoroughfare shall continue to be opened or broken up, and shall make good any damage occasioned thereby, and should the Company fail to repair, or make good such damage within eight days after notice in writing has been given to them, or should otherwise fail to carry out the provisions of this section, the Municipality shall be entitled to have the said work done, and the damage repaired at the expense of the Company, and to recover the amount expended thereon from the said Company by legal process.

If cessation of work on line for more than six months.

9. Should the said Company at any time cease to work the said tramway, or any section thereof, for a period of six months, the Company shall be obliged upon receiving notice in writing from the Municipality to that effect, to take up and remove the rails, sleepers and pavement laid in, under and upon any road, street, or thoroughfare, or any portion thereof on which the Company has ceased to work the same for a continuous period of six months, and to restore the said road, street, or thoroughfare, or such part thereof, to a fit and proper condition for traffic, and to the satisfaction of the Municipality within one month from the date of receiving notice, in writing, so to do, and should the Company fail or neglect to do so, the Municipality shall have the right to have the said rails, sleepers and pavement removed, and such road, street, or thoroughfare, or portion thereof as aforesaid, restored and repaired at the cost of the Company who may be sued for the amount expended thereon by the Municipality.

Municipality to have certain rights over line.

10. The Company shall be obliged to permit the Municipality to use their lines for the purpose of running wagons or trucks for the conveyance of material required for the making and repairing of roads, streets, thoroughfares or other municipal or town improvements, for which the Company shall be entitled to charge reasonable rates to be agreed upon between the Municipality and the Company, and failing such agreement such rates shall be fixed by arbitration: Provided that the wagons and trucks to be used by the Municipality shall be suitable for the purpose for which they are required, and be provided and worked by the Municipality at its own cost: Provided also that the Municipality, in exercising the running powers over the tram lines hereby granted shall do so at such times and hours as will not interfere with the ordinary traffic of the Company as fixed by its time tables.

Construction of sewers and other Municipal works.

11. Should the Municipality desire to repair or to construct water-pipes, sewers or other municipal works, which might necessitate the raising or removal of any of the Company's rails, sleepers or other works after the completion of the Company's works, the expense of such removal shall be paid for and borne by the Company.

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Manner of constructing tram line.

12. The Company in constructing the tramway shall lay its tram lines on a level with the road, street, or thoroughfare, along which the same shall run, and have the said line paved with stone at the outside of the rails to a width of at least eighteen inches, and the space between the rails shall be properly ballasted with suitable gravel or road metal, and where a street crosses the line such crossing shall be paved with stone, and the roadway between the lines, as well as the stone pavement on the outside of the lines and at the street crossings shall be kept and maintained by the Company in a good and sufficient state of repair, and the Company shall be liable for all damages occasioned or arising through the deficient or inefficient state of repair of the same.

Liability of company for damages.

13. The Company shall be liable for all damages occasioned through the act or default of any of its officers, servants, or employés and shall hold the Municipality, the Divisional Council and the Government harmless from all actions which might be brought against them for damages, or costs in respect of accidents or injuries.

Municipality may order company to take up line.

14. If at any time it shall be found that the tramway, or any portion thereof, interferes with the drains, water-pipes, or other works or property, or prejudices the right of safety of the public, the Municipality may give notice to the Company to take up or shift the line or a portion thereof so objected to, and if within three months after such notice shall have been given, the Company shall not have complied with the terms of such notice, the Municipality shall be entitled to take up the line so objected to, and to recover the expense of so doing from the Company.

Public to have right of passage.

15. The public shall at all times have a free and undisturbed right of passage either across or over the roads, streets, or thoroughfares, through or over which the Company's tramway lines shall pass: provided the traffic along the said tramway lines be not needlessly disturbed thereby.

Conditions imposed by Government.

16. The rights conferred by the agreement with Charles Bletterman Elliott, as representing the Government, on the proposed Company, of laying down rails and working their plant into, through and across the station yards at the Paarl Station and Lady Grey Station, shall be subject to the following terms and conditions:—

(1) The company shall lay down the said tramway lines, crossings and approaches, and shall keep the same in good order at its own cost and to the satisfaction of the Cape Government Railway Department, and on failure so to do the General Manager of Railways reserves the right of performing the necessary work at the cost of the Company.

(2) The Company in consideration of the privileges granted by the said agreement shall pay rent at the rate of ten shillings per month, payble in advance, to the Station-

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masters at Paarl and Lady Grey Bridge respectively, and on failure to pay the said rent within seven days after its becoming due, the General Manager reserves the right of taking possession of the said tramway lines and appurtenances and disposing of the plant in settlement of any amount due to the said Railway Department. No. 29—1894.

(3) The said General Manager reserves the right should the said Railway Department at any time desire to alter the station yards and sidings at Paarl and Lady Grey Bridge Stations, of calling upon the Company at their own cost to remove the said tramway lines to such other site as may be pointed out by the General Manager, and the Company shall have no claim for any loss or damage sustained hereby, and upon failure of the Company to move such lines upon being so called upon it shall be lawful for the Railway Department to have the work done at the cost of the Company.

(4) The Company shall not ply for hire within the boundary of the ground belonging to the Cape Government Railway Department until it shall have received the permission, in writing, of the said General Manager so to do, under a penalty of twenty pounds.

Company's officers to have access and right of way.

17. It shall at all times be lawful for the Company, its directors, engineers, contractors, agents, or servants to have free and convenient access and right of way to or over every portion of the works constructed, and all land or other property used, possessed or owned by it under the provisions of this Act, for the purpose of altering, adding to, repairing, reconstructing, relaying, supervising, or maintaining the said works or any part or portion thereof, or generally in order to carry out the purposes of this Act.

Tariff of fares.

18. So soon as may be after the said tramway or any section thereof has been opened for public traffic, it shall be lawful for the said Company from time to time to frame, make, alter and repeal a tariff of charges, which they shall exhibit at their stations, offices and in their tramcars showing the price and terms upon which they will undertake to convey passengers and goods over and along the said lines of tramway, and to issue time-tables showing the hours of departure and arrival of the tramcars; likewise to make and frame such other rules, bye-laws, and regulations regulating the traffic upon and over the said line of tramways, and the conduct while on duty of their officers and servants; and further, providing for the due management and affairs of the Company in all respects whatever, and to provide penalties, which shall not exceed five pounds for each offence, for the contravention of any such bye-law or regulation: Provided, however, that no bye-law affecting or imposing penalties upon persons other than servants of the Company shall be of any force or effect until it shall have

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been published in some newspaper circulating at the Paarl and a copy thereof furnished to the Municipality; and that the charges for the conveyance of passengers and goods shall not be increased except after notifying such an intended increase by publishing the new tariff in some newspaper circulating at the Paarl, and furnishing the said Municipality with a copy thereof: and provided, further, that the consent and approval of the Municipality shall be required to the making of any bye-laws or regulations in the following matters:—

(1) The rate of speed to be observed by the Company in travelling upon the said tramway lines.
(2) The distances at which carriages shall be allowed to follow each other.
(3) The traffic on the road on which the tramway is laid.
(4) The precautions to be adopted by the Company as regards brake-power and warnings.

Bye-laws and regulations.

19. The Company shall cause all bye-laws and regulations made under the preceding section to be printed, and shall cause a copy of such bye-laws and regulations to be given to every officer and servant of the Company affected thereby, and shall cause the short particulars of the several offences for which any punishment or penalty is provided by this Act, or by any bye-laws or regulation made under this Act, affecting persons other than the shareholders, officers or servants of the Company, and of the amount of every such penalty, to be painted on a board or printed upon paper and pasted thereon, in the English and Dutch languages, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the Company; and such particulars shall be renewed as often as the same or any part thereof is obliterated or removed.

Penalty for injury to Company's property.

20. Any person who shall wrongfully injure, damage, or disturb or obstruct any building, shed, or carriage, horse, harness, rails, points, signals, or crossings or any other work constructed and used by the Company in working, or materials used in constructing, working and maintaining the said tramway, or shall be guilty of obstructing, hindering, or preventing the formation, construction, completion or maintenance of the said works, or of wilfully and needlessly interrupting the traffic upon the said line, shall upon conviction be liable to a fine not exceeding ten pounds sterling or to imprisonment with or without hard labour for any period not exceeding two months unless such fine be sooner paid, or to both such fine and such imprisonment for such period as aforesaid.

Penalty for offences against bye-laws.

21. Every person guilty of an offence against any bye-law or regulation made under this Act shall, subject to the proviso in the eighteenth section thereof contained, be liable to the penalty expressly imposed by such bye-law or regulation, and if no such penalty be imposed, then to a penalty of not exceeding five pounds sterling.

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22. Every offence against the provisions of this Act including every offence against the Company's bye-laws and regulations shall be cognisable, and shall be tried by criminal process in the court of the Resident Magistrate of the district wherein such offence shall be committed, and of every fine imposed one-third shall be paid to the Colonial Treasury, one-third to the Municipality wherein it is committed, and one-third to the Company. Jurisdiction of Resident Magistrate's Court.

23. The Company shall have a local office, and local manager, secretary or agent, and shall have a local board of directors, and carry on its business in terms of its Articles of Association. Local office.

24. Nothing in this Act contained shall be deemed to limit or abridge the rights and remedies of the Municipality, Divisional Council and Government as set forth in the respective contracts referred to in the preamble, dated respectively the twelfth day of May, and ninth of July, 1894, and forming the Schedules to this Act. Right of certain parties not limited.

25. This Act may be cited for all purposes as "The Paarl Tramway Company, Limited, Act, 1894." Short title.

SCHEDULE A. Schedule A.

KNOW ALL MEN WHOM IT MAY CONCERN :—That on the twelfth day of May, One Thousand Eight Hundred and Ninety-four, Before me, David Francois Marais, J. S. son, of the Paarl, Notary Public, duly sworn and admitted, and in presence of the subscribed witnesses, appeared Johannes Stephanus Marais, D. son, in his capacity as the Chairman of the Municipality of the Paarl, he being duly authorised to act herein by a resolution of the Commissioners of the said Municipality, hereinafter styled the Municipality, passed at a duly convened meeting on the 16th day of January, 1894, of the one part; and Dirk Jacobus Aspeling van der Spuy as trustee for an intended Company to be styled the Paarl Tramway Company (Limited), hereinafter styled the Company, of the other part.

And the Appearers declared that at a duly convened meeting of the resident householders of the said Municipality, held on the 10th day of January, 1893, it was resolved that the agreement contained in these presents be approved of and the Commissioners of the said Municipality be authorised to execute the same in due and customary form.

Now, therefore, these presents witness, and it is hereby agreed by and between the Municipality and the Company as follows :—

1. The Municipality hereby grants to the Company the right, power, and privilege of constructing and working a single line of tramway with the necessary sidings and stations.

(*a*) From the station yard at the Paarl Railway Station by way of the station road or street into the main street, thence along the said main street to Lady Grey street, thence along Lady Grey street to Lady Grey Bridge, and

(*b*) From the corner of the main street and Lady Grey Street, along the main street to the northern limit of the Municipality.

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(c) The use during the subsistence of this contract for the purposes of the said tramway, only such portion of the land lying between and upon which the rails shall be laid, and of the land upon which the sidings shall be made, and station buildings shall be erected, all such land being delineated upon the plan of the Company's engineer, submitted by the Company.

2. The line or lines of tramway so to be constructed, shall be made by the Company at its own cost in a good and sufficient manner on a level with the roadways or streets, shall be properly ballasted between the rails with suitable gravel or road metal, and paved with stone at the street crossings and on each outer side of the rails to a width of 18 inches.

3. The whole work shall be carried out in a good and substantial manner, and shall be maintained by the Company at all times in good and proper repair to the satisfaction of the Municipality.

4. The rails shall be laid in the streets either in the middle or towards one side as the Municipality may determine, provided that the route selected shall not necessitate a curve of less than forty feet radius, if at any time it shall be found that the said tramways or any portion thereof interfere with and prejudice the rights and safety of the public, the Municipality may give notice to the Tramway Company to take up or shift the line or a portion thereof so objected to, and on the expiry of three months after such notice shall have been given, the Tramway Company shall take up or shift the line or portion of the line in question to the satisfaction of the Municipality, and in case the Company shall not do so, the Municipality shall be entitled to take up the line and charge the expense thereof to the Company.

5. All damage that shall be caused to the streets, roads, drains, water-pipes, or other municipal property by the construction, working, or maintenance of the said tramway, sidings, or works of the Company, shall be made good by the Company at its own cost, and should the Company fail to do so, after eight days' notice in writing, the Municipality may cause the necessary work to be done, and recover the costs of so doing from the Company.

6. In case the said tramways or any section thereof shall be abandoned, or the use thereof discontinued for pubic traffic for a period of six months, the Company shall, upon written notice from the Municipality, take up and remove the rails, sleepers, and pavement, and restore the roadway to a fit and proper condition for traffic to the satisfaction of the Municipality, and failing compliance with such notice within one month after delivery thereof, the Municipality may cause the necessary removal and restoration or repairs to be made and recover the cost of so doing from the Company.

7. The Municipality reserves and the Company concedes the right and power to run wagons or trucks upon the Company's line of rails for conveying material for road-making and repairs or town improvements at such reasonable rate of payment for the use of the line as may be agreed upon, or determined by arbitration failing agreement, provided that such wagons or trucks shall be provided by the Municipality at its own cost, and that the same shall be used or run on the lines at such times as will not interfere with the Company's ordinary time table for public traffic.

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8. All expenses incurred in the removal or replacement of the rails or works after completion thereof for construction of sewers, or of any other Municipal work necessitating such removal, shall be paid and borne by the Company.

9. The roadway between the rails of the tramway and the paving at the sides and crossings shall be maintained in a good and efficient state of repair by the Company at its own cost.

10. The Company undertakes not to obstruct or hinder the safe passage or crossing of the ordinary traffic on the roads or streets through or over which the trams should pass.

11. The tariff of rates fixed by the Company shall be exhibited in a conspicuous place in each passenger and goods car and shall not be increased except after public notice given in some newspaper circulating at Paarl, and to the Municipality.

12. The Company shall be answerable for all accidents, damages, or injuries happening through the acts or defaults of any person in its employment, or by reason or in consequence of any of the works or carriages of the Company, and shall save harmless and indemnify the Municipality, its servants and officers from all damages or costs in respect of such accidents, damages and injuries.

13. The Municipality reserves the right to make bye-laws or regulations as to the following matters :—

(1) The rate of speed to be observed in travelling upon the tramway.

(2) The distances at which carriages shall be allowed to follow one after the other.

(3) The traffic in the road on which the tramway is laid.

(4) The precautions to be adopted by the Company as regards brake power and warnings.

14. Nothing in this contract contained shall take away or abridge the right of the public to pass along or across every or any path of any road along or across which any tramway is laid.

15. In the working of the said tramways animal power or any power other than steam shall be used unless in pursuance of authority conferred by a further contract or by Parliament, steam power be expressly authorised to be adopted, provided always that it shall require a majority of two-thirds of the resident householders present at a special meeting called for that purpose to authorise the use of steam power.

16. In the event of any difference, dispute or question arising between the Company and the Municipality, such difference, dispute or question shall be determined by arbitration, and for the purpose of any such arbitration the provision of section three of the Lands and Arbitration Clauses Act, 1882, shall apply, and are so far as applicable to be deemed to be herein incorporated.

17. In consideration of the powers and authority hereby conceded the Company agrees to pay to the Municipality yearly a sum not exceeding £10 (ten pounds sterling), the first payment to be made one year after the date on which the first section of the tramway shall be open for public traffic.

18. This agreement and all the powers and rights hereby granted shall be and become void and cancelled in any of the events following :—

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(1) If the Company shall fail in obtaining from Parliament during its first or thereafter following session authority for the construction of the said tramways.

(2) If the Company shall not be registered and the requisite capital for carrying out the undertaking shall not be subscribed on or before the 31st day of December, 1895.

(3) If the works shall not be commenced on or before the 1st day of March, 1896, or on or before such later date as the Municipality shall or may in writing determine.

(4) If the undertaking shall not be completed and open for public traffic on or before the 31st day of December, 1897, or on or before such later date as the Municipality shall in writing require, and in case the line shall be completed in part and fit for public traffic, the power of cancellation may be exercised in respect of the uncompleted portion of the work.

19. The Company shall apply to Parliament at its own cost for the necessary Act for carrying out the terms of this contract and sanctioning the construction of the proposed tramways, for the due performance whereof the said parties hereby bind themselves each to the other according to law.

Thus done and executed at the Paarl the day month and year aforewritten in the presence of the subscribed witnesses who together with the Appearers and me the Notary have duly subscribed the minute hereof now remaining in my Protocol.

Quod Attestor,

D. F. MARAIS, J. SON,
Notary Public.

Schedule B.

SCHEDULE B.

These Presents witness that on this the ninth day of July One Thousand Eight Hundred and Ninety-four, that Dirk Jacobus Aspeling van der Spuy, in his capacity as Trustee of a certain Syndicate styled "The Paarl Tramway Syndicate" and as such acting for and on behalf of the intended Company to be formed for the purposes of making, constructing, equipping, maintaining and working a certain line of tramway to be constructed at the Paarl as shown on the plans lodged with the Clerk of the House of Assembly and with the Civil Commissioner of the Division of the Paarl, of the one part, and Jozua Francois Petrus Perold in his capacity as Secretary of the Divisional Council for the Division of the Paarl, duly authorised thereto by a Resolution of the Council dated the 20th day of June, 1894, of the other part:

Whereas the promoters of the intended Company are about to apply to Parliament for authority to lay, make, construct, equip, maintain and work a certain tramway, a portion of which will pass over and along the main road from Cape Town to the Frontier (passing through the Municipality and Village of the Paarl), which main road is under the management and control of the Divisional Council of the Paarl:

And whereas at the north-eastern portion of this road a certain bridge has been constructed across the "Berg River," for the purpose of

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the said main road, known as "Lady Grey Bridge," connecting the village of the Paarl with the "Lady Grey" Cape Government Railway Station :

And whereas the proposed Company intend to lay their rails over and along the said main road, and over and across the said bridge into the goods yard Cape Government Railways at Lady Grey Station :

And whereas the Municipality of the Paarl have granted the intended Company certain rights and privileges for the purpose of constructing the said tramway :

Now therefore these presents witness that the parties hereto have contracted and agreed as follows, to wit :

1. That the said Divisional Council hereby grant, give, and cede to the said intended Company the right to lay, make, construct, equip, maintain and work the said intended tramway under, across, over and along the said main road, and over and across the said bridge into and terminating at the Cape Government Railway Station, known as "Lady Grey Station," as shown on the plans aforesaid, provided that in laying the said rails over and across the said bridge the Company shall lay them on a level with the roadway across the said bridge and in the centre or crown of the said roadway, and at either end of the said bridge widen the approaches thereto sufficiently to provide room of stoppage for vehicles intending to cross the said bridge whilst waiting for the crossing of the traffic along the said tramway line, which approaches shall be made in such a manner as may be approved of by the said Divisional Council.

2. The said Council hereby further grant to the said Company the right to use all clay, stone, gravel, macadam and other materials found upon, or adjacent to the said main road, and which may be required for the laying, constructing, equipping, maintaining and working of the said tramway along the said main road, to the use of which the said Council is now entitled for the construction and maintenance thereof.

3. In consideration of the premises, and the concession hereby granted the said Dirk Jacobus Aspeling van der Spuy, on behalf of the said Company, hereby contracts and agrees to fulfil the conditions recited in the preceding clauses, and that the said Company shall hold the Divisional Council of the Paarl harmless from all costs, damages and expenses which may arise or become claimable against the said Council by any person or persons, company or companies, corporation or corporations, by reason of any act of omission or commission by the intended Company, its officers, servants, and employés in laying, constructing, equipping, maintaining and working the said tramway, under, over and along the said main road, and over and across the said bridge, and in the event of any damage accruing as aforesaid, and the said Divisional Council be condemned to pay the same by any competent court in an action brought by the party or parties aggrieved, then the said Council shall be entitled to sue and recover from the said Company such damage together with all lawful costs and charges which may accrue thereon.

4. The said Dirk Jacobus Aspeling van der Spuy further agrees for and on behalf of the said Company to keep and maintain the said portion of the said main road lying in between the said rails and the

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paving or kerbing on the outer side of the same, together with the necessary crossings in a good and efficient state of repair to insure the safety of public traffic along and across the said main road.

5. And it is further agreed between the said Dirk Jacobus Aspeling van der Spuy and the said Jozua Francois Petrus Perold, acting as aforesaid, that the said Company shall keep and maintain the approaches to be constructed on either side of the said bridge as described in Clause I. of this Agreement, in a good, sufficient and substantial state of repair, and that the speed of the tramcars in crossing the said bridge shall not exceed three miles per hour; and further that no material of whatsoever kind or nature as shall have been or hereafter may be brought on the said road on which the said tram line is proposed to be constructed by the Divisional Council for the purpose of constructing, maintaining end keeping the said road in repair shall be used by the said Company.

6. The said Company shall provide, maintain and keep proper danger signals at the said bridge and other points on the road where required. That in the event of the said Lady Grey Bridge requiring repair or re-construction the said Paarl Divisional Council reserves to themselves the right of calling upon the said Company to remove and relay at their own cost from and on the said bridge the tram-rails or so many thereof as may be necessary for effecting such repairs or re-construction, and that the said Company shall pay their *pro rata* share towards defraying the costs of such repairs and re-construction.

7. All works done by the Company in constructing the said tramway and approaches shall be subject to the approval of the Commissioner of Public Works and the Divisional Council of the Paarl.

It is further expressly agreed and stipulated in the event of the said Company failing to comply with any of the conditions and stipulations set forth in any of the before-mentioned clauses the said Divisional Council shall have the right after due notice to declare this Agreement null and void and of no effect, anything to the contrary hereinbefore specified notwithstanding.

D. J. A. v. d. SPUY,
Trustee of the Paarl Tramway Syndicate.
J. F. P. PEROLD,
Secretary of the Paarl Divisional Council.

As Witnesses :
M. J. TOMKIN.
J. C. VOIGT.

Schedule C.

SCHEDULE C.

MEMORANDUM OF AGREEMENT made and entered into between Charles Bletterman Elliott, acting for and on behalf of the Cape Government Railway Department (hereinafter styled the General Manager), of the one part, and Dirk Jacobus Aspeling van der Spuy, as Trustee of the Paarl Tramway Syndicate (hereinafter styled the Trustee), of the other part.

The General Manager agrees for the consideration hereinafter set forth to allow the said Trustee to enter upon the property of the Cape Government Railway Department at Paarl and Lady Grey Bridge

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Railway Stations for the purpose of laying down maintaining and working tramway lines together with the necessary sidings for crossing purposes for tramway cars plying for hire and running from Paarl Railway Station to Lady Grey Bridge Railway Station and *vice versa*. The said Trustee shall first submit plans showing the positions of the said tramway lines, &c., the same being approved by the said General Manager before the said Trustee shall commence construction.

The said Trustee shall lay down the said tramway lines, crossings and approaches and shall keep the same in good order at his own cost and to the satisfaction of the Cape Government Railway Department. Should the said Trustee at any time fail to keep the said tramway lines, crossings and approaches in good order, the General Manager reserves the right of performing the necessary work at the cost of the said Trustee.

The said Trustee agrees that after the said tramway cars shall have deposited their passengers at the termini at Paarl and Lady Grey Bridge Railway Stations they shall not be allowed to stand empty on the ground of the Cape Government Railway Department and as soon as the tramway cars are empty the said Trustee shall cause them to be removed from the said ground and only returned for the purpose of plying for hire.

The said Trustee shall pay rent for the privilege of laying down, maintaining and working the tramway lines together with the necessary sidings for crossing purposes upon the ground of the said Cape Government Railway Department at Paarl and Lady Grey Bridge, at the rate of ten shillings per month, in advance, to the station masters at Paarl and Lady Grey Bridge respectively.

The General Manager reserves the right of terminating this agreement by giving the said Trustee six months notice in writing to take up the said tramway lines, crossings, &c., and the said Trustee shall leave the ground in the same order as when he entered upon the same and should the said Trustee fail to com ly with the said notice he shall be treated as a trespasser *ab initio*.

The General Manager reserves the right should the Department at any time desire to alter the station yards and or sidings at Paarl and Lady Grey Bridge stations of calling upon the said trustee at his own cost to remove the said tramway lines, &c., to such other site as may be pointed out to him by the said General Manager, and the said trustee shall have no claim for any loss or damage which he may sustain thereby.

Should the said trustee at any time fail or neglect to pay the rent when due the General Manager reserves the right of taking possession of the said tramway lines, &c., and disposing of the plant in settlement of any amount due to the Cape Government Railway Department.

The said Trustee shall not ply for hire within the boundary of the ground belonging to the Cape Government Railway Department until he shall have received the permission, in writing, of the said General Manager so to do.

Nothing hereinbefore contained shall operate to relieve the said trustee from any liability which he may incur by reason of the faulty or negligent construction, maintenance or working of the said tram-

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way lines, crossings, approaches, &c., and the said trustee hereby undertakes to indemnify and keep harmless the said General Manager for any action which may be brought against the Cape Government Railway Department owing to the faulty or negligent construction of the said tramways, etc.

In witness whereof the said parties have hereunto set their hands at Cape Town, this ninth day of July, 1894, in presence of the subscribed witnesses :

C. B. ELLIOTT,
General Manager.

As witnesses to signature of
C. B. ELLIOTT :
H. ASPINALL.
PHILIP E. POTTER.

D. J. A. V. D. SPUY.

As witnesses to signature of
D. J. A. V. D. SPUY :
W. P. DU PREEZ.

No. 30—1894.] [August 21, 1894.

ACT

To Amend the Law relating to Village Boards of Management within the Division of Stockenstrom, and to create a Central Board of Management for the said Division.

Preamble.

WHEREAS it is expedient to amend the Law relating to Village Management Boards within the Division of Stockenstrom; and whereas it is expedient to provide for the better government of certain villages and communities within the said Division, and to create a Central Board of Management for the said Division; and whereas it is necessary for the purposes aforesaid to confer upon such Central Board and such Village Management Boards certain rights, powers and privileges, and to impose upon them certain duties, liabilities and obligations; and whereas it is necessary to repeal so much of any law or regulation under any law as may be repugnant to or inconsistent with the provisions of this Act: 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:—

Repeal of repugnant laws.

1. So much of "The Villages Management Act ,[1] 1881," "The Stockenstrom Locations Management Act, [2] 1883," or any other law as is repugnant to or inconsistent with the provisions of this Act, is hereby repealed.

Meaning of "sub-division."

2. For the purposes of this Act the term "sub-division" shall mean any place, village or community within the division of Stockenstrom in which the provisions of "The Villages Manage-

[1] No. 29.
[2] No. 8.

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ment Act, 1881," shall be in force, and the word "forests" shall be taken to apply to undemarcated forests, under the operation of the proviso to No. 13 of the forest regulations in Government Notice 504 of 1889.

Amendment of "Villages Management Act, 1881."

3. In so far as the "Villages Management Act, 1881," applies to the division of Stockenstrom the said Act shall from and after the taking effect of this Act be read and construed as if the words (1) "either such registered voter resident within the said limits or duly qualified to be such" were omitted therefrom, and the words "either the owner of a whole erf within the said limits or the lessee of such erf under a written lease of not less than five years" were inserted in their stead.

Shooting, &c., of game on commonages.

4. Notwithstanding anything to the contrary in any law it shall not be lawful for any person to shoot at, hunt, pursue, chase or capture any "game" within the meaning of "The Game Law Amendment Act, (2) 1886," as amended by "The Game Law Amendment Act, (3) 1891," on any commonage under the control or management of any Village Management Board within the division of Stockenstrom, without the written consent of two members of such Board, and any person contravening the provisions of this section shall be liable to the penalties provided by the seventh section of "The Game Law Amendment Act, 1886."

Special meetings to be called by Chairman Village Management Boards.

5. It shall be the duty of the chairman of every Village Management Board within the said division to convene a special meeting of persons entitled and qualified to vote for members of such Board upon receiving a requisition signed by not less than two-thirds of such persons, stating the object of such meeting, and for the purpose of convening such meeting such chairman shall give notice thereof of not less than fourteen days, and shall affix such notice to some prominent place within the sub-division or on the door of the place of meeting of such Board, and such notice shall specify the time, place and object of such meeting.

Auditing of accounts of Village Management Boards.

6. The accounts of every Village Management Board within the division of Stockenstrom, made up to the 31st day of July in each year, shall be audited by two auditors, to be annually appointed for each sub-division by the votes of the majority of voters present at the annual election for members of the Village Management Board for such sub-division, and the mode of audit shall be such as the Governor may from time to time direct.

Vagrants on commonages.

7. Every person who shall be found without lawful excuse wandering over any commonage or loitering on any erf within any sub-division in the said division of Stockenstrom without the permission of a member of the Village Management Board of such sub-division (proof of which excuse or permission shall be on

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[1] In § 7.
[2] No. 36.
[3] No. 38.

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No. 30—1894.

such person) shall upon conviction thereof be liable to the penalties prescribed by the fourth section of "The Vagrancy Act (1), 1879."

Central Board of Management.

8. From and after the first day of October, 1894, there shall be within the division of Stockenstrom a Central Board of Management, constituted in the manner and having the powers hereinafter set forth, and composed of as many members as there shall from time to time be Village Boards of Management within the said division, each such Board being represented on the said Central Board by one member.

Election of delegates to Central Board.

9. Every Village Management Board within the said division shall be bound and obliged at their monthly meeting in the month of September, 1894, and thereafter at their meeting in the said month in every succeeding year, to elect from amongst the members of such Board a member who shall represent such Board for the next ensuing year on the Central Board of Management constituted by this Act, and failing such or other election then the Central Board of Management shall from the members of the defaulting Board or Boards nominate a member or members to represent the Board or Boards failing to elect a member as aforesaid; provided that upon the death or resignation of such representative member within such year it shall be lawful for the Village Management Board which he represented to elect at any monthly meeting a member who shall succeed such first mentioned member as the representative on the Central Board for the unexpired term of such year.

Meetings of Central Board.

10. The said Central Board shall have its first meeting at such time after the said first day of October, 1894, and at such place as the Governor may by notice in that behalf appoint, and shall continue to meet from time to time not being less than once in every six months, at such time and place as such Board may determine; provided that not less than fourteen days before any meeting of such Board other than the first after the taking effect of this Act, notice in writing of the time and place of such meeting and of the subjects to be brought before such meeting shall be sent by the chairman or secretary of such Central Board to the chairman of every Village Board of Management within the said division of Stockenstrom.

Chairman of Central Board.

11. At the first meeting of the Central Board in every year the members present shall elect a chairman who shall preside at the meetings of such Board during the ensuing year if he be present, and in case of his absence the members present may at any meeting appoint a chairman for such meeting.

Officers.

12. It shall be lawful for such Central Board from time to time to appoint, suspend or dismiss a secretary and such other officers as may be deemed necessary for carrying out the provisions of this Act.

(1) No. 23.

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Quorum.

13. At every meeting of such Central Board seven members shall form a quorum, the proceedings shall be public, and all questions coming before such meeting shall be decided by the majority of the votes of the members present, the chairman to have a casting vote.

Regulations.

14. It shall be lawful for such Central Board to make, alter, or revoke regulations dealing with all or any of the following matters:—

(*a*) For the conduct of its own proceedings.

(*b*) For regulating the leasing of grazing rights apart from an erf within any sub-division.

(*c*) For enclosing of erven by erf-holders within sub-divisions.

(*d*) For enclosing of certain portions of commonage within sub-divisions by erf-holders therein, and for regulating the number, position and locality of huts or kraals on such commonage to be held by erf-holders in such sub-division.

(*e*) For preventing or regulating beer drinking and native dances within any sub-division.

(*f*) For regulating the carrying of guns, kerries and assegais on any commonage or in any forests in sub-divisions.

(*g*) For preventing the roaming of dogs on any commonage or in any forests in sub-divisions.

(*h*) For preventing trespassing on any such commonage or in any such forests.

(*i*) For regulating the cutting of firewood and the amount to which every erf-holder shall be entitled free of charge within sub-divisions.

(*j*) For preventing the destruction of trees, poles, shrubs, bushes or grass within sub-divisions and for issuing licences for the cutting of same.

Regulations upon requisition.

15. It shall be lawful for the said Central Board upon a requisition in writing signed by not less than two-thirds of the voters within any sub-division, setting forth that it is desirable that regulations should be made by such Board dealing with the running and depasturing and the limiting of the number of stock to be run or depastured or any commonage in such sub-division by each erf-holder in such sub-division, to make regulations accordingly, and every regulation so made shall when approved by the Governor and published in the *Gazette* have the force and effect of law within the sub-division for and in respect of which such regulation is made.

Force and effect of regulations.

16. Every regulation made under the provisions of the fourteenth section of this Act shall upon being approved by the Governor and published in the *Gazette* have the force and effect of law within such sub-division as the Central Board shall by any such regulation declare it to be in force, and every regulation heretofore made or which may hereafter be made by any Village Management Board within the said division of Stockenstrom shall in so far as it is re-

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pugnant to or inconsistent with the provisions of this Act or any regulation duly made thereunder be *ipso facto* null and of no effect.

Duty of Village Management Board to carry out regulations.

17. Every Village Management Board within the division of Stockenstrom shall carry out and enforce the provisions of this Act or of any regulations made thereunder, within the sub-division of such Board, and the contravention of any such provision or regulation within such sub-division shall be deemed to be the contravention of a regulation framed by such Board and shall be punishable as such.

In case of failure of Village Management Board to enforce regulations.

18. Upon the failure of any Village Management Board within the said division to carry out and enforce the provisions of this Act or any regulation duly made thereunder within its sub-division, it shall be lawful for the Central Board of Management to carry out and enforce such provision or regulation within such sub-division, and any person who shall resist or interfere with any officer, duly appointed by such Central Board to carry out the provisions of this Act, in the execution of his duty, shall be liable to a penalty of not exceeding five pounds.

Accounts of Central Board.

19. The Central Board of Management shall cause proper accounts to be kept of all moneys received and expended under the provisions of this Act, which account made up to the 30th day of September in each year shall be audited by two auditors appointed by such Board, under a mode of audit to be directed by the Governor, and at the expiration of his term of office the chairman of such Central Board shall render to the Civil Commissioner of the division a statement of the accounts of the Board for the past year, which statement shall be certified to as correct by the solemn declaration of such chairman before a justice of the peace, and all the assets, accounts, books and other property of the said Board shall be handed over to the new Board as soon as such new Board shall have been elected.

Penalty for offence against this Act.

20. Every person guilty of an offence against this Act or any bye-law framed thereunder shall, for every such offence, be liable to the penalty expressly imposed by this Act or the bye-law, and if no other penalty be imposed, to a penalty of not exceeding five pounds.

Contribution by Village Management Board.

21. Every Village Management Board within the said division shall annually, out of funds at their disposal, pay to the Central Board of Management a *pro rata* share, on the basis of the Divisional Council valuation, of all costs, charges and expenses shown by the account in the nineteenth section mentioned to have been incurred by the said Central Board in carrying out the provisions of this Act during the current year.

Application of fines.

22. All fines which shall be recovered by means of any prosecution for a contravention of any regulations made under the provisions of this Act shall be paid to the Village Management Board within the sub-division in which the offence was committed.

Short title.

23. This Act may be cited as "The Stockenstrom Central Board of Management Act, 1894."

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No. 31—1894.] [August 21, 1894.

[1] ACT

To Amend "The Leprosy Represson Act, 1884."

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:—

Regulations for controlling Lepers 1. It shall be lawful for the Governor from time to time to make such regulations as may be necessary for regulating the conduct and reasonable management and control of lepers detained under the provisions of "The Leprosy Repression Act (2) 1884," and every leper contravening any of the regulations so made shall be liable to a fine of not exceeding one pound sterling, or to imprisonment with or without solitary confinement for a period not exceeding fourteen days.

See art 14 of 1914.

Penalty for breach of regulations under Leprosy Act, 1894. 2. Every person, other than a leper, contravening any of the regulations made under the provisions of the said Act, other than a regulation dealing with any of the matters in the preceding section mentioned, shall be liable to a fine not exceeding two pounds sterling, or in default of payment to imprisonment with or without hard labour for any period not exceeding one month.

Effect and Short Title. 3. This Act shall be read as one with the said Act, and may be cited as "The Leprosy Repression Act Amendment Act, 1894."

Repealed Act 17 of 1921

No. 32—1894.] [August 21, 1894.

ACT

To amend the Act No. 29 of 1891, being the Port St. John's and Maclear Railway Act, 1891.

[Lapsed.]

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[1] Extended to all Native Territories by Proclamation 120, 1902.
[2] No. 8.

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No. 33—1894.] [August 21, 1894.

ACT

To Authorise a Loan in Aid of the Graham's Town and Port Alfred Railway, to be secured by Preferential Debentures.

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:—

Advance of £20,000 may be made for railway.

1. It shall be lawful for the Governor, subject to the provisions of this Act, to advance out of the Revenues of the Colony the sum of Twenty Thousand Pounds to a company which it is proposed to constitute for the acquisition and working of the line of railway from Graham's Town, which was constructed under the provisions of Act No. 5 of 1881.

£5,000 for expenses of former Company.

2. The balance of the amount so advanced shall be devoted to placing, equipping, keeping and maintaining the said line in good and efficient working order and condition, after meeting expenses not exceeding Five Thousand Pounds, connected with and incidental to the liquidation of the former company constituted under the Act aforesaid, and the formation of the proposed company.

How secured.

3. The amount so advanced shall be secured by debentures lawfully executed by the company to and in favour of the Government, pursuant to the trust deed of the said company and this Act,

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by which debentures the entire undertaking and property of the Company shall be hypothecated to the Government to secure the said amount, with annual interest thereon at four per centum, and which debentures shall be duly registered as a first mortgage in the Deeds Registry of this Colony: Provided that the Government shall not by reason of any default in the payment of interest take execution under the said mortgage within five years from the passing thereof, unless the said Company shall within the said period be placed in liquidation or the line cease to work.

Debenture stock to be first preferential charge.

4. The debentures for Twenty Thousand Pounds executed in favour of the Government aforesaid shall be and constitute a first and preferential charge in respect of the entire undertaking, assets, and property movable or immovable of every nature or kind, including specially the land heretofore possessed and held for the purposes of the said railway by the said former Company.

Trust deed to be subject to approval of Governor.

5. The trust deed of the said Company shall be subject to the approval of the Governor, who shall have the right to nominate at least two directors on the Board of Directors of the proposed Company.

Powers granted to new Company.

6. The powers granted by Act No. 5 of 1881 and not yet exhausted, and the liabilities by the said Act imposed, are hereby granted unto and imposed upon the Company to be formed under the provisions of this Act and therein referred to.

Short title.

7. This Act may be cited as the "Graham's Town and Port Alfred Railway Loan Act, 1894."

No. 34—1894.] [August 21, 1894.

Act to Apply a Sum of Money for the Service of the Year ending the 30th day of June, 1895.

[Spent.]

No. 35—1894.] [August 21, 1894.

ACT

To amend the "Regulation of Railways Act, 1861."

[Repealed by Act 6, 1905, p. 4811.]

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Repealed Act 9 of 1913

No. 36—1894.] [August 21, 1894.

ACT

To provide for the Repeal of certain provisions of the Acts No. 32 of 1891 and No. 21 of 1893, and for the Construction of certain New and Additional Works, and for the reduction of certain Amounts authorised to be raised under Act No. 10 of 1890.

Preamble

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

Money authorised to be raised under "Temporary Loans Act" made a charge against general revenue.

1. So much of the first section of Act No. 32 of 1891 as authorises the amount of £182,000, and so much of the first section of Act No. 21 of 1893 as authorises the amount of £98,750, to be raised under the provisions of the Temporary Loans Act, 1883, are hereby repealed, and the said amounts of £182,000 and £98,750, in so far as the expenditure authorised by these Acts has not already been transferred to Vote for the working and maintenance of Railways, are hereby made a charge against the general revenue of the Colony.

Provision as to applying sum of £70,000.

2. For the purpose of constructing the works set forth in Schedules A and B to this Act it shall be lawful for the Governor

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to apply the sum of seventy thousand pounds sterling out of the Revenues of the Colony. No. 37—1894.

3. It shall further be lawful for the Governor to apply the sum of eighty-three thousand pounds sterling, being the Unappropriated Balance of Railway Construction Balances Account on the 30th June, 1894, for the purpose of the abovementioned Schedule A. Balance of Railway Construction Balances Account to be applied.

4. The amounts authorised to be raised under the provisions of Act No. 10 of 1890 are hereby reduced by the amount of £531,468, being that portion of the amount mentioned in Schedule A to the said Act, which provides for the Construction of a line of Railway from the Indwe Coal Mines to a point between Cyphergat and Molteno. Reduction of amount authorised under Act 10 of 1890.

5. This Act may be cited for all purposes as "The Public Works Act, 1894." Short title.

SCHEDULES.

A. Cape Town Station, Additional Accommodation... ...	...	...	£50,000
Salt River Station, Bridge over Line		£6,600	
Lifting Yard and Roofs between Erecting Shop and Steam Traverser		1,400	
			8,000
Re-laying to Beaufort West, on account	...	...	50,000
New and Additional Works on Free State Lines ...	...	...	25,000
			£133,000
B. Erection of General Post Office ...			£20,000
			£153,000

No. 37—1894.] [August 21, 1894.

ACT Repealed by 1925 Act 37, Sec. 3(1) Whole Act except 3,5,6,7.

To Enable the Government to Contract for the Extension of the Cape Central Railway to Swellendam. (1)

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 authorise the Commissioner of Public Works to contract and agree with any person or Joint Stock Company (hereinafter in this Act styled "the Commissioner may contract for construction of Railway.

[1] See Acts 16, 1883; 42, 1898.

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No. 37—1894.

Contractor") willing to construct a railway, commencing from the Terminus of the Cape Central Railways Line, at Ashton, to Swellendam, upon the following amongst other conditions:—

(*a*) That the gauge shall be three feet six inches, and that the gradient shall not exceed one foot in forty.

(*b*) That the line shall be open for traffic to Swellendam within a period of three years from a date to be stated in the contract, failing which all and singular the powers and authorities conferred by this Act shall cease and determine.

(*c*) That such line shall be constructed at the expense of the person or Joint Stock Company contracting to build the same.

(*d*) That upon the certificate of an officer, to be appointed by the Governor that the line has been satisfactorily completed in accordance with the provisions of this Act and of the contract so to be entered into, there shall be paid to the Contractor by the Government a sum of money calculated at the rate of fifteen hundred pounds per mile.

(*e*) That a tariff or tariffs of passenger fares and rates for goods in all classes shall be embodied in the said contract, no fare or rate to exceed the corresponding fare or rate at present charged upon the Cape Central Railway, and no increase in any fare or rate to be thereafter made without the approval of the Governor: provided that the tariff or tariffs so embodied shall not be binding upon the Contractor or Company until there shall be paid a dividend or interest of not less than five per cent. per annum on the capital expended, over and above the aforesaid sum of money, in and about the construction and equipment of the said railway.

Contractor authorised to construct Railway.

2. Such person or Joint Stock Company as aforesaid shall upon the completion of such contract with the said Commissioner be, and is hereby authorised and empowered to construct, maintain and work a railway between Ashton and Swellendam, according to plans to be submitted to the Governor for approval, and referred to in such contract; and to erect and work a telegraph along the said line, subject to the provisions of the "Electric Telegraph Act, (1) 1861."

Powers to enter upon any lands for the purpose of survey, &c.

3. The Contractor may, by any person duly authorised thereto 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 owner or occupier of the said land for any damage thereby occasioned, the same to be recoverable by action

(1) No. 20.

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brought in any competent court within three months from the date when such damage shall be alleged to have been committed.

Power to take Crown lands for construction and maintenance of line.

4. The Contractor may, subject to any limitation contained in the contract, with consent of the said Commissioner enter upon and take possession of and hold or 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 or 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 Contractor 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.

Repealed by 1925 Act 37 Sec. 3(1)

Powers for the taking of land and materials.

5. For the purposes of the said railway, the Contractor 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 on 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 and working of the said railway.

Compensation Clause.

6. If the Contractor shall, for the purposes of the said railway require to take 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 Contracor, 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 Contractor, or, if the Contractor shall require to use any land, or to take any material from any land that he, in the exercise of such powers as aforesaid may have a legal right to 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.

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Provisions in cases where Railway crosses any street or road.

7. At all places where the line 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 Contractor 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 the said street or road, and such Contractor shall be bound to make all such cuttings, embankments and approaches, with all such culverts, 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 shall also be bound to maintain and keep in efficient repair all such crossings, bridges, viaducts, cuttings, embankments, approaches, culverts and drains as aforesaid.

Streets or roads may be made crossing Railway. Proviso.

8. Nothing in this Act contained shall prevent any street or public roads hereafter 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.

Contractor may act by duly appointed agent.

9. It shall be lawful for the Contractor to exercise all and singular the powers by this Act conferred upon him, by or through an agent in this Colony, duly appointed; provided that notice of every appointment of any such agent and of his name and address in this Colony, shall from time to time be published in the *Gazette*.

Railway not to be opened for traffic until certificate of Government Officer obtained. Proviso.

10. 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 conveyance of passengers; provided that in the event of any difference arising between the officer so appointed and the Contractor, such difference or dispute shall be settled by arbitration, and that the cost of obtaining such certificate shall be borne by the Contractor.

"Regulation of Railways Act, 1861," to apply.

11. Upon the completion of the said railway or any portion thereof as aforesaid, the Contractor shall enjoy all the privileges and be subject to all the conditions conferred by and contained in "The Regulation of Railways (1) Act, 1861," or any amendment thereof.

Regulations as to gate, &c.

12. The provisions of "The Roads Act, 1877, Amendment Act, (2) 1879," 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.

Government may purchase Railway, Telegraph, &c.

13. Upon the exercise at any time by the Government of its rights and powers under the seventeenth section of the "Cape Central Railways Act, (3) 1883," the Government shall have the

[1] No. 19.
[2] Act 37, 1879, repealed by Act 40, 1889.
[3] No. 16.

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right, if so disposed, to purchase from the Contractor on giving six months' notice to this effect in three consecutive issues of the *Gazette*, and the Contractor shall be bound six months after the date of the first publication of the said notice, to sell to the Government the said railway, and also all buildings and plots of land acquired by the Contractor and used in connection with the working of the said railway, together with all the 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 thereof, in possession of the Contractor under this Act, upon such terms as may be agreed upon between the Government and the Contractor, and failing such agreement, at a price to be settled by arbitration; provided that from the price so agreed upon or settled by arbitration as the case may be, shall be deducted the amount already paid by the Government to the Contractor under the provisions of this Act.

Lands and Arbitration Clauses Act incorporated.

14. For the purposes of any land taken, or any arbitration under this Act, the provisions of the "Lands and Arbitrations Clauses Act, (1) 1882," are hereby incorporated.

Name or style of Contractor for legal process.

15. The Contractor shall and may sue and be sued within this Colony by such name or style as may be duly specified in the Contract or Agreement hereinbefore provided for, and the service of process upon the authorised agent of the said Contractor at his office or place of business in this Colony shall be good service of such process.

Repealed by 1925 Act 37, Sec. 3 (1)

Short title.

16. This Act may be cited for all purposes as the "Cape Central Railways Extension Act, 1894."

Repealed C.

No. 38—1894.] [August 21, 1894.

Act to Apply a Sum not exceeding Twenty-five Thousand and Sixty-seven Pounds Four Shillings and One Penny Sterling for the purpose of meeting and covering certain Unauthorised Expenditure.

[Spent.]

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[1] Act No. 6.

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No. 39—1894.] [August 21, 1894.

ACT

To Authorise the Issue of Quitrent Title in favour of Jan Daniel Herold Blanckenberg to certain Land at Maitland in the Cape Division, to which he was decreed entitled by prescriptive right.

Preamble.

WHEREAS by the judgment of the Supreme Court of the Colony, on the 20th day of March, 1894, in a suit wherein Jan Daniel Herold Blanckenberg was plaintiff, and the Colonial Government and others were defendants, the said Jan Daniel Herold Blanckenberg was declared entitled by prescriptive right to a certain piece of land, in exten 9 morgen 202 square roods and 126 square feet, or thereabouts, situated at Maitland in the Cape division, and bounded north-westward by a freehold grant to Jan Willem Wernich dated 10th November, 1789, and a strip of vacant Crown Land; southward by a quitrent grant to Albert Wynand Louw, dated 4th of April, 1814; south eastward by a quitrent grant to the minor children of Jan van der Hoeven, dated 4th April, 1814; and north-eastward by a freehold grant to Jan Willem Wernich, dated 10th November, 1789, and a quitrent grant to the minor children of Jan van der Hoeven, dated 4th April, 1814:

And whereas it is expedient to give effect to and comply with the said judgment by the issue of a quitrent title to such land, in favour of the said Jan Daniel Herold Blanckenberg:

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:—

Quitrent grant to J. D. H. Blanckenberg.

1. Notwithstanding anything to the contrary in the "Crown Lands Disposal Act, (1) 1887," or any other law, it shall be lawful for the Governor to issue to Jan Daniel Herold Blanckenberg a perpetual quitrent title to the land in the preamble to this Act described, such title to be subject to all and similar the conditions imposed by the proclamation of Sir John Cradock, dated the 6th day of August, 1813; provided that no additional payment of quitrent shall be required in respect of the land so granted.

Short title.

2. This Act may be cited as "The Blanckenberg Land Title Act, 1894."

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[1] Act No. 15, 1887.

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No. 1—1895.] [June 14, 1895.

ACT

To Repeal the "Ichaboe and Penguin Islands Customs Act, 1874."

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 "Ichaboe and Penguin Islands Customs Act, (1) 1874," is hereby repealed, and from and after the taking effect of this Act Ichaboe Island and the Penguin Islands, to wit: Hollandsbird, Mercury, Long Island, Seal Island, Penguin Island, Halifax, Possession, Albatross Rock, Pomona, and Plumpudding and Roastbeef, or Sinclair's Island, shall no longer be deemed to be foreign ports for the purposes of the Laws of this Colony, relating to the Customs. Repeal of "Ichaboe and Penguin Islands Customs Act, 1874."

2. This Act may be cited as "The Ichaboe and Penguin Islands Customs Act Repeal Act, 1895," and shall take effect from a date to be proclaimed (2), not being earlier than 1st day of July, 1895. Short Title, and date of taking effect of Act.

No. 2—1895.] [July 9, 1895.

ACT

To Suppress the Imputation or Practice of Pretended Witchcraft.

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.

1. Whoever imputes to any other person the use of non-natural means in causing any disease in any person or animal, or in causing any injury to any person or property, that is to say, whoever names or indicates any other person as being a wizard or witch (in the Kafir language *Umtakati*) shall, on conviction, be liable to a fine not exceeding two pounds sterling or in default of payment to imprisonment, with or without hard labour, for a period not exceeding fourteen days unless such fine be sooner paid. Punishment for imputatio of witch-craft.

2. Whoever, having so named or indicated any person as wizard or witch as aforesaid, shall be proved at his trial under the last preceding section to be by habit and repute a witch-doctor or witch-finder (in the Kafir language *Isanusi*) shall be liable, on conviction, in lieu of the punishment provided by the last preceding section to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour for any term not exceeding two Punishment for imputation of witch-craft by habitual or reputed witch-doctor or witch-finder.

[1] No. 5.
[2] To take effect from 1st July, 1895. See Proc. No. 250, 1895, in *Gazette*, 25th June, 1895.

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No. 3—1895.

years, or to corporal punishment not exceeding thirty-six lashes or to any two or more of such punishments.

Punishment for employing witch-doctor or witch-finder.

3. Whoever employs or solicits any such witch-doctor or witch-finder as aforesaid so to name or indicate any person as wizard or witch as aforesaid shall be liable, on conviction, to a fine not exceeding five pounds, and in default of payment to imprisonment with or without hard labour, for any term not exceeding two months unless such fine be sooner paid.

Punishment for witch-doctor or witch-finder practising witchcraft or supplying witchcraft materials.

4. Whoever professes a knowledge of so-called witchcraft or of the use of charms, either as a witch-doctor or witch-finder, and shall advise or undertake to advise any person applying to him how to bewitch or injure any other persons or any property including animals, and any person who shall supply any other person with the pretended means of witchcraft shall, on conviction, be liable to the punishments provided by section two of this Act.

Punishment for applying means or processes of witchcraft for the injury of person or property.

5. Whoever on the advice of a witch-doctor or witch-finder, or in the exercise of any pretended knowledge of witchcraft or of the use of charms, shall use or cause to be put into operation such means or processes as he may have been advised or may believe to be calculated to injure any other person or any property including animals, shall be liable on conviction to the punishments provided by section two of this Act.

Money, &c., received as payment or reward for practice of witchcraft, &c., shall be deemed to have been obtained by false pretences.

6. Any money or other thing received by any person by way of payment or reward for or in respect of any exercise or pretended exercise of so-called witchcraft, or of the use of charms, or for or in respect of advising any person as to any mode or method of bewitching or injuring, by non-natural means, any other person, or any property, including animals, or for or in respect of indicating any person who, by non-natural means shall be supposed to have bewitched or injured any other person or any property, including animals, shall be deemed to have been obtained by false pretences by such first-mentioned person receiving the same.

Date of taking effect of Act.

7. This Act shall take effect on and after any date, not earlier than the first day of September, 1895, which may be fixed by any proclamation (1).

Short title.

8. This Act may be cited as "The Witchcraft Supression Act, 1895."

Repealed by Act. 26 of 1934.

No. 3—1895.] [August 2, 1895.

(2) ACT.

To Amend the "Customs Union Tariff Act, 1889."

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] To come into force from and after the 15th May, 1896. See Proc. No. 144, 1896, dated 22nd April, 1896.

[2] Extended to Native Lerritories by Proclamation 34, 1897.

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1. Schedule A (1) of the Act No. 1 of 1889, commonly called the "Customs Union Tariff Act, 1889," shall be read and construed as though the words "meats, salt and preserved, in tins, cases or otherwise," included fresh or salted meat imported into this Colony whether frozen or not, and whether imported in tins or cases or not.

No. 4—1895.

Imported fresh or salt meat, frozen or not, to be included under Schedule A. of Act No. 1 of 1889.

2. This Act shall come into force on a day to be fixed by the Governor by Proclamation, but before such Proclamation shall be issued the consent of the Government of the Orange Free State shall be obtained by the Governor to a corresponding alteration of the tariff contained in the Customs Union Convention of 1889, and the other Governments concerned shall be consulted.

Taking effect of Act.

3. This Act may be cited as the "Customs Tariff Amendment Act, 1895."

Short Title.

No. 4—1895.] [June 25, 1895.

ACT

To Exempt Property situate in the United Kingdom of Great Britain and Ireland or in other Colonies or States of South Africa, from the operation of "The Successions Duty Act, 1864."

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 "The Successions Duty Act, (1) 1864," or any other law, no succession duty under the said Act shall from and after the taking effect of this Act be levied in respect of property situate in the United Kingdom of Great Britain and Ireland.

Exemption from Succession Duty of Property in the United Kingdom.

2. The provisions of this Act may by Proclamation be extended by the Governor so as to apply in respect of any Colony, British Possession, or State in South Africa so long as there shall be in such Colony, British Possession, or State, no succession duty levied in respect of property situate in this Colony.

Act may be reciprocally applied to Colonies or States of South Africa.

3. This Act shall take effect from a date to be fixed (2) by the Governor, shall be read as one with the aforesaid Act, and may be cited for all purposes as "The Successions Duty Amendment Act, 1895."

Effect and Short Title.

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[1] Schedule A is repealed by Act 8, 1897 (p. 3710), in its turn repealed by Act 6, 1898 (p. 3852). See now Act 5, 1903 (p. 4548).

[2] No 5 (p. 920).

The 5th July, 1895, fixed as the date from which this Act shall take effect. See Proc. 268, 1895, dated 3rd July, 1895, in *Gazette*, 5th July, 1895. This Act, and Act 5, 1864, extended to Native Territories by Proclamation 34, 1897.

The following section (26th) of the Finance Act, 1894 [57 and 58 Vict., ch. 30] is applied to the Colony of the Cape of Good Hope, by Order in Council, dated 13th

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No. 5—1895.] [June 25, 1895

(1) ACT

To Repeal Act No. 14 of 1859, save as to certain Clauses thereof, and to adopt Act No. 45 of 1882.

Preamble.

WHEREAS the Green Point and Sea Point Municipality is constituted under Act No. 14 of 1859, and it is expedient that the said Municipality should be brought under the provisions of the said Act No. 45 of 1882, but should at the same time retain the rights and privileges conferred by sections forty, fifty-four, fifty-five and fifty-six, of the said Act No. 14 of 1859:

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:—

Repeal of Act 14 of 1859, save as to certain sections.

1. The said Act No. 14 of 1859, commonly called the "Green Point and Sea Point Municipal Act," shall henceforth be and the same is hereby repealed accordingly, save and except as to the sections forty, fifty-four, fifty-five and fifty-six thereof, which shall be and remain in full force and effect as heretofore; the Commissioners mentioned in the said section fifty-six being taken to refer to the Municipal Council as under this Act established.

Adoption of Act 45 of 1882, with amending Acts.

2. The said Act number forty-five of 1882, as amended by Act 22 of 1893, and any other Act now or hereafter in force, is hereby declared to be of full force and effect, within the limits of the said Municipality as now existing, and the said Municipality is hereby declared to be constituted under the provisions of the said Act amended as aforesaid as though all the necessary steps for such

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August, 1895, and published by Government Notice No. 900, 1895, of the 23rd September, 1895, in the *Government Gazette* of the 24th September, 1895.

* * * * * *

BRITISH POSSESSIONS.

Exception as to property in British possessions.

20. (1) Where the Commissioners are satisfied, that in a British possession to which this section applies, duty is payable by reason of a death in respect of any property situate in such possession and passing on such death, they shall allow a sum equal to the amount of that duty to be deducted from the Estate duty payable in respect of that property on the same death.

(2) Nothing in this Act shall be held to create a charge for Estate duty on any property situate in a British possession, while so situate, or to authorise the Commissioners to take any proceedings in a British possession for the recovery of any Estate duty.

(3) Her Majesty the Queen may, by Order in Council, apply this section to any British possession, where Her Majesty is satisfied that by the law of such possession, either no duty is leviable in respect of property situate in the United Kingdom when passing on death, or that the law of such possession as respects any duty so leviable is to the like effect as the foregoing provisions of this section.

(4) Her Majesty in Council may revoke any such Order where it appears that the law of the British possession has been so altered that it would not authorise the making of an Order under this section.

* * * * * *

[1] See Act 13, 1905 (p. 4832).

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constitution referred to in the said Act had been duly taken, the provisions of the said sections forty, fifty-four, fifty-five and fifty-six of Act 14 of 1859, continuing in force notwithstanding. No. 6—1895.

3. The regulations at present in force within the said Municipality shall, in so far as the same are not inconsistent with the said Act number forty-five of 1882, amended as aforesaid, or with the provisions of this Act, be and remain of full force and effect until the Governor shall have approved of other bye-laws or regulations in terms of this Act. Existing regulations to remain in force pending new ones to be approved of by Governor.

4. Pending the election of Commissioners under this Act, the Commissioners at present holding office shall continue to hold office, and shall exercise and possess all the powers and authorities now exercised or possessed by them. Existing Commissioners to hold office till election of new Commissioners.

5. This Act may be cited as the "Green and Sea Point Municipal Act, 1895." Short title.

No. 6—1895.] [June 25, 1895.

(1) ACT

To Provide for the Transit under Warrant of Extradited Offenders.

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. Whenever any person shall be brought into this Colony under a warrant for his extradition from any State, Colony or British, German or Portuguese Possession in South Africa to any State, Colony or Possession in South Africa or elsewhere, the offence wherewith such person is charged being one in respect of which extradition may be requested under any Extradition Treaty subsisting between Great Britain and Germany or any other Foreign Power, such person shall within this Colony be deemed to be in legal custody under such warrant and such warrant shall be recognised as of full force and effect to authorise the custody and detention of such person in any gaol, prison or lock-up, or elsewhere in this Colony, pending his removal to the State, Colony, or Possession to which he is in course of extradition: Provided that no such warrant shall be deemed to be of such force and effect unless or until notice, in writing, shall have been received by the Government of this Colony from a duly authorised representative of such last mentioned State, Colony or Possession, stating that such warrant has been granted in respect of such offender, and setting forth the offence with which he is charged. Person brought from neighbouring territory through the Colony under warrant of extradition to be deemed to be in legal custody, such warrant being recognised as of full force and effect.

2. Every such person shall be at liberty after the lapse of two weeks from the date of his entering this Colony under such warrant to apply to the Supreme Court or any Judge thereof to be set at large, notwithstanding the provisions of the last preceding Application may be made to Court after lapse of two weeks for discharge of warrant.

[1] Extended to all the Native Territories by Proclamation 34, 1897.

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No. 7—1895.

section, and upon such application the said Court or Judge may make such order as to justice shall appertain, either releasing the applicant forthwith, or authorising his further detention for such further period, and subject to such terms and conditions as to his removal from this Colony or otherwise as to the said Court or Judge may seem meet.

Short Title.

3. This Act shall come into force forthwith upon its promulgation, and may be cited as "The Extradition Transit Act, 1895."

No. 7—1895.] [June 25, 1895.

(1) ACT

For the Prevention of Destitution, and to make Provision for the Relief of Wives and Families Deserted and left Destitute.

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:—

Penalty for neglecting to provide for family.

1. Every person being able wholly or in part to maintain himself or herself, or his or her family, by work or by other means, and wilfully refusing or neglecting so to do, by which refusal or neglect he or she or any of his or her family whom he or she may be legally bound to maintain shall have become destitute, shall be deemed to be an idle and disorderly person, and upon conviction thereof before any Resident Magistrate, shall be liable to a fine not exceeding fifteen pounds, or failing payment of such fine to be imprisoned with or without hard labour for any period not exceeding three months.

If husband desert wife, Magistrate may, in certain cases, issue summons.

2. When any husband unlawfully deserts his wife or leaves her without means of support, or when a father deserts any child, being under fifteen years of age or leaves it without any adequate means of support, if complaint thereof be made on oath to the Resident Magistrate of the district in which such wife or such child shall respectively reside, by the wife or by any reputable person on her behalf, or in case of the child, by the mother or any reputable person, such Resident Magistrate may issue his summons to such husband or father to show cause why he should not support his wife or child; and in cases of desertion, where such husband or father is absent from the Colony, the Resident Magistrate may direct service of the summons to be made by publication thereof in the *Gazette* or in some newspaper circulating at any place in South Africa where such Magistrate shall have reason to suppose that such husband or father resides or is.

Magistrate may make order for maintenance.

3. Upon the day appointed for the hearing and upon proof of the service of the summons, whether the defendant be then present or not, such Resident Magistrate shall inquire into the matter of the complaint; and if he be satisfied that the wife or child, as the

[1] Extended by Proclamation 34, 1897, to all the Native Territories: To Transvaal by P. 377, 1903: To Natal by P. 27, 1899, and to Orange River Colony by P. 46, 1904.

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case may be, is in fact without means of support, and that the husband or the father is able to maintain her or it or to contribute to her and its maintenance, such Resident Magistrate shall make an order, in writing, directing him to pay either weekly or monthly at the Magistrate's discretion and to such person or in such manner for her or its use as such Magistrate may think fit, such moderate sum or allowance as he shall consider proper; and such an order shall have the effect of an ordinary judgment of the said court.

When case may be re-heard if husband or father return to Colony.

4. It shall be competent for any husband or father, as the case may be, against whom judgment shall have been given during his absence from the Colony, within two months after his return to the Colony, and having notice of such judgment to take out the summons of the court calling upon the complainant in the original suit to show cause why the order or authority as aforesaid shall not be cancelled, and if, upon such re-hearing he shall prove to the satisfaction of the court that he did not absent himself from the Colony for the purpose of avoiding the service of the summons, the case shall be re-opened and proceed as if he had appeared upon the original summons.

Order may be certified and transmitted to other Resident Magistrate.

5. Any order made by any Resident Magistrate under this Act may be duly certified without fee by such Magistrate under his hand and transmitted to any other Resident Magistrate in whose district the defendant may at any time or from time to time reside or be, and shall on receipt be endorsed by such last-mentioned Resident Magistrate and shall thereupon be put into force and have such effect as though it had originally been pronounced by him, subject always to the provisions of section four.

Appeal.

6. Any sentence passed or order made by any Resident Magistrate, in terms of this Act, shall be subject to appeal to the Supreme Court, Eastern Districts Court, High Court of Griqualand West, or any Circuit Court, as the case may be.

Sale in execution.

7. All and singular the rules of the Resident Magistrates' Courts in regard to any sale in execution of the ordinary process of such courts, or in regard to appeals from such courts, shall apply *mutatis mutandis* to any sale directed or appeal prosecuted in pursuance of this Act.

Reciprocity with neighbouring states and Colonies.

8. Whenever the Governor shall be advised that in any other Colony, State, or Territory in South Africa there is a law in force recognising the orders of a Resident Magistrate under this Act duly certified under his hand and providing for their enforcement against the defendant in the jurisdiction of such Colony, State, or Territory, it shall be lawful for the Governor to proclaim corresponding and reciprocal regulations providing for the recognition and enforcement in this Colony of orders made in such Colony, State, or Territory under any law similar to this Act.

Short Title.

9. This Act may be cited as "The Deserted Wives and Children Protection Act."

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No. 8—1895.] [June 25, 1895.

ACT

To Apply a Sum not exceeding Six Hundred Thousand Pounds Sterling towards the Service of the Year ending the 30th day of June, 1896.

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:—

Revenue charged with £600,000 towards service of year ending 30th June, 1896.

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending the 30th June, 1896, with a sum not exceeding Six Hundred Thousand Pounds Sterling (£600,000), which sum shall be applied towards the service of the year in conformity with the estimates of the expenditure for the said year which have been presented to Parliament.

Short title.

2. This Act may be cited for all purposes as "The Appropriation (part 1895-96) Act, 1895."

Repealed by Act 23 of 1896

No. 9—1895.] [June 25, 1895.

ACT

To apply a further Sum not exceeding One Hundred and Twelve Thousand One Hundred and Seventy-two Pounds Sterling for the Service of the Year ending the 30th June, 1895.

Preamble.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending the 30th June, 1895, in addition to the sums provided by the Acts No. 4 and 34 of 1894: 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 £112,172.

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, 1895, with a further sum of One Hundred and Twelve Thousand One Hundred and Seventy-two Pounds Sterling, in addition to the several sums provided for by the said Acts No. 4 and 34 of 1894.

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 detailed Schedule to this Act submitted to Parliament.

Short title.

3. This Act may be cited for all purposes as the "Additional Appropriation 1894-'95 Act, 1895."

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SCHEDULE.

No. 10—1895.
Schedule.

Additional Appropriation, 1894-'95.	Establishments.	Services, exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
1. Ministerial Department of the Prime Minister	118	1	119	119
2. Ministerial Department of Colonial Secretary	625	26,587	27,212	27,212
3. Ministerial Department of Treasurer ...	1,479	54,147	55,626	15,981
4. Ministerial Department of Attorney General	5,566	16,758	22,324	22,324
5. Ministerial Department of Commissioner of Public Works	65	37,566	37,631	37,631
6. Ministerial Department of Secretary for Agriculture.	78	8,827	8,905	8,905
Grand Total	7,931	143,886	151,817	112,172

No. 10—1895.] [June 25, 1895.

ACT

To Regulate the Business of Dealers in Second-hand Goods.

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 purposes of this Act the term "second-hand goods" shall mean old or second-hand clothes or goods, including defaced gold, silver plated or steel-wrought goods, bought or obtained from any person other than a person licensed to sell or deal in the same; and the term "dealer in second-hand goods" shall mean every person carrying on the trade, business or occupation of dealing in, buying or selling second-hand goods.

Regulations to which second-hand dealers must conform.

2. Every dealer in second-hand goods shall conform to the following regulations:—

(*a*) He shall keep a book and shall without unnecessary delay enter, or cause to be entered, therein a true and correct account and description of all second-hand goods which he may from time to time become possessed of, stating in respect of each article the name and place of abode of the person from whom the same was purchased or received, the date and hour of the day of each transaction, and the price paid, or agreed to be paid, in respect of the same; and he shall also enter in such book an

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account of all such goods as he may from time to time dispose of, stating in respect of such goods the name and place of abode of the person to whom he sold or disposed of the same, and the date and hour when the goods were removed from his premises by the purchaser.

(*b*) He shall produce to any officer of police whenever thereto requested the book required to be kept as aforesaid, and any second-hand goods purchased or received by him and then in his possession, and such second-hand goods shall be deemed to be in possession of such dealer when they are placed in any house, out-house, yard, garden or place occupied by him, or shall have been removed with his knowledge and permission to any other place without a *bonâ fide* sale of such second-hand goods having been made by him.

(*c*) He shall forthwith upon becoming aware or upon being informed by, or receiving a notice from any police officer that certain articles have been stolen, embezzled or fraudulently obtained, give notice to the officer in charge of the police station nearest to his place of business of any second-hand goods then or previously in his possession, or which may have been offered to him answering to the description of or similar to such articles.

(*d*) He shall produce for examination or deliver, when thereto required by any police officer, any of such articles in his possession as are in the preceding sub-section mentioned to the officer making the request, or the officer in charge of the said police station.

(*e*) He shall keep all second-hand goods purchased or received by him without changing the form in which such articles were when so purchased or received, or disposing of the same in any way for a period of four days after such article has been purchased or received.

And any such dealer who shall contravene any of the provisions of this section shall be liable to a fine not exceeding fifty pounds sterling, or to imprisonment with or without hard labour for any period not exceeding six months, or to both such fine and such imprisonment.

Penalty for keeping smelting pots on premises.

3. Any dealer in second-hand goods keeping or knowingly suffering to be on his premises, without permission in writing from the Resident Magistrate, any smelting pot or implement for melting, altering or defacing gold, silver, lead or other metals, shall be liable to imprisonment with or without hard labour for any period not exceeding twelve months.

Dealers not exempted from prosecution for other offences.

4. Nothing in this Act contained shall be deemed to exempt any such dealer from prosecution for any crime or offence of which he would be guilty if this Act had not been passed.

Pawnbrokers to be deemed dealers in second-hand goods.

5. Every pawnbroker licensed to carry on business under Act No. 36 of 1889 shall, for the purposes of this Act, be deemed to

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be a dealer in second-hand goods, save that in lieu of the book provided for in sub-section (*a*) of section two of this Act, the pledge book provided for by the said Act shall be deemed to be in this Act mentioned and referred to in relation to all transactions whereby goods are pledged or pawned to him.

Sales at Public Auction by licensed auctioneer not affected.

6. Nothing in this Act contained shall be deemed to apply to any transaction of sale and purchase of second-hand goods sold at public auction by a duly licensed auctioneer and purchased by a second-hand dealer.

Short title.

7. This Act may be cited for all purposes as the "Second-hand Goods Act, 1895."

No. 11—1895.] [July 9, 1895.

ACT [1]

Repealed by Ordinance No 18 of 1914 Except Sections 3, 4, 5 (Subsection (24) to end of Section inclusive), 12, 13 14 and 35

To Amend and Add to the Laws regulating the Municipal Corporation and Government of East London.

Preamble.

WHEREAS it is expedient to amend and add to the existing laws regulating the Municipal Corporation and Government of East London, 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 the inhabitants thereof, and the management and control of the police 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; and to alter the provisions respecting the number and qualification of Councillors and the number of wards of the said Municipality:

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:—

Roads, &c., vested in Corporation.

1. The property of and in the streets, roads, thoroughfares, foot pavements, foot-paths, side-walks, squares, parks, grounds and open spaces to which the inhabitants of the Municipality shall at any time have or acquire a common right, shall be vested in the Mayor, Councillors and townsmen of East London, and be controlled by the Council thereof.

Lighting of streets, &c.

2. 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 Municipality, 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 think 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 to

[1] See Acts 4 and 10, 1898, 22 and 23, 1899; 20, 1905 (p. 4847).

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enter into contracts for the lighting and to 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, roads, parks, grounds and open spaces or upon or against the walls and palisades of any buildings on the sides of the streets, footways and 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.

Tramways.

3. It shall be lawful for the Council to provide, construct, lay down and maintain or to grant leave to any person or persons, company or companies to provide, construct, lay down and maintain under such conditions as the Council may think fit, a tramway or tramways in and through any of the streets and roads within the Municipality, and for that purpose to provide or to enter into contracts for providing such plant and materials as may be necessary whatever be the motive power used in connection with the said tramway or tramways: Provided that before the Council shall construct any such tramway or shall enter into any contract for such purpose, or relative thereto, the plans and sections showing the proposed works, and plans showing all lands or buildings proposed to be taken or affected thereby, and the contract proposed to be entered into, shall be deposited for public inspection in the office of the Town Clerk; and notice of the intention of the Council to construct the said tramway, and to take the said lands or buildings, or to enter into the said contract, shall be served personally upon the owner or occupier of any lands or buildings proposed to be taken, or where personal service cannot be effected by leaving the same at such land or building, and notice of such intention shall also be given by publishing the same as is provided in section thirty-eight of Act 23 of 1880, with regard to bye-laws, rules, and regulations, and the approval of the Governor to the construction of such tramway, or to entering into such contract, shall be obtained, in manner required by the proviso to the said section, and the provisions of section forty-nine of the said Act No. 23 of 1880 shall apply to the taking of any such lands or buildings as aforesaid. The Council may make regulations for the safety, protection, and comfort of the public, for preventing overcrowding and interference with traffic, for regulating the charges to be made on the said tramways, and for the proper, efficient, and economical working thereof: Provided, further, that notwithstanding anything contained in this or the last preceding section the construction and working of any electric lighting system, or tramways of which the motive power is electricity, shall be subject to the provisions of any Act for regulating the employment of electricity for the purposes of electric lighting and power generally which may be passed in future, or any regulations which may be framed by the Governor under authority of such Act.

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4. The Council shall have power to call upon the owner of each and every house in a street having a water main and entitled to a supply of water, to take from the Council at his own expense a water-leading and a supply of not less than one hundred gallons per diem, and to pay the price thereof, and upon being so called upon every such owner shall be obliged so to do.

Council may compel owners to take water.

5. The Council shall also in addition to the powers granted to them and the rules and regulations authorised to be made by them by Act No. 23 of 1880, Act 12 of 1881, and Act 15 of 1882, have power and authority from time to time to make, alter, revoke or amend rules and regulations for all or any of the following purposes:—

Matters upon which regulations may be made.

(1) For regulating the duties of the Council's officers and servants.

(2) For regulating the level, width, direction and construction of new streets made by the Council or owners of private property, and the sewerage and drainage thereof.

(3) For regulating the structure of walls, foundations, roofs, and chimneys of new buildings, 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 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.

(6) For prohibiting the overcrowding of houses, dwelling places and rooms, and the erection of objectionable buildings.

(7) For securing the regularity of lines and levels 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 Municipality.

(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 inspection of the Council or its officers, and 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

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or streets shewn upon any plan which has been approved of by the Council.

(9) For the inspection of buildings and structures by the Council and its officers.

(10) 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.

(11) For regulating and preserving public parks, walks, avenues, botanical gardens, bleaching and drying grounds, public wash-houses, 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 in the sea or in any other public place.

(12) For regulating and restricting the storing, carriage, removal, and use of gunpowder, dynamite, petroleum, oils, fireworks, and other explosives and inflammable or dangerous substances, and the use of firearms.

(13) For imposing a tax upon the keeping of dogs and providing with regard to seizure, sale, and destruction of ownerless dogs and those in respect of which the tax has not been paid.

(14) For regulating from time to time the naming of the streets, roads, thoroughfares and open spaces of the Municipality and the numbering and re-numbering the houses, buildings and places therein, and imposing duties and obligations upon the owners of property and inhabitants in respect thereof.

(15) For regulating the beating and shaking of carpets, rugs or mats in streets and public places generally, and the hours within which carpets, rugs or mats may be beaten.

(16) For regulating and controlling traffic, and regulating, controlling and restricting gatherings in public places and processions.

(17) For fixing and levying licences to be paid to the Council by owners or possessors of cabs or vehicles of any description plying for hire within the limits of the Municipality, and for regulating and fixing the number of passengers to be carried by such cabs or vehicles, the fares to be charged within or beyond the said limits, the amount of baggage to be allowed to passengers, for regulating disputes as to fares, the position of such vehicles on stands to be appointed by the Council, and for the safety and convenience of passengers and the public.

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(18) For regulating the keeping in repair and paving of tramway and private railway lines running over public streets or roads and the keeping in repair by tramway and railway companies and the owners of tramcars and private railways of the roadway between and adjacent to their rails.

(19) For regulating, restricting and licensing the use of bicycles, tricycles and velocipedes within the Municipality.

(20) For regulating and prohibiting the cleaning and grooming, or breaking in, or training of animals, and repairing and outspanning and cleaning of vehicles in streets, footpaths, and public places.

(21) For regulating or restraining noisome or offensive trades.

(22) For planting and preserving trees, shrubs, flowers and plants in public parks, grounds, streets, and open places.

(23) For registering houses let or occupied as lodging houses, and inspecting the same.

Repealed by 1923 Act 21, sec. 27(1)

(24) 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.

(25) 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.

(26) 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.

(27) For regulating, permitting or prohibiting of shops, trading stations, and trading within such locations.

(28) For the removal or destruction of unauthorised or abandoned huts in the locations or upon the commonage.

(29) 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.

(30) 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

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Repealed by 1923 Act 31 sec. 37(1).

a superintendent of a location, and for fixing such parts of streets or open spaces or pavements of the same on which natives and Asiatics may not walk or be: 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.

(31) For regulating and setting apart portions of the rivers and sea where natives and Asiatics may not bathe, and where clothes may or may not be washed.

(32) For maintaining generally the safety, convenience and comfort of the inhabitants of the Municipality, and for framing regulations whereby 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.

Provided that nothing in the sub-sections twenty-four, twenty-nine and thirty 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, 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 as 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 seventy-five pounds in respect of each such owner or occupier.

Penalties for breaches of regulations may be imposed.

6. 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 sterling; 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 in 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.

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Procedure in making regulations

7. The provisions of section thirty-eight of Act 23 of 1880, as to the making, alteration or rescindment of bye-laws, rules and regulations framed under that Act, shall apply to the making, alteration or rescindment of bye-laws, rules and regulations framed, or to be framed, under the provisions of this Act.

Power of entry upon private property.

8. The Council shall for the purposes of this and the beforementioned Acts and the bye-laws, rules and regulations framed thereunder, have power, by themselves or their officers, to enter at all reasonable hours in the day time 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 and the said Acts or the Council's bye-laws, rules and regulations without being liable to any proceedings on account thereof.

Penalty for obstructing Council.

9. Every person who shall at any time obstruct the Council, or any of its officers, in the performance of anything in which they are respectively empowered 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, or in default to be imprisoned with or without hard labour not exceeding three months.

Penalty for contravention of Act or regulation.

10. Every person who shall contravene any provision of this Act, or any rule or regulation from time to time in force in the Municipality, whether under the provisions of section thirteen of Act No. 15 of 1882, or under this Act, shall for every offence be liable to the penalty imposed by this Act or by any such rule or regulation, and if no other penalty be imposed, to a penalty not exceeding ten pounds.

Prosecution of offenders and recovery of penalties.

11. All offences committed in contravention of the Act or any municipal rule, bye-law or regulation, may lawfully be prosecuted in the Court of the Resident Magistrate for East London, and if any person shall be convicted of any such offence, and shall not pay or satisfy the amount of fine imposed upon him, it shall be lawful for the said Resident Magistrate to sentence such offender to any period of imprisonment with or without hard labour, not exceeding three months, unless such fine shall be sooner paid, and the amount of all fines, forfeitures or penalties when recovered, shall be paid to the Council for municipal purposes.

Powers of Superintendents and Headmen of Locations.

12 The Superintendents and Headmen of Native Locations within the Municipality shall have the same powers and authorities and it shall be lawful for them to perform all such duties within the location or locations over which they may respectively be appointed as if they were police constables.

Procedure against persons unlawfully in location.

13. Any person not being a resident within any such location, or being no longer entitled to reside within any location, or not having otherwise any right or authority to be in any such location, may be directed to remove therefrom by any superintendent, headman or police constable, and if such person shall not forthwith remove from such location, he or she may be summarily removed

Repealed by 1923 Act 21, Sec. 27 (1) in so far as they relate to natives in native locations

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Repealed by 1923 Act 21 Sec. 27 (1) in so far as they relate to natives or native location

by such superintendent, headman, or police constable, and in case such person shall refuse so to move, or shall resist such superintendent, headman, or police constable in attempting to remove such person, he or she may be removed to any gaol or lock-up within the Municipality, until he or she can be brought before the Resident Magistrate, and if such person shall be convicted of having refused to remove or of having resister any superintendent, headman, or police constable in the premises, he or she may be sentenced to pay a fine not exceeding £5, and in default of payment to imprisonment not exceeding fourteen days.

Recovery of hut tax or rent.

14. Every registered occupier of a hut or dwelling in the said locations shall within the first seven days of every calendar month pay to the superintendent thereof such sum as occupation rent or hut tax for such month in respect thereof as the Council shall by regulation appoint, and shall in addition thereto pay a fine of one penny for every day such person shall neglect so to pay: provided, however, that no such fines shall be levied for any one month in gross amount exceeding the amount of such monthly rent or tax, and in default of payment of such rent and fines during two consecutive months the Council or superintendent of such location shall, for the recovery of the same, have the same powers, remedies and authorities as are granted to the Civil Commissioner or other authorised person by the twenty-fourth and twenty-fifth sections of the Native Locations Act, 1884, or by any Act now or hereafter to be passed in lieu thereof, for the recovery of hut-tax under such Act; provided that nothing herein contained shall be taken to prevent the Council from demanding and suing for, under ordinary process, any such rent or hut-tax and fines at any time before the expiration of the period aforesaid; and provided further that for the purposes of this Act such huts or dwellings shall be held and be deemed to be movable property liable to seizure under sale.

Qualification of Councillors.

15. From and after the promulgation of this Act, the ninth section of Act No. 23 of 1880 shall be repealed, and in place thereof the following shall be the provisions respecting the qualifications of Councillors, viz.:—Every male person of full age, whose name appears on the townsman's roll not being an uncertificated insolvent, who is either the registered owner of immovable property situated within the Municipality and valued for municipal purposes, at two hundred pounds sterling, over and above the amount of any mortgages, hypothecations or encumbrances on the same, or has been the occupier for not less than twelve months before election, of immovable property valued for municipal purposes at not less than five hundred pounds sterling, and in regard to which properties aforesaid all municipal rates shall on the day before the nomination of a Councillor or Councillors have been duly paid, shall be eligible to be elected a Councillor and qualified to hold office as such: Provided that if any Councillor shall cease

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to be qualified as aforesaid, and provided also that if the rates due by any Councillor shall be unpaid for a period of six months from the date when the same shall have become due and payable, his seat shall *ipso facto* become vacant. And provided further that nothing contained in this section shall be deemed to affect or alter the provisions of section twelve of the aforesaid Act 23 of 1880.

Qualification of voter.

16. 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 not less than ten pounds sterling shall be qualified and entitled to vote at the election of a Councillor or Councillors for such ward, provided his name shall appear in the list of voters framed as provided for by section thirteen of Act 23 of 1880 or as a ratepayer in the assessment roll of such ward which shall have been made next or latest before the election at which such Councillor or Councillors 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 full force.

Interest on rate.

17. In case any rates made or levied by the Municipal 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 the Council at the rate of six per centum per annum reckoned from the said date.

Allowance for expenses may be made to Mayor.

18. The Council may from time to time out of the revenues, pay such sums as it may deem necessary towards public functions or public demonstrations, and to 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 five hundred pounds sterling, anything to the contrary in the Act contained notwithstanding.

Acting Mayor may be appointed.

19. If a Mayor, by reason of absence or illness, be at any time incapable of discharging the duties of his office, it shall be lawful for the Council to appoint one of their number, who shall be willing so to act, as Acting Mayor, and such Acting Mayor shall, during such incapacity of the Mayor, have all the powers and privileges, and shall perform all the duties of the Mayor; and during such absence or illness of the Mayor, and until such appointment of the Acting Mayor, the Town Clerk may convene the Council and put any questions to them.

New ward to be created.

20. Notwithstanding the provisions of section five of Act No. 23 of 1880, it shall be lawful for the said Council, with the consent of the Governor, to create a new ward, to be called Ward No. 4, and to fix the limits thereof, and to alter the limits of the existing wards, as may be required for the creation of such new ward, and the alterations in the limits of the existing wards shall be proclaimed by the Governor.

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Notice to be given.

21. The provisions of section six of Act 23 of 1880 as to notice to the public shall extend and apply to the matters referred to in the preceding section.

Number of Councillors.

22. Upon the creation of such new ward as aforesaid, the number of Councillors to be elected for each ward shall be three instead of four as provided by section seven of Act No. 23 of 1880.

Retirement of Councillors.

23. On the 29th day of February, 1896, all the Councillors then in office shall retire, and an election shall be held on the last Saturday in the same month to fill the vacancies so caused. Thereafter from time to time one Councillor from each ward shall retire annually, in manner provided by section thirty of Act No. 23 of 1880, in so far as applicable.

Council's expenses

24. All costs, charges and expenses incurred in and about the promotion and passing and carrying the provisions of this Act and the municipal regulations into effect shall be paid out of the funds of the Council.

Interpretation clause.

25. The word "Municipality" used in this Act shall mean the Municipality of East London as created by Act No. 23 of 1880; the word "Council," the Municipal Council of East London; the word "Natives" shall mean any person or persons belonging to any of the native races of Africa, such as Kafirs, Fingoes, Basutos, Zulus, Hottentots, Bushmen and the like; the word "Asiatic" shall mean any member of any aboriginal race of the continent or islands of Asia, and any person descended from any such race; and "Locations" or "Native Locations" shall mean such portion or portions of the Municipality of East London as are or may from time to time be set apart by the Council for the huts or dwellings occupied or to be occupied by such natives or Asiatics.

Repeal of inconsistent laws.

26. Any of the provisions of Act No. 23 of 1880, Act No. 12 of 1881 or Act No. 15 of 1882, or of any other Act or law that may be inconsistent with this Act, shall, in so far as the same may be inconsistent, be, and the same are, hereby repealed.

Short title.

27. This Act may be cited for all purposes as the "East London Municipality Amendment Act, 1895."

No. 12—1895.] Rep. by act 9 of 1916. [July 9, 1895.

ACT

To Amend the "Trade Marks Registration Act, 1877."

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 repugnant laws.

1. The Act No. 27 of 1891, entitled "Act to amend the Trade Marks Registration Act, 1877," and so much of Act No. 22 of 1877, entitled "An Act to establish a Register of Trade Marks in this Colony," or any other law as may be repugnant to or inconsistent with this Act, shall be and the same are hereby repealed.

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Definition of Trade Marks.

2. For the purposes of the "Trade Marks Registration Act, 1877," a trade mark must henceforth consist of or contain at least one of the following essential particulars:—

(*a*) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

(*b*) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or

(*c*) A distinctive device, mark, brand, heading, label, or ticket; or

(*d*) An invented word or invented words; or

(*e*) A word or words having no reference to the character or quality of the goods, and not being a geographical name.

And there may be added to any one or more of these particulars any letters, words, or figures, or combination of letters, words, or figures, or of any of them, but the applicant for registration of any such additional matter must state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter. Provided as follows:—

(1) A person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof.

(2) Any special and distinctive word or words, letter, figure, or combination of letters or figures, or of letters and figures used as a trade mark before the eighth day of August, one thousand eight hundred and seventy-seven, may be registered as a trade mark under the said Act.

Short title.

3. This Act may be cited as "The Trade Marks Registration Amendment Act, 1895."

No. 13—1895.] [July 9, 1895.

ACT

Repealed by Act 8 of 1914 sec 1.

To Extend the Jurisdiction of Special Justices of the Peace to Offences under the "Cruelty to Animals Act, 1888."

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:—

Jurisdiction of Special Justice of the Peace extended to cases of Cruelty to Animals.

1. Every Special Justice of the Peace shall, within the local limits of his jurisdiction, have and be entitled to exercise over and in respect of any person charged with any offence against the provisions of Act No. 18 of 1888, being the "Cruelty to Animals Act, 1888," the same jurisdiction, power and authority as if he were a Resident Magistrate, provided that anything to the contrary in the said Act notwithstanding, it shall not be lawful for

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any such Special Justice of the Peace to punish any such person in any higher or more severe manner than by fine not exceeding two pounds, or in default of payment, by imprisonment with or without hard labour, for any period not exceeding one month: and provided, further, that the provisions of the third to the eleventh sections inclusive, and of the thirteenth section of "The Better Administration of Justice in Criminal Cases Act, 1876," shall *mutatis mutandis* apply to regulate, limit and define the jurisdiction of and the procedure to be adopted by every such Special Justice of the Peace under the authority of this Act.

Short title.

2. This Act may be cited for all purposes as "The Cruelty to Animals Act Amendment Act, 1895."

No. 14—1895.] [July 9, 1895.

ACT

To Amend "The Local Works (1) Loans Act, 1882."

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:—

Sub-section (11) section 2 of Act No. 11 of 1882 amended.

1. Sub-section eleven of section two of the Act No. 11 of 1882, commonly called "The Local Works Loan Act, 1882," shall be read and construed as though the word "heretofore" had not been contained in the said sub-section.

Value of property mortgaged for security to be not less than amount of loan.

2. The Commissioner shall not, in respect of any loan under the said Act to any local (2) authority not having the power to make, levy and recover rates or impose dues, issue the certificate provided for by section five of the said Act unless or until he shall be satisfied that the value of the immovable property offered as security for such loan by such local authority is sufficient, or will when the purpose for which such loan is requested is effected be sufficient to cover the amount of such loan.

Sub-section (6) section 2 of Act No. 11 of 1882 construed.

3. The provisions of sub-section six of section two of the said Act, whereby loans may be granted for buildings for school (2) purposes, shall be construed as authorising loans to cover the cost (which shall be specified in the application) of fencing, gravelling, or levelling of ground, or other work upon school premises necessary for school purposes or in connection with the said buildings, in case the Commissioner shall be satisfied that the security offered will cover the entire amount borrowed, including the loan for such purpose.

Short title.

4. This (3) Act may be cited as "The Local Works Loans Amendment Act, 1895."

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[1] See No. 11, 1882 (p. 1835), and notes thereto. See also Acts 14, 1896 (p. 3597) as to redemption of loans.

[2] As to loans to School Committees see Act 15, 1898 (p. 3891), and § 2, Act 25, 1904 (p. 4749).

[3] Extended to all Native territories by Proclamation 34, 1897.

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No. 15—1895.] [July 9, 1895.

(1) ACT

To Declare the meaning of and further amend Act No. 3 of 1879, commonly called the "Derelict Lands Act, 1879."

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 in Derelict Lands Act, 1879.

1. The first and third sections of the "Derelict Lands Act, 1879," shall be read and construed as though after the word "grantee" in the first section the words "registered owner" had been originally inserted, and as though the word "Crown" in the third section had been originally omitted.

Procedure when Governor has resumed possession of unmortgaged Derelict Land under Act 3 of 1879 as amended by Act 24 of 1887.

2. When the Governor shall have resumed possession of unmortgaged derelict land under the provisions of the first section of Act No. 3 of 1879, as amended by Act No. 24 of 1887, the Minister shall thereupon direct the Surveyor-General to cancel the title deeds of the land so resumed, and it shall be the duty of the Surveyor-General, when such land has passed out of the hands of the original grantee, to inform the Registrar of Deeds of such cancellation, and the Registrar of Deeds shall thereupon purge his deeds register of all entries relating thereto, and the land shall thenceforth be considered as Crown land for the purposes of the Crown Lands Disposal Acts and the Crown Lands Leasing Acts now or hereafter in force.

Short Title and effect.

3. This Act shall be read as one with the Derelict Lands Act, 1879, and may be cited as the "Derelict Lands Act Further Amendment Act, 1895."

No. 16—1895.] [July 16, 1895.

ACT (2)

To Amend the Act No. 32 of 1892, commonly called "The Colonial Forces Act, 1892."

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. The ninety-first section of "The Colonial Forces Act, 1892" and so much of the said Act, or of any Law as may be repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Amendments in "Colonial Forces Act, 1892."

2. The said "Colonial Forces Act, 1892," is hereby amended as follows:—

(*a*) In the eighth section thereof, immediately before the words "Lieutenant-Colonel" wherever they appear in the said section, the words "Colonel or" shall be inserted.

[1] Extended by Proclamations 15 and 16 of 1896, and 33, 1897, to all the Native territories.

[2] Extended by Proclamation 34 of 1897 to all the Native territories.

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(*b*) In the tenth section thereof, after the word "force" shall be inserted the words "and for the staff of the permanent forces."

(*c*) In sub-section four of the twenty-eighth section thereof, after the word "forces" shall be inserted the words "existing or."

(*d*) In sub-section (*b*) of the fifty-fifth section thereof, the words "or a non-commissioned officer" shall be omitted.

(*e*) At the end of the ninety-fifth section thereof, the following words shall be inserted, "or as a gratuity for meritorious service, for distinguished conduct and for long service and good conduct."

And from and after the taking effect of this Act, the said Act shall be read and construed as so amended.

Regulations regarding medals and decorations.

3. It shall be lawful for the Governor from time to time to make, alter or revoke regulations:

(*a*) For the issue of medals to members of the Permanent Colonial Forces for meritorious service, for distinguished conduct, and for long service and good conduct.

(*b*) For the issue to members of the Volunteer Forces of the Colony of the Volunteer Officers' Decoration and the Volunteer Long Service Medal.

And all such regulations shall be published in the *Gazette*, and shall be laid before both Houses of Parliament within fourteen days of the making thereof if Parliament be then sitting, and if not sitting then within fourteen days after the commencement of the next session.

Pensions to widows and children in case of death in discharge of duty of member of permanent force.

4. Should any member of the permanent forces of the Colony lose his life in the discharge of his duty, a gratuity or pension equal to what he would have been entitled to if he had reached the age of fifty years, shall be paid to his widow and children, or partly to his widow and partly to his children as the Governor may determine.

Short Title and effect.

5. This Act may be cited for all purposes as "The Colonial Forces Act, 1892, Amendment Act, 1895," and shall be read as one with "The Colonial Forces Act, 1892."

No. 17—1895.] [August 2, 1895.

ACT [1]

To Further Amend the "Post Office Act, 1882."

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:—

Repeal of Section Seventeen of Post Office Act, and substitution of provisions in lieu thereof.

1. Section seventeen of the Post Office Act, 1882, is hereby repealed, and in lieu thereof, the provisions of this Act shall apply to the re-direction of inland letters, post-cards, packets and newspapers.

[1] See footnotes to Act 4, 1882 (p. 1811). Extended to Native territories by Proclamations 183, 1896, and 33, 1897.

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(*a*) Any letter, post-card, packet or newspaper re-directed from the place of first address within this Colony to a new address within the same, shall be so re-directed free of charge, provided that such letter, post-card, packet or newspaper shall have been fully prepaid for transmission to the place from which the re-direction is made, and provided further that such letter, post-card, packet and newspaper shall not have passed out of the custody of the Post Office.

(*b*) Any letter, post-card, packet or newspaper arrested or intercepted in transit through the post, at the request of the sender or the addressee thereof, shall be liable to a charge equal to the ordinary rate of postage from the place of original address to the place of new address, and any letter, post-card, packet or newspaper which may, under the provisions of section twenty of the Post Office Act, 1882, be returned to the sender shall, if re-posted, be liable to a fresh rate of postage. Nothing contained in this section, however, shall make it obligatory on the Postmaster-General to intercept in transit, for the purpose of re-direction or delivery, any article of mail matter when, by so doing, the despatch or delivery of the general public mails would be seriously impeded or delayed.

2. [Repealed by Act 6, 1898, section 7, which see p. 3854.]

3. This Act may be cited for all purposes as the "Post Office Act Amendment Act, 1895." Short title.

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No. 18—1895.] Repd by Act 9 of 1916 [July 26, 1895.

ACT

To Amend the Law relating to the Protection of Copyright against the Importation of Foreign Reprints into this Colony and to the Registration of Books.

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:—

Definition of the term "book."

1. For the purposes of this Act the term "book" shall mean and include every volume, part or division of a volume, sheet of letter press, sheet of music, and map, chart or plan separately published.

Repugnant laws repealed.

2. The Act No. 4 of 1854 so much of the seventh section of the Copyright Act, 1873, as entitles the proprietor of the copyright of any book to demand the delivery to him of all copies of foreign reprints of such book unlawfully imported under that Act, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Removal of the effect of Her Majesty's Order in Council, dated 10th March, 1855.

3. From and after the taking effect of this Act the suspension, in pursuance of an Order of Her Majesty in Council, dated the 10th day of March, 1855, of the prohibition against the importation of foreign reprints of British books into the Colony during the continuance of the said Act No. 4 of 1854 shall be terminated and removed, as is therein provided for, and every provision of the Act of the Imperial Parliament, 5 and 6 Victoria, c. 45, or of any other Act of the Imperial Parliament, which has heretofore been suspended by virtue of the said order, having regard to the prohibition against the importation of foreign reprints of British books into this Colony shall become and be of full force and effect within this Colony.

Importation of reprints of registered copyright books prohibited, provided notice has been given to the Collector of Customs.—Penalty.

4. From and after the passing of this Act it shall not be lawful for any person, not being the registered proprietor of the copyright or some person authorised by him, to import into the Colony any reprint of any book in which there shall be registered copyright under the provisions of "The Copyright Act, 1873," as to which such proprietor or his agent shall have given to the Collector of Customs a certificate from the Registrar of Deeds that such copyright exists, such certificate also stating when such copyright will according to the Registrar expire. And if any person, not being such proprietor or person authorised as aforesaid, shall import or bring, or cause to be imported or brought, any such reprint into the Colony contrary to the true intent and meaning of this section, or shall knowingly sell, let, publish or expose for sale or hire any such reprint, then every such reprint shall be forfeited, and shall be seized by any Officer of Customs, and the same shall be either handed up to the proprietor of the copyright or his agent or destroyed or disposed of in such manner as the

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Governor shall direct, and every person so offending, being duly convicted thereof, shall also for every such offence, forfeit the sum of £10 and double the value of every copy of such book which he shall so import or bring or cause to be imported or brought into the Colony, or shall knowingly sell, let, publish or expose for sale or hire or shall cause to be sold, let, published or exposed for sale or hire or shall have in his possession for sale or hire, contrary to the true intent and meaning of this section; one-half of such penalty of ten pounds to the use of such officer of Customs, the other half to the Colonial Government, and the double value, if recovered, to the proprietor of the copyright.

Section four to apply to reprints of books copyrighted in any State or Colony in South Africa.

5. The provisions of the last preceding section shall apply in respect of any reprint of any book in which there shall be duly registered copyright in any State or Colony in South Africa, and as to which the proprietor or his agent shall have given to the Collector of Customs of this Colony a notice in writing accompanied by a certificate of the existence of such copyright and the period for which it exists, such certificate being duly signed by the person duly appointed for the purpose in such State or Colony, and whose appointment shall have been duly notified by the Government of such State or Colony to the Government of this Colony.

Proprietor not deprived of his action for damages.

6. Nothing herein contained shall be deemed to deprive any such proprietor of any action for damages in respect of the importation, sale, hire, possession, or exposure for sale or hire of any such reprints as aforesaid, which he may have by virtue of the provisions of the Copyright Act, 1873, or any other Law.

Lists of copyrigh books to be posted.

7. The Collector of Customs shall cause to be made lists of all books, in respect of which the copyright shall be subsisting in the Colony, or in any State or Colony in South Africa, and as to which the proprietor of the copyright or his agent shall have given the notice in the fourth or fifth preceding sections mentioned, and such lists shall lie and be open to the inspection of the public at the Customs House at the several ports of the Colony.

Section nine of Act 4 of 1888 amended.

8. The word "only" shall be expunged from section nine of Act No. 4 of 1888.

Effect and Title.

9. This Act shall take effect from and after a date to be proclaimed (1) by the Governor, and may be cited for all purposes as "The Copyright Protection and Books Registration Act, 1895."

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[1] To take effect from and after the 1st day of September, 1895. See Proclamation No. 341, 1895, dated 20th August, 1895, in *Gazette* 23rd August, 1895.

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No. 19—1895.] [July 26, 1895.

ACT

To Secure the Better Observance of the Lord's Day.

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:—

Effect and Short Title.

1. This Act shall be read as one with the Ordinance No. (1) 1 of 1838 and the Act (1) No. 35 of 1888, and may be cited as the Lord's Day Observance Act.

Meaning of "Local Authority."

2. "Local Authority" shall mean

(*a*) With regard to any Municipality, Borough or Corporate Town, the Council or Board of Commissioners thereof.

(*b*) With regard to any locality in which the Act No. 29 of 1881 is in force, the Board of Management appointed under the said Act.

(*c*) With regard to so much of any division as is not included in the two preceding paragraphs of this section, the Divisional Council of such division.

Places of public amusement or entertainment, &c, not to be open on Lord's Day for public performances, but consent of local authority may be given to performance or exhibition not indecent and not calculated to bring ridicule, contempt or disrespect upon religion or morality.

3. No place of public amusement or entertainment shall on the Lord's Day be open to the public for the purposes of any performance or exhibition, theatrical, dramatic, musical, vocal, pictorial or the like, whether or not any fee shall be payable for entrance or admission to such place, nor shall any such performance or exhibition, or any performance or exhibition at any show, menagerie, circus or the like, be lawful upon the Lord's Day in any public place; provided that with the consent of the local authority having jurisdiction in respect of either such place of public amusement or entertainment or such public place, such place may be permitted to be open or used without fee for entrance or admission for the purposes of a musical or vocal, or musical and vocal performance on the Lord's Day, which performance shall be deemed to be lawful only in case it shall in no respect be of an indecent character or calculated to bring ridicule, contempt or disrespect upon religion or morality.

Consent of local authority not to constitute defence if performance or exhibition be in any respect indecent or calculated to bring ridicule, contempt, or disrespect upon religion or morality.

4. The consent of any local authority shall be conveyed in writing by the Secretary or Clerk, and shall be revocable at any time by written notice of such revocation, nor shall any person be entitled to rely upon such consent for his defence if prosecuted under this Act in case it shall be proved that he has authorised, organised, directed, managed, controlled, or taken part in any performance or exhibition upon the Lord's Day which has in fact been, in the opinion of the Court before which he is tried, in any respect either indecent or calculated to bring ridicule, contempt, or disrespect upon religion or morality.

Penalty for contravention of Act.

5. Any person who shall in contravention of the third section of this Act,

(*a*) Keep open any such place as aforesaid,

[1] Pages 223 and 2625.

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(*b*) Authorise, organise, direct, manage, control, or take part in any performance or exhibition at or in any such place; and any person who shall

(*c*) Advertise or publicly announce that there will be any public performance or exhibition at or in any such place on the Lord's Day, in respect of which the consent of the local authority shall not have been obtained under this Act,

shall on conviction be liable to a fine not exceeding twenty pounds sterling, 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.

Provision for admission of necessary official and police

6. At any performance or exhibition held with the consent under this Act of the local authority there shall be admitted free of charge on demand an official of such local authority, and such police constables or officers not exceeding three in number as shall be directed to attend such performance or exhibition for the purpose of securing observance of the provisions of this Act and of maintaining law and order.

No. 20—1895.] [July 26, 1895.

ACT

To Provide for the Custody and Management of certain Works of Art belonging to the Public, and at present vested in Local Trustees.

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:—

Certain property vested in Government.

1. The immovable property situated in New-street, Cape Town, and known as the South African Art Gallery, together with the collection of paintings, drawings and other works of art, including art literature in the said Art Gallery, heretofore held in trust by a certain Voluntary Association called the South African Fine Arts Association shall, from and after the taking effect, and in accordance with the provisions of this Act, be vested in Her Majesty in her Colonial Government.

Transfer of the property.

2. It shall be lawful for the Trustees of the South African Fine Arts Association, on behalf and with the consent of the said Association, to pass, and for the Minister to receive transfer of the said property free from transfer duty or fees of office, subject to the subsisting mortgage bond upon the same and with the consent of the mortgagee.

Government to provide suitable accommodation for collection.

3. The Governor shall, out of funds provided by Parliament or otherwise at any time at his disposal for the purpose, provide and set apart, or arrange for the provision of a suitable place, after consultation with the Board of Trustees hereinafter mentioned, for the reception and custody of the said collection, and any works

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of art hereafter acquired in manner hereinafter set forth, and the said Board shall control and manage such place, with the approval of the Governor, who may with the consent of the mortgagee sell and dispose of the aforesaid immovable property, and out of the proceeds shall pay so much of the aforesaid bond as shall remain undischarged, and devote the remainder of such proceeds to the purposes of this Act.

Collection placed under control of Board of Trustees

4. The said collection, together with any paintings, drawings, works of art including art literature, or other property acquired in manner hereinafter set forth, shall be placed under the control, management and direction of a Board of Trustees appointed or elected in the manner and having the powers hereinafter set forth.

Constitution of Board.

5. The said Board shall consist of five members, three of whom shall be appointed by the Governor, and two shall be elected by the said Association, in such manner as may be provided by regulations of the Association, approved by the Governor and published in the *Gazette*: Provided that if at any time the said Association shall cease to exist, or shall fail, on any occasion, to exercise the right of election under this Act, the Governor may appoint a member or members, who shall hold office for the same period and in all respects as if the said member or members had been elected by the Association.

Period of office of Board.

6. Every trustee appointed or elected under this Act shall hold office for a period of two years, but shall be eligible for re-appointment or re-election as the case may be.

Casual vacancy on Board.

7. The Governor may fill up any casual vacancy occurring on the Board through the death, resignation, or absence from the Colony for six months of any appointed member thereof, and any casual vacancy caused in like manner in respect of any elected member may be filled by the election of another member by the said Association, and any member of the Board appointed or elected under this section shall hold office for the remainder of the period, during which the member vacating office would have held office if no such vacancy had occurred; provided that three members of the Board shall at all times form a quorum and may continue to act pending the filling of any vacancy.

Future property to be under control of Board.

8. All paintings, drawings or other works o fart, including art literature, which may hereafter be from time to time given or bequeathed to the inhabitants of the Colony or to the Colony, or given or bequeathed by words showing an intention that the gift or bequest should be for the use or benefit of the Colony and its inhabitants, or an intention to advance art generally or any branch of art in the Colony shall, unless the donor or testator shall have made other provision for the care thereof, be deemed to be intended to be placed under the care and management of the Board of trustees constituted by this Act: Provided that said Board may select such of any paintings, drawings or works of art, including art literature, so bequeathed as the Board may

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think fit to become part of the collection by this Act placed under their control, and any paintings, drawings and works of art, including art literature, comprised in such bequest, but not so selected shall remain in the estate of the testator to be dealt with according to law as a lapsed legacy.

Powers of Board.

9. The Board is hereby empowered out of the funds at any time at its disposal and subject to the conditions under which such funds may be received or held to acquire any paintings, drawings or works of art, including art literature, for the purpose of maintaining and enlarging the said collection.

Sale of works of art.

10. It shall be lawful for such Board with the consent of the Governor to sell, exchange or otherwise dispose of any of the paintings, pictures or works of art, including art literature, at any time under its control, and to hold any sums so realised to be expended under this section with the like consent: provided that no painting, picture or work of art, including art literature, accepted either before or after the passing of this Act by way of gift or bequest but subject to a prohibition of alienation shall be sold, exchanged, or disposed of under this section without consent of the donor in cases of gift or of the executors of the testator in cases of bequest.

Rules and regulations.

11. It shall be lawful for the Board to make rules for the regulation of its meetings and proceedings, and directing at what times and under what restrictions and conditions the public shall be admitted to the said collection and generally to make rules for the safety, good custody, and preservation of the paintings, drawings or works of art including art literature which may come under its control under the provisions of this Act, and with regard to the control, management and disposition of all money or income received by the Board; provided, however, that on the days and times fixed by such rules the said collection shall be open to the public free of any charge, save and except upon special occasions which may be provided for by such rules and upon which for admission a reasonable fee may be charged.

Approval and publication of rules.

12. All such rules as aforesaid shall be submitted for approval to the Governor, and upon such approval, shall be published in the *Gazette* and thereupon become binding.

Board to keep accounts subject to audit and furnish annual report.

13. The said Board shall cause true and correct accounts to be kept which shall be annually or oftener audited in such manner as the Governor may direct, and shall annually submit to Parliament a report of the work of the Board for the year, the revenue received and expenditure incurred, and the condition of the collection under its management.

Effect and Short Title.

14. This Act shall take effect upon a day to be fixed by Proclamation, (1) and may be cited for all purposes as "The South African Art Gallery Act, 1895."

[1] To take effect from and after the 29th February, 1896. See Proclamation No. 63, 1896, dated 28th February, 1896.

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No. 21—1895.] [August 2, 1895.

ACT

To Confer certain Powers upon the Caledon Street Tramway Company (Limited).

Preamble.

WHEREAS an agreement has been entered into between EMILE HENRI VAN NOORDEN, JAMES SPENCER MILLS, WILLIAM IRWIN, HENDRIK JOHANNES ZOER, JAN HENDRICK ZOER, LOUIS SYTNER, ROBERT AUGUSTUS FALCONER, and PATRICK JOSEPH O'DOWD, styling themselves the Caledon Street Tramway Syndicate, and the Council of the Cape Town Municipality under which the Council has granted to the said Syndicate and the assigns thereof the power, right, and privilege of constructing, equipping, maintaining and working a tramway within the Municipality of Cape Town:

And whereas plans and sections of the said tramway have been lodged with the Clerk of the House of Assembly:

And whereas the said Syndicate has undertaken to transfer, cede, and assign, all its right and title under the said agreement to a Company to be incorporated under Act 25 of 1892 for the purpose of constructing and working the said tramway:

And whereas it is expedient and necessary that certain rights, privileges and powers should be granted to and conferred upon the said Company for the furtherance and carrying out of the purposes aforesaid.

And whereas it is expedient that the said Company should have power to sell, lease, or otherwise dispose of the said lines of tramway when constructed, to purchase or hire, or enter into any working arrangements with any Tramway Company or Company having similar objects:

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:—

Interpretation clause.

1. In this Act and the Schedule hereto the following terms shall have the meaning assigned to them as follows:

"The Company" shall mean any Company formed for constructing or working the said tramway, and registered with limited liability under Act 25 of 1892, to which the said syndicate may assign its rights under the said agreement, and shall include the assigns of such Company.

"The Council" shall mean the Town Council of the City of Cape Town.

"The Tramway" shall mean the lines of tramway authorised by section four of this Act or any of them, together with such deviations therefrom or extensions thereof as may be constructed in accordance with this Act.

"The Municipality" shall mean the Municipality of Cape Town as defined by Act 26 of 1893.

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Company to have power to sue and be sued.

2. The Company shall sue and may be sued as the Caledon Street Tramway Company (Limited), and the service of process upon the Agent or Secretary of the Company, at his office or place of business in Cape Town, shall for all purposes be deemed and taken to be good service upon the Company. All powers to sue or institute legal proceedings in this Colony shall be signed and executed as the Articles of Association shall direct.

Registration of Company within one year.

3. The Company shall be registered within a year after the promulgation of this Act, and in default of such registration all the powers and privileges granted and conferred under this Act shall lapse, cease and determine.

Authority to construct and work tram lines.

4. The Company is hereby authorised to construct, equip, maintain, and work by electric power with all the powers and rights in this Act set forth, a line of tramway within the Municipality of Cape Town, from a point at or near the corner of Zieke and Caledon Streets along Caledon Street, on the roadway in front of the Barrack wall across Buitenkant Street and along Caledon Street to a point at the corner of Vandeleur Street: provided that nothing in this Act contained or shown on the deposited plans shall give the Company the right to construct more than a single track in any street, road or public place without the consent of the Council first had and obtained in writing, and provided that in case the Company shall desire to lay down any lines in extension of the said line of tramway it shall submit for the approval of the Council full, proper, and sufficient plans of such proposed extensions with all reasonable particulars and information as the Council may require, and upon obtaining the consent of the Council thereto it may proceed with the construction of such proposed extensions. The Council shall be entitled to withhold its consent or to grant it upon such terms as it may deem advisable. In the event of the construction of any such extension being proceeded with it shall, in so far as the conditions attached to the consent of the Council are not at variance with the provisions of this Act, be carried out in accordance with the said conditions: Provided further that the Council shall not give its assent to any extension of the said line or sidings, until notice for one month shall have been given by the Company in the *Gazette*, and by advertisement in two local newspapers once a week during the same period, of the intention of the Company to apply for such consent. And upon the expiration of such term the Council shall appoint a court, to consist of the Mayor and four Councillors, or of such Standing Committee of the Council as the Council may determine, who on a day, of which public notice shall have been given, shall sit for the purpose of hearing objections from ratepayers or persons whose interests may be affected by such extensions ; and such ratepayers or persons shall be heard either in person or by their agents or counsel ; and such Court shall, after hearing all parties concerned, report to the Council whether any

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or what objections have been raised to the proposed extensions or sidings; and upon such report being received a day shall be fixed for holding a special meeting of the Council for the purpose of determining whether its consent shall be given or withheld, and on what terms, and such consent shall not be given unless a majority consisting of two-thirds of the Councillors then in office shall have voted in favour thereof.

Power of Company.

5. The Company shall, subject to the provisions of this Act, have the right:

(*a*) To erect, construct, maintain and work lines of poles, standards (which poles and standards shall be of iron of a design approved by the Council) and wire for overhead connexions or underground conduits for electric currents or cables over or under all such roads, streets and public squares or places through which the said lines of tramway shall pass, as may be necessary for the proper and efficient working of the same.

(*b*) To lay and maintain tracks for the same.

(*c*) To make all necessary excavations for the erection, construction and maintenance of such lines and all other necessary works.

(*d*) To erect, maintain and work all necessary power and stations, sidings, depots, stables, car-houses and offices subject to the approval of and in accordance with any resolution or standing orders of the Council and any municipal regulations which may at any time be in force: Provided that the Company shall have no right to build any erections upon any road, street, public place, municipal land, unless specially permitted so to do by resolution of the Council, and the Company specially undertakes that in the event of any electric leak taking place and any damage being thereby caused at any time by electrolysis or otherwise it will reimburse and make good to the Council all costs, damages and expenses to which the Council may be put by reason thereof; and provided, further, that subject to the consent of the Council nothing in this Act contained shall prevent the Company from using the rails of any of the said lines of tramway as a part of its system of conductors for the return electric current.

Position of poles, standards and wires.

6. The poles, standards, cables and overhead wires shall as to their height above the roadway and in all other respects be subject to the approval of the Council, and to the requirements of the Council as set forth in any resolutions, standing orders, or municipal regulations, and the position of the poles and stardards shall be subject to the approval of the Council.

Space to be left at sides of road.

7. Notwithstanding anything to the contrary in the deposited plans shown, all the tram lines shall as nearly as is practicable be

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laid down in the centre of the streets or roads traversed and in such manner as to permit of the free passage of vehicles on each side of the cars between the car and the kerb except upon such streets or portions of streets whereon with the consent of the Council the line may be located on one side of the street or road.

Paving of road by Company.

8. Wherever there is a single track the surface of the road, street, or public place, to the extent of eighteen inches outside each rail, shall be paved by the Company with good stone or wood, and by it be maintained in such state and in good and efficient repair. Between the rails and abutting on each line of rails the Company shall construct, maintain and keep in good and efficient repair a toothing course of good stone or wood, such toothing course to extend alternately nine and six inches from each line of rails towards the centre of the track, while so much of the space between the rails as is not occupied by such toothing courses shall be constructed and maintained in a good and efficient state of repair by the Company with a material not inferior to that of which the remainder of the road or street is constructed. Wherever a double track is permitted to be laid in any street, road, or public place, and the space between each track does not exceed four feet, the surface of the street, road or public place to the extent of eighteen inches outside the two outer rails of the tracks and the whole of the surface between the tracks, that is between the inner lines of the respective tracks, shall be paved by the Company with good stone or wood, and shall be maintained by it in such state and in good and efficient repair, while between the rails of each of the two tracks the Company shall construct similar toothing courses, and construct, and do all other works and things as are required where there is a single track, and shall maintain the same in manner as required in the case of a single track: provided that where the tracks are laid at a greater distance than four feet apart the surface between the tracks shall be paved for a width of four feet only. At all crossings the whole surface of the road or street from kerb to kerb shall be paved with stone or wood as may be required by the Council, and shall be so maintained and kept in repair by the Company.

Paving of road opposite place of worship.

9. Wherever any track passes any place of public worship, the surface of the road, street, or public place to the extent hereinafter mentioned shall be paved by the Company with wood or such other material as may be required by the Council, and shall by it be maintained with such material in such state and in good and efficient repair. The said extent shall be an area in length extending from a point in the road, street or public place a reasonable distance before the track reaches that part of the roadway opposite to the place of public worship, to a point a reasonable distance beyond the point where the track leaves the roadway opposite to such place of public worship, and in width a distance equal to eighteen inches outside each of the tracks added

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to the width of the surface between the rails and the width between the tracks. Everything to be done by the Company in terms of this and the last preceding section shall be performed to the satisfaction of the Council.

Relaying of streets.

10. If after the construction of any line the Council shall relay the street which it traverses with a material essentially different from that in use at the time of such construction, the Company shall at the time of such relaying, replace that portion of the street which in terms of this Act it is required to construct, maintain and keep in repair, with such material and in such manner as to be in accordance with the portion of the street so relaid or replaced unless the Council otherwise direct, and the Company shall maintain the same in such state and in good and efficient repair.

Construction of culverts and drains.

11. Whenever in laying down the lines it may be found necessary to construct any culverts or drains the same shall be constructed by the Company to the satisfaction and approval of the Council or its duly authorised officer, and all culverts or drains so constructed shall at all times be maintained in good order and repair by the Company to the like satisfaction and approval.

Gauge of tramway.

12. The rails of tram lines shall be of the usual and ordinary kind and shall be laid to a gauge of not less than four or more than five feet apart, the surface of the rails being level with the surface of the street, and the same shall be kept and maintained in a condition of repair to satisfy this requirement.

Renewal and repair of streets by Council.

13. The Council shall at all times in the future have the right free from any payment or compensation, and without let or hindrance, and by themselves or their servants, to place and construct, renew, maintain and repair, through, above or beneath any roads, streets and public squares or places, over or in connection with which any rights are by this Act given to the Company, and through, above or beneath the tram rails and the tramways, all sewers, drains, water pipes, gas pipes, cables or wires, and all works required for the drainage, sewerage, or supply of water and the lighting of the city and municipality, or in connection with any public works: Provided, always, that in carrying out any such works as are in this clause indicated, the Council shall take and use every reasonable means not to hinder or delay the traffic on the lines.

Fittings and width of cars.

14. The cars and rolling stock of the tramways shall be of modern pattern not exceeding seven feet six inches in width approved by the Council and comfortably fitted up for the convenience of passengers, and lighted. Each car shall be supplied with not less than five incandescent lamps each of sixteen candle-power, including head and tail lights.

Expense of removal of rails.

15. All expenses incurred by the Council in the removal and replacement of rails after the first laying down thereof consequent

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upon the necessity of repairing, altering, or renewing sewers, drains, pipes, wires, and cables shall be paid and borne by the Company.

Maintenance of the works.

16. The whole of the works and tramways shall be maintained by the Company at all times in a good, proper and efficient state of repair to the reasonable satisfaction of the Council, and in default thereof the Company shall be liable to a penalty not exceeding five pounds in respect of each such default, and an additional two pounds for each day during which such default shall continue after the Company have received notice thereof, the amount of the penalty to be absolutely in the discretion of the Council.

Indemnification of Council from damage by electrolysis or otherwise.

17. The Company undertakes to keep the Council or any other body or person harmless and indemnified from and forthwith to reimburse them and make good all loss, costs, damages, and expenses to which the Council or any other body or person may be put by reason of electrolysis or any neglect or default on the part of the Company or its servants in the execution of works under this Act, in the execution of the powers hereby granted in the due performance of the provisions of this Act and in the safe, proper and efficient working of the tramways and electric power, or from any failure, defect or insufficiency of or in the plant, machinery, and the works or otherwise.

Rate of speed

18. The rate of speed at which the cars shall travel shall not exceed seven miles an hour in any of the principal or business streets and ten miles an hour in residential streets. If any difference shall arise as to what are principal or business or residential streets, the decision thereon shall rest with the Council, who, notwithstanding that any street may have been previously classified under one heading, may at any time thereafter cause it to be placed under the other class should circumstances in the opinion of the Council require it: provided that the Council may limit the rate of speed in any residential street to seven miles an hour.

Servants of Company and cars to be licensed.

19. The drivers, guards and other servants of the Company, and the cars, carriages and conveyances of the tramway shall require to be licensed by the Council, and be subject to such bye-laws and regulations as now exist or may hereafter be lawfully made.

Mode of working tramways in case of stoppage of electric power.

20. In the event of any break-down, accident, or other cause necessitating or rendering desirable a temporary stoppage of the electric power hereinbefore referred to, the Company shall have the right to substitute and use horses 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 in any one year such stoppages jointly shall be of a duration of three months the Council shall have the powers of purchase, removal of the rails, and the restoration of the road set forth in the twenty-first and twenty-second sections of this Act.

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Power of purchase by Council in certain events.

21. If the said tramways, or any part thereof, shall during a period of two consecutive days, cease to run or be worked for the use of the public, unless from strike of operatives or some other cause beyond the control of the Company, or if any section of the said tramways shall not be properly or efficiently worked, the Council may give one month's notice in writing to the Company, and at the expiration of the said period all powers under this Act conferred upon the Company in so far as the said powers under this Act conferred upon the Company in so far as the said powers relate to any unused, unworked or improperly worked portion of the line shall cease and determine, and the Council may as to any such portion exercise the option of purchasing the same upon the terms hereinafter set forth, just as if the period of time at which the Council has such option had arrived.

Rails may be taken up in certain events.

22. The Company shall upon such notice, and if the Council shall not purchase, be bound and obliged at their own cost to remove the rails and other plant, and to restore the road or other place to a condition fit for traffic, having regard to the material of which such road or other place is constructed. And should the Company fail to do so, the Council may remove the rails and do all things necessary to the restoration of the road or other places as aforesaid and demand and recover the cost incurred thereby from the Company.

Commencement and completion of work.

23. The work upon so much of the system of tram lines as is shown on the deposited plans as lying between a point at or near the corner of Zieke and Caledon-streets and a point at or near the corner of Vandeleur-street, shall be commenced by the Company within one year of the promulgation of this Act, and shall be completed and in operation for public use within fifteen months thereafter, and any extension of such system as may be consented to by the Council, as provided by this Act, shall be constructed at the rate of not less than one mile per year during the four years succeeding such consent, to the intent that at the end of each year one mile of such extension shall be open for public use and traffic: Provided, always, that upon the due completion of the entire system of tramways according to the routes laid down there shall be no further obligation under the terms of this section.

Penalty for non-compliance with preceding section.

24. In the event of non-compliance with the preceding section the Company shall be liable to pay the Council, if demanded, a penalty of two pounds sterling for every day's default, provided that the total of such penalties shall not exceed one thousand pounds sterling, and in case the Company shall fail to commence the said work within the said period of one year aforesaid then all the rights and powers with regard to the construction and working of the tramways authorised by the fourth section of this Act shall cease and determine.

Tramway not to endanger public safety.

25. The tramways shall be so constructed and worked as not to hinder the safe passage of the ordinary traffic upon and across

the roads, streets, and public places, or to endanger the safety of the public.

Rental to be paid to Council.

26. The Company shall, subject to the terms of the proviso hereinafter contained, pay the Council for the use of the streets, roads, and public places upon which the tram lines run, and for the rights and privileges by these presents conceded, a rental at the rate of fifty pounds sterling per annum per mile of tram-road laid, and such rental shall continue until such time, if any, as the Legislature of the Colony shall grant, and the Council shall avail themselves of the power to levy and collect rates in respect of the rails and rolling stock, and so soon as such power shall be acted upon the said annual payment shall cease: provided, however, that after the period of ten years, reckoned from the date of the taking effect of this Act, whenever in any year the amount of profit between the gross earnings and the actual working expenses (which latter shall be taken to include maintenance and a reasonable allowance for wear and tear) shall be greater than a sum equal to the average of five hundred pounds per mile of tramways being worked by the Company in the Municipality under this Act, then the Company shall pay as rental per mile one-tenth of the amount of such profits.

Right of Company to collect tolls.

27. The Company shall have the right and power to charge and collect fares for the carrying of passengers and parcels upon or over all lines so to be constructed, provided that the tariff of such fares shall be exhibited in a conspicuous place in each car, carriage or conveyance, and shall not be increased at any time until after public notice shall have been given in the *Gazette* and in two or more newspapers published in this city and approved by the Council; and provided, always, that no fares or charges shall in any case at any time exceed those mentioned in the Schedule to this Act.

Manner of carrying out the work.

28. With respect to any work done or required to be done by the Company, under the powers hereby conferred or otherwise, or in consequence of the consent of the Council and whether during construction or during maintenance, it is distinctly provided

(*a*) That no road, street, bridge, sewer, drain, culvert, pipe, wire, or anything the property wherein is vested in the Council or the public, shall be entered upon, broken up, or opened up, or otherwise dealt with until the Company shall have given to the Council notice in writing of its intention so to do, not less than three days before beginning or doing any such work or thing (except in cases of emergency after the construction of the tramways have been completed, arising from defects in any of the works, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen). Such notice shall set forth clearly and distinctly the work it is intended to perform, and a general notice of the

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intention to carry out the whole scheme shall not be a sufficient compliance with the terms hereof which shall be read in connection with the next following sub-section dealing with the carrying out of the necessary work by sections.

(*b*) The Company shall at all times when required thereto by the Council or its appointed officer, furnish such plans, sections and information respecting the construction at any time about to be or being undertaken by it, and respecting the routes, grades, or other details as may be required by the Council, and in the event of its not complying with such requirement forthwith on demand, shall be debarred from proceeding with any work until it has so done to the Council's satisfaction.

(*c*) The Council may during the progress of any works inspect all materials used or proposed to be used thereon, and may require proper material to be used or the work to be done in a proper manner, and in the event of the instruction of the Council or its authorised official not being carried out, the Council shall be entitled to prevent the further carrying out of the works hereby authorised until its instructions have been obeyed.

(*d*) No road, street, bridge, sewer, drain, culvert, pipe, wire, or anything as aforesaid, shall, except in cases of emergency aforesaid, be entered upon, broken, or opened up, or otherwise dealt with, except under the superintendence of the Council or its appointed officer, and according to such plans and in such manner as shall be approved by the Council or its appointed officer; or in the case of any pole, wire, pipe or other property of the Postmaster-General otherwise than in accordance with the provisions of any Act for regulating the employment of electricity for the purposes of electric lighting and power generally, which may be passed during the present or any future session of Parliament, or any regulation which may be framed under the authority of such Act; and it is distinctly agreed that the works of the Company shall be carried out in sections approved by the Council or its appointed officer, to the intent that each section shall be speedily and expeditiously completed and with the least possible inconvenience to the public and traffic, the whole attention and energy of the Company being as far as possible devoted to carrying out the works section by section.

(*e*) The Company shall with all convenient speed complete each section of the work undertaken, and carry away forthwith all rubbish occasioned thereby, and shall reinstate and make good and maintain against subsidence the road, street, bridge, sewer, drain, culvert, pipe, wire, or

other property interfered with, and shall at times whilst any operations are being carried on, take every precaution to prevent accident, and shall cause sufficient lights and watchmen to be placed and kept up every night during which the surface of any road, street, public place or bridge continues broken up, or during which any danger from any cause may arise to the public.

(*f*) All operations of the Company shall be carried on in such manner as not to interfere in any way with sewers, drains, waterpipes, gaspipes, street lamps, electric cables or wires, whether above or below the surface of the street, or other like works, and no approval by the Council of any plan of work shall in any way be deemed to avoid the necessity of due compliance with the terms of this sub-section, unless such plan specifically provides for any such interference.

(*g*) In the event of its being necessary for the due carrying out of the Company's operations that any sewer, drain, waterpipe, gaspipe, street lamp, electric cable or wire as aforesaid, or other like works, shall be removed temporarily, obstructed or deviated, no such act shall be done without the consent in writing of the Council being first had and obtained, and in the event of such consent being granted, the Council may elect to carry out the removal, temporary obstruction or deviation themselves or by their servants, in which case the Company shall forthwith reimburse them the reasonable expenses which it may incur or to which it may be put by so doing, and whenever in this Act the Council is authorised to recover expenses from the Company, the fact that any person or persons are in the ordinary employ or pay of the Council shall not debar the Council from making claim for, and recovering any sum or sums paid to him or them in respect of the period of time he or they was or were so employed.

(*h*) All operations of the Company shall be carried on without causing any damage to any street, road, bridge, sewer, drain, culvert, pipe, wire, underground works or other property of the Council, or any other body or person, and should any damage be done at any time in contravention hereof, the Council, or any other body or person, may by notice in writing, require the Company to make good the same forthwith, and should it not do so, the Council may cause to be done, what is necessary to repair such damage and recover the expenses incurred thereby forthwith from the Company.

(*i*) 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 Council without giving such notice as aforesaid or in a manner different from that which shall have been approved of or determined by the Council, except in such cases where the Company is authorised to perform such works without any notice, superintendence or instruction, or if the Company make any unnecessary delay in completing any such work or reinstating or making good any of the city property interfered with by it, or in carrying away the rubbish occasioned by its works, or if it neglect to take the precautions against accident or neglect to carry out substantially not only the terms of this section but also every term or condition of this Act, it shall forfeit to the Council a sum not exceeding five pounds 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 this Act given to the Council shall not in any way debar the Council in their option from taking other legal action for the enforcement of the terms of this Act, or from exercising any other legal remedies.

As to streets less than thirty feet in width.

29. Notwithstanding anything to the contrary contained in this Act the Company shall have no right to lay any tram lines or execute any works in any street less than thirty feet in width, but the Council undertake that upon receiving due security from the Company for all costs, expenses and compensation for expropriation to which the Council may be put in and about so doing, they will use their best and utmost endeavours to cause such road or street to be widened to such extent as in the opinion of the Council is advisable having regard to the position and situation of the street.

Power of Council to purchase.

30. The rights and powers conferred upon the Company with regard to the construction of the tramway in the fourth section of this Act mentioned, which are put into operation within a period of five years from the date hereof, shall thereafter continue for a further term of twenty years. At the expiration of the said periods, together twenty-five years, the Council shall have and may execute the option of purchasing the whole of the property and plant of the undertaking situate within the limits of the Municipality, and if such option be not exercised the rights and powers by this Act granted shall continue for a further term of five years, at the expiration of which period the Council shall have the like option, and so on for successive terms of five years unless or until at the expiration of any such term the Council shall so exercise the option so reserved to it, but in no case for a longer period than the term of fifty years. In the event of such option being exercised the price to be paid shall be calculated upon the basis of actual capital amount expended on construction and

equipment of the undertaking, reasonable deduction being made for the wear and tear of the said property and plant, and in the event of any differences as to the amount, the same shall be determined by arbitration, and in the fixing of the purchase price by the arbitrators they shall proceed on the above basis.

Furnishing balance sheets and statements.

31. The Company shall annually and so often as any balance sheet, statement of profit and loss, and report be prepared by or submitted to the shareholders or members, forward a duly certified copy thereof and of each of such documents to the Council. And the Council shall have the right of requiring the Company to verify and explain the particulars of such balance sheet for the purpose of ascertaining the amount of rental under section twenty-six, and in like manner to verify and explain the particulars of the capital amount expended on the construction and equipment of the undertaking, should the power to purchase by the Council be exercised under section thirty. In the event of any difference, or question relating to the amount of rental or purchase amount, the same shall be determined by arbitration.

Arbitration.

32. For the purposes of any arbitration under this Act the provisions of the Lands and Arbitration Clauses Act, 1882, are hereby incorporated herein and shall apply.

In certain events a forfeiture of money to Council.

33. In the event of the Tramway works not being *bonâ fide* commenced and one thousand pounds sterling not having been duly expended in the construction of such tramway in the streets, roads, and public places of the city within two years from the date of the promulgation of this Act, the sum of two hundred and fifty pounds which has been deposited on behalf of the said Syndicate with the Council, shall be forfeited to the Council and become its property, but in case the said works shall have been *bonâ fide* commenced and constructed to the extent aforesaid, or the Council be of opinion that circumstances warrant repayment of such deposit, then the said sum shall be paid by the Council to the Company and not to the Syndicate as stated in the agreement in the preamble referred to.

Power to sell or purchase.

34. The Company shall have full power and authority to sell, lease, or otherwise dispose of the said lines of tramway when constructed to any other Company or public body, to purchase or hire any other tramway or works, property, plant, material, buildings or appliances connected therewith, and to enter into any working arrangements with any other Company having similar objects which now or hereafter may exist within the Cape Division.

Obstructions to be removed.

35. If any person or persons shall drive or lead any wagon, cart, carriage, or other vehicle, or any horse or other animal upon the said tramway lines in such manner as to wilfully obstruct and hinder, or shall in any other way wilfully obstruct or hinder any car or conveyance belonging to the Company, or shall refuse to remove such obstruction, it shall be lawful for any officer of the

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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 forty shillings, 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.

Obstruction of traffic.

36. Nothing in this Act contained shall authorise the Company in any manner to obstruct or hinder the safe passage or crossing of the ordinary traffic on any roads or streets in which such tramway shall have been made except temporarily for the purposes of constructing and maintaining the tramways, posts, wires and works as hereinbefore set forth, but in all such cases a sufficient space shall be left at least on one of the sides of the said roads or streets to allow all carriages, cattle and passengers to pass the carriages on the said tramway in a safe and convenient manner provided that not more than two trailers be attached to each motor car; provided, always, that subject to the provisions of section twenty-five of this Act rights and facilities shall at all times be enjoyed by the said Company for their carriages to pass without obstruction or hindrance along the several lines of the Company; and upon due and sufficient notice being given, by such whistle, bell, gong, or other contrivance as the Council may approve, by the driver or conductor or other person in charge of the said carriages of the approach thereof, all persons and vehicles upon or near the lines of rails shall, as soon as practicable, remove so as to allow the carriages of the Company to pass along the line freely and without obstruction.

Punishment of persons wilfully obstructing.

37. Any person who shall wilfully obstruct the officers or servants of the said Company, or any contractors with the Company, in the lawful exercise of their powers in setting out or making, laying down, repairing, or working the tramways authorised by this Act, shall for every such offence be liable to a penalty not exceeding forty shillings, 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.

Penalty for interference, &c.

38. Any person who without lawful excuse shall wilfully do any of the following things, namely:

Interfere with, remove, or alter any part of the tramway, or of the works connected therewith;

Place or throw any stones, wood, or other material on any part of the rails, do any damage to any property belonging to the Company, or commit any nuisance by loitering in or upon the Company's premises or otherwise;

Do or cause to be done anything in such a manner as to obstruct any carriage using the tramway or the horses drawing the same or to endanger the safety of persons therein or thereon or the public;

Or knowingly aid or assist in the doing of any such thing;

shall for every such offence be liable (in addition to any proceed-

ings by way of indictment or otherwise to which such person may be subject) to pay a penalty not exceeding forty shillings 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.

Tolls to be charged equally.

39. 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; and no reduction or advance in any such tolls, fares or rates shall be made either directly or indirectly in favour of or against any particular Company or person travelling upon or using the said tramway.

Penalty for avoiding or refusing to pay fare.

40. If any person travelling in any carriage on the tramway shall avoid or attempt to avoid payment of the fare, or if any person shall refuse to pay his fare after it has been demanded by the conductor or other duly authorised servant of the Company, or having paid the fare for a certain distance shall knowingly and wilfully proceed in any such carriage beyond such distance, and refuse to pay the additional fare for the additional distance, or attempt to avoid payment thereof, or if any person shall knowingly and wilfully refuse or neglect on arriving at the point to which such person has paid the fare, to quit such carriage, such person shall for every such offence, be liable to a penalty not exceeding forty shillings, and in default of payment to imprisonment with or without hard labour for any term not exceeding three days, unless such fine be sooner paid.

Recoverable in Magistrate's Court.

41. All penalties imposed by this Act shall be recoverable in the Court of the Resident Magistrate of Cape Town, and if at the suit of the Company then for the benefit of the Company.

Tolls to be exhibited in conspicuous places.

42. A list of all the tolls authorised by this Act to be taken and which shall be exacted by the Company shall be published by being exhibited in some conspicuous place on the stations of the Company, and in or upon the cars, and the Company shall have the right to recover, by legal process in the Court of the Resident Magistrate as aforesaid, all such charges from passengers and from the owners of goods, articles or things conveyed by the Company, and shall moreover have the right of retaining such goods, articles or things until the charges appertaining to the same have been duly paid; provided, always, that such tariff of charges may be altered by the Company in accordance with the provisions of section twenty-seven of this Act.

Power to make bye-laws.

43. The Company shall have the power to make bye-laws as to the stopping of the cars for taking up and setting down passengers, the space in the cars to be occupied by passengers, the conditions upon which persons will be allowed to travel upon or use

the cars, 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 from time to time to add to and vary such bye-laws. Such bye-laws and any additions thereto or alterations thereof shall be submitted to the Governor for approval, copies of the same being first transmitted to and approved of by the Council at least fourteen days prior to being so submitted, and upon the Governor's approval being obtained, and proclamation made in the *Gazette*, shall have the force of law, but may at any time be revoked by the Governor by proclamation.

Exclusive right to use tramways with flanged wheels.

44. The Company shall have the exclusive right to run upon the tramways cars or carriages plying for hire, with flanged wheels or wheels specially adapted to run upon the rails: any person contravening the provisions of this section shall incur a penalty of forty shillings for each offence, and in default of payment imprisonment for any period not exceeding seven days.

Carriage of mails.

45. The Company shall, when requested by the proper authority to do so, make provision for the conveyance to or from any of its stations of such mails, letter bags, and articles ordinarily conveyed by the post as the Postmaster-General may from time to time require, and as may be agreed between him and the Company; the Company shall be responsible for the safe conveyance of such mails, and shall obey and observe all such regulations respecting the taking up and delivery of the same as the Postmaster-General may reasonably require; in the event of any difference arising between the Postmaster-General or any other public body and the Company the matter shall be decided by arbitration.

No director or shareholder to be a Town Councillor.

46. No director or shareholder of the Company shall be capable of being elected or of continuing to sit as a Town Councillor.

Tramway subject to any general Act.

47. Nothing in this Act contained shall exempt the tramway from the provisions of any general Act relating to tramways or dealing with electric power which may hereafter pass during this or any future Session of Parliament, or from any revision or alteration under the authority of Parliament of the maximum rates of tolls or charges authorised by this Act.

Short title.

48. This Act may be cited for all purposes as the "Caledon Street Tramways Company, Limited, Act, 1895."

Schedule.

SCHEDULE.

Maximum Tolls and Rates of Charge.

Passengers.

The maximum rate of charge to be made for the conveyance of any passenger between any one point within the present city limits reached by the Company's routes and any other point shall

not exceed three pence. The rate of charge payable by each passenger for his conveyance from any point to any other point on the tramway system shall give him the right to take with him his ordinary luggage not exceeding 20 lbs. in weight without any charge being made for the carriage thereof, any excess over such weight, however, being charged for at parcel rates. The conductor or official in charge of any passenger car shall be entitled to decline to allow any passenger to take with him any luggage over 20 lbs. in weight, and he may decline to receive for conveyance by such car any parcel or package which, notwithstanding its weight being less than 20 lbs., is unreasonably bulky or of an undesirable character. The restriction upon rates of charge for the conveyance of passengers shall not be taken to debar the Company from running any special car or carriage for any special purpose 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 within the city limits by the Company in respect of small parcels not included in those allowed under the preceding portion of this Schedule for carriage thereof on the whole or any part of the lines shall not exceed:

For any parcel not exceeding twenty pounds in weight, threepence.

For any parcel exceeding twenty pounds in weight and not exceeding thirty-five pounds in weight, fourpence.

For any parcel exceeding thirty-five pounds in weight and not exceeding fifty pounds in weight, sixpence.

For any parcel exceeding fifty pounds in weight and not exceeding seventy-five pounds in weight, ninepence.

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 the owners of the tramway may think fit to charge after notice given.

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.

Nothing herein contained shall be held to bind the Company to carry goods in carriages on the tramway, other than goods which the passengers are allowed to take with them, until they have given notice in one or more newspapers in Cape Town of their intention to do so.

To be read with Ord No 35 of 1934

No. 22—1895.] [August 2, 1895.

ACT [1]

To Incorporate the Metropolitan Tramways Company (Limited).

Preamble.

WHEREAS it is expedient that a Company incorporated for the purpose of constructing, equipping, maintaining, and working certain Tramways within the Municipality of Cape Town, and for other purposes connected therewith, should be granted certain rights and powers as hereinafter provided:

And whereas the Council of the Cape Town Municipality has entered into an agreement with one Henry Augustus Butters, under which the said Council granted to the said Butters the power, right and privilege of constructing, equipping, maintaining and working a Tramway:

And whereas the said Butters has, as he was entitled to do thereunder, assigned all his rights under the said agreement to a certain Joint-Stock Company, styled the "Metropolitan Tramways Company [Limited]":

And where as the Company has been duly registered in terms of Act 25 of 1892, and is willing to undertake the construction, equipment, maintenance and working of certain lines of Tramway within the said Municipality:

And whereas it is expedient that power and authority should be granted to the Company to raise money by means of shares, or debentures:

And whereas plans and sections of the lines of Tramway proposed to be constructed by the said Company have been lodged the Clerk of the House of Assembly:

And whereas it is expedient that the Company should have power to sell, lease or otherwise dispose of the said lines of Tramway when constructed, to purchase or hire, or enter into any working arrangements with any other Tramway Company or Company having similar objects, which now or hereafter may exist within the Cape Division:

And whereas it is expedient that powers should be granted to the City Tramways Company incorporated under Act 24 of 1881, and to the Green and Sea Point Tramway Company incorporated under Act 33 of 1861, to cede, assign and make over all the powers and rights conferred upon the said Companies under the said Acts respectively, to the "Metropolitan Tramways Company (Limited)," and that further powers and rights with reference to the construction, equipment, maintenance and working of the said Tramways should be conferred upon it:

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] See Acts 29, 1896 (p. 3629), 34, 1899 (p. 4155).

No. 22. 1895.

Company to have authority to issue debentures.

1. The Company incorporated by the name of the "Metropolitan Tramways Company (Limited)," shall have power and authority, to be exercised by the directors in accordance with the provisions of the Articles of Association, to raise by means of shares, or debentures, such sums of money as may be necessary; provided that the amount of such debentures shall not exceed the amount of subscribed capital of the Company, and the said debentures shall be subject to such terms and conditions as to the interest thereon and as to repayment thereof as the directors, in accordance with the provisions of the said Articles of Association, may determine.

Authority to construct and work Tram Lines. [CEDOM

2. The Company is hereby authorised to construct, equip, maintain and work by electric power, and with all the powers and rights in this Act set forth, the following lines of Tramway within the Municipality of Cape Town, subject to the provisions of this Act, that is to say:

Tramway No. 1.—Commencing in Waterkant-street near Bree-street by junctions with the existing Tramway of the Cape Town and Green Point Tramway, and passing along Bree-street, Strand-street, and terminating in Adderley-street opposite the Railway Station. The said Tramway No. 1 will be a double line.

Tramway No. 2.—In Adderley-street, on the north side of the centre line of that street, commencing near Dock Road, and terminating near Darling-street. The said Tramway No. 2 will be a single line.

Tramway No. 3.—Commencing at the end of Tramway No. 2, passing along Darling-street, Plein-street, Stal Plein, into Roeland-street, and terminating near Hope-street, The said Tramway No. 3 will be partly a double and partly a single line, with junction curves with the City Tramway in Darling-street.

Tramway No. 4.—Commencing at the end of Tramway No. 3, and passing along Roeland-street, Buitenkant-street, Mill-street, and terminating by a junction with the existing Cape Town and Green Point Tramway near Hope-street. The said Tramway No. 4 will be partly a double and partly a single line, with passing places.

Tramway No. 5.—Commencing at the end of Tramway No. 3, passing along Hope-street and terminating in Mill-street by a junction with the existing Cape Town and Green Point Tramway. The said Tramway No. 5 will be a single line with passing places.

Tramway No. 6.—In Adderley-street on the South side of the centre line of that street, commencing at Dock Road and terminating near Bureau-street.

Tramway No. 7.—Commencing at the end of Tramway No. 2, passing in a westerly direction along Adderley-street,

and along Waal-street, and terminating in Long-street near Pepper-street, by junctions with the Cape Town and Green Point Tramway. The said Tramway No. 7 will be a single line in Adderley-street, and on the North side of the centre line of that street. In part of Waal-street, the said Tramway No. 7 will be a double line.

Tramway No. 8.—In Mill-street, commencing by junction with the Cape Town and Green Point Tramway near Annandale-street, and terminating in Orange-street, at Mill-street. The said Tramway No. 8 will be a single line with passing places.

Tramway No. 9.—In Orange-street, commencing by junctions with the Cape Town and Green Point Tramway near Hof-street, and terminating at Camp-street. The said Tramway No. 9 will be a single line with passing places.

Tramway No. 11.—Commencing at the West end of Long-street, by junction with Cape Town and Green Point Tramways, passing through Overbeek Square and along Kloof-street, and terminating near Camp-street. The said Tramway will be a single line with passing places.

Tramway No. 12.—Commencing in Darling-street by a junction with the existing City Tramway near Primrose-street, and passing along Hanover-street, terminating near Clifton-street. The said Tramway No. 12 will be a single line with passing places.

Provided that in case the Company shall desire to lay down any lines in addition to such as are herein provided, it shall submit for the approval of the Council full, proper and sufficient plans of such proposed additions with all reasonable particulars and information as the Council may require, and upon obtaining the consent and approval of the Council thereto it may proceed with the construction of such proposed additions. The Council shall however be entitled to withhold its consent or to grant it upon such terms as it may deem advisable.

In the event of such construction being proceeded with, it shall in so far as the conditions attached to the consent of the Council are not at variance with the provisions of this Act, be carried out in accordance with the said conditions: Provided also that notwithstanding anything contained in this Act or shown upon the deposited plans, no double lines shall be laid in any street, road or public place without the consent of the Council, and where single lines authorised by this Act are constructed the sidings shall be in such a position as may be agreed upon between the Council and the Company: Provided further that the Council shall not give its assent or approval to the construction of such additional lines, or the laying of such double lines or sidings, save and except such as are hereinbefore enumerated, until notice for one month shall have been given by the Company in the *Gazette*, and by advertisement in two

local newspapers once a week during the same period, of the intention of the Company to apply for such consent. And upon the expiration of such term the Council shall appoint a Court, to consist of the Mayor and four Councillors, or of such Standing Committee of the Council as the Council may determine, who on a day, of which public notice shall have been given, shall sit for the purpose of hearing objections from ratepayers or persons whose interests may be affected by such additions or double lines; and such ratepayers or persons shall be heard either in person or by their agents or counsel; and such Court, or Standing Committee, shall, after hearing all parties concerned, report to the Council whether any or what objections have been raised to the proposed additions or double lines or sidings; and upon such report being received a day shall be fixed for holding a special meeting of the Council for the purpose of determining whether its consent shall be given or withheld, and on what terms, and such consent shall not be given unless a majority consisting of two-thirds of the Councillors then in office shall have voted in favour thereof.

Authority to work Cable Tramway.

3. In addition to the right to construct, equip, maintain and work lines of Tramway as in the preceding section set forth, the Company shall have the right and power to erect and operate Cable Tramways in those parts of the City of Cape Town where the gradients are impracticable for the ordinary surface Tramways; provided particulars of the routes, system and detailed plan of such Cable Tramways be submitted to the Council, and the consent and approval of the Council, which they shall in their discretion be entitled to withhold, be first obtained, in accordance with the provisions set forth in the last proviso of the last preceding section.

Power of Company.

4. The Company shall, subject to the provisions of this Act, have the right:

(*a*) To erect, construct, maintain and work lines of poles (which poles shall be of iron of a design approved by the Council) and standards and wire for overhead connexions or underground conduits for electric currents or cables over or under all such roads, streets and public squares or places through which the said lines of tramway shall pass, as may be necessary for the proper and efficient working of the same: provided that in Adderley-street no overhead wires shall be stretched from side-walk to side-walk for over-head connection without the consent of the Town Council.

(*b*) To lay and maintain tracks for the same.

(*c*) To make all necessary excavations for the erection, construction, and maintenance of such lines and all other necessary works.

(*d*) To erect, maintain, and work all necessary power and stations, sidings, depots, stables, car-houses, and offices subject to the approval and in accordance with any

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resolution or standing order of the Council and any municipal regulations which may at any time be in force: Provided that the Company shall have no right to build any erections upon any road, street, public place, or municipal land unless specially permitted so to do by resolution of the Council, and the Company specially undertakes that in the event of any electric leak taking place and any damage being thereby caused at any time by electrolysis or otherwise it will reimburse and make good to the Council or other body or person all costs, damages, and expenses to which the Council or other body or person may be put by reason thereof: and provided further that, nothing in this Act contained shall entitle the Company 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 without the consent of the Council first had and obtained.

Position of standards and wires.

5. The poles, standards, cables and overhead wires shall as to their height above the roadway and in all other respects be subject to the approval of the Council, and to the requirements of the Council as set forth in any resolutions, standing orders, or municipal regulations, and the position of the poles and standards shall be subject to the approval of the Council.

Space to be left at sides of road.

6. All the said lines of Tramway shall as nearly as is practicable be laid down in the centre of the 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 car and the kerb except upon such streets whereon, with the consent of the Council, the line may be located on one side of the street or road.

Paving of road by Company.

7. Wherever there is a single track the surface of the road, street, or public place, to the extent of eighteen inches outside each rail shall be paved by the Company with good stone or wood and by it be maintained in such state and in good and efficient repair. Between the rails and abutting on each line of rails the Company shall construct, maintain and keep in good and efficient repair a toothing course of good stone or wood, such toothing course to extend alternately nine and six inches from each line of rails towards the centre of the track while so much of the space between the rails as is not occupied by such toothing courses shall be constructed and maintained in a good and efficient state of repair by the Company with a material not inferior to that of which the remainder of the road or street is constructed. Wherever a double track is permitted to be laid in any street, road or public place, and the space between each track does not exceed four feet, the surface of the street, road or public place to the extent of eighteen inches outside the two outer rails of the tracks and the whole of the surface between the tracks, that is, between the inner lines of the respective tracks shall be paved by the

Company with good stone or wood, and shall be maintained by it in such state and in good and efficient repair while between the rails of each of the two tracks the Company shall construct similar toothing courses, and construct, and do all other works and things as are required where there is a single track, and shall maintain the same in manner as required in the case of a single track: provided that where the tracks are laid at a greater distance than four feet apart, the surface between the tracks shall be paved for a width of four feet only. At all crossings the whole surface of the road or street from kerb to kerb shall be paved with stone or wood as may be required by the Council, and shall be so maintained and kept in repair by the Company.

Paving of road by the Company opposite places of public worship.

8. Wherever any track passes any place of public worship, the surface of the road, street, or public place to the extent hereinafter mentioned shall be paved by the Company with wood or such other material as may be required by the Council, and shall by it be maintained with such material in such state and in good and efficient repair. The said extent shall be an area in length extending from a point in the road, street, or public place a reasonable distance before the track reaches that part of the roadway opposite to the place of public worship to a point a reasonable distance beyond the point where the track leaves the roadway opposite to such place of public worship, and in width a distance equal to eighteen inches outside each of the tracks added to the width of the surface between the rails and the width between the tracks. Everything to be done by the Company in terms of this and the last preceding section shall be performed to the satisfaction of the Council.

Relaying of streets.

9. If after the construction of any line the Council relay the street which it traverses with a material essentially different from that in use at the time of such construction, the Company shall at the time of such relaying, replace that portion of the street which in terms of this Act it is required to construct, maintain and keep in repair, with such material and in such manner as to be in accordance with the portion of the street so relayed or replaced unless the Council otherwise direct, and the Company shall maintain the same in such state and in good and efficient repair.

Construction of culverts and drains.

10. Whenever in laying down the lines it may be found necessary to construct any culverts or drains, the same shall be constructed by the Company to the satisfaction and approval of the Council or its duly authorised officer; and all culverts or drains so constructed shall at all times be maintained in good order and repair by the Company to the like satisfaction and approval.

Gauge of Tramway.

11. The rails of tram lines shall be of the usual and ordinary kind and shall be laid to a gauge of not less than four or more than five feet apart,, the surface of the rails being level with the surface of the street, and the same shall be kept and maintained in a condition of repair to satisfy this requirement.

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Renewal and repair of streets, &c., by Council.

12. The Council shall at all times in the future have the right free from any payment or compensation, and without let or hindrance, and by themselves or their servants, to place and construct, renew, maintain and repair through, above, or beneath any roads, streets, and squares, or places over or in connection with which any rights are by this Act conferred upon the Company, and through, above or beneath the tram rails and the tramways, all sewers, drains, water-pipes, gas-pipes, cables, or wires and all works required for the drainage, sewerage, or supply of water, and the lighting of the city and municipality or in connexion with any public works: Provided always that in carrying out any such works as are in this section referred to, the Council shall take and use every reasonable means not to hinder or delay the traffic on the line.

Fittings and width of cars.

13. The cars and rolling stock of the tramways shall be of modern pattern and not exceeding seven feet six inches in width approved by the Council and comfortably fitted up for the convenience of passengers and lighted. Each car shall be supplied with not less than five incandescent lamps each of sixteen candle power, including head and tail lights.

Expense of removal of rails.

14. All expenses incurred by the Council in the removal and replacement of rails after the first laying down thereof consequent upon the necessity of repairing, altering or removing sewers, drains, pipes, wires and cables shall be paid and borne by the Company.

Maintenance of the works.

15. The whole of the works and tramways shall be maintained by the Company at all times in a good, proper, and efficient state of repair to the satisfaction of the Council, and in default thereof

Penalty for non-maintenance.

the Company shall be liable to a penalty not exceeding five pounds in respect of each such default, and an additional two pounds for each day during which such default shall continue after the Company has received notice thereof, the amount of the penalty to be absolutely in the discretion of the Council.

Indemnification of Council from damage by electrolysis or otherwise.

16. The Company undertakes to keep the Council or any other body or person harmless and indemnified from and forthwith to reimburse them and make good all loss, costs, damages and expenses to which the Council or any other body or person may be put by reason of electrolysis or any neglect or default on the part of the Company or its servants in the execution of works under the provisions of this Act in the execution of powers granted hereby, in the due performance of the provisions of this Act, and in the safe, proper and efficient working of the tramways and electric power, or from any failure, defect or insufficiency of or in the plant, machinery and works or otherwise.

Rate of speed.

17. The rate of speed at which the cars shall travel shall not exceed seven miles an hour in any of the principal or business streets, and ten miles an hour in residential streets. If any difference shall arise as to what are principal or business or

residential streets, the decision thereon shall rest with the Council who notwithstanding that any street may have been previously classified under one heading may at any time thereafter cause it to be placed under the other class should circumstances in the opinion of the Council require it: provided that the Council may limit the rate of speed in any residential street to seven miles an hour.

Servants of Company and cars to be licensed.

18. The drivers, guards and other servants of the Company, and the cars, carriages and conveyances of the Tramway shall require to be licensed by the Council and be subject to such bye-laws and regulations as now exist or may hereafter be lawfully made.

Mode of working Tramways in case of stoppage of motive power.

19. In the event of any break down, accident or other cause necessitating or rendering desirable a temporary stoppage of the motive power hereinbefore referred to, the Company shall have the right to substitute and use horses 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 in any one year such stoppages jointly shall be of a duration of three months, the Council shall have the powers of purchase, removal of the rails, and the restoration of the road set forth in the twentieth and twenty-first sections of this Act. And provided that pending the completion of any of the routes above specified and the power stations for the same in accordance with the provisions of the twenty-second section of this Act, the Company shall have the right to use horse-power upon any route in course of construction.

Power of purchase by Council.

Power of purchase by Council in certain events.

20. If the said tramways or any part thereof shall during a period of two consecutive days, cease to run or be worked for the use of the public, unless from strike of operatives or some other cause beyond the control of the Company, or if any section of the said tramways shall not be properly or efficiently worked, the Council may give one month's notice in writing to the Company, and at the expiration of the said period all powers conferred under this Act upon the Company in so far as the said powers relate to any unused, unworked, or improperly worked portion of the line shall cease and determine, and the Council may as to any such portion exercise the option of purchasing the same upon the terms hereinafter set forth just as if the period of time at which the Council has such option had arrived.

Rails to be taken up in certain events.

21. The Company shall upon such notice, and if the Council shall not purchase, be bound and obliged at its own cost to remove the rails and other plant, and to restore the road or other place to a condition fit for the traffic having regard to the material of which such road or other place is constructed. And should the Company fail to do so, the Council may remove the rails and do all things necessary to the restoration of the road or other places as aforesaid, and demand and recover the cost incurred thereby from the Company.

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Commencement and completion of work.

22. The work upon the system of tram lines shall be commenced by the Company within one year from the date of the promulgation of this Act, and not less than one mile thereof shall be completed and in operation for public use within one year thereafter, and such work shall be continued at the rate of not less than one mile per year during the succeeding four years, to the intent that at the end of each year one mile of additional tramway shall be open for public use and traffic: provided always that upon the due completion of the entire system of tramways according to the routes laid down there shall be no further obligation under the terms of this section.

Penalty.

23. In the event of non compliance with the preceding section the Comapny shall be liable to pay to the Council, if demanded, a penalty of two pounds sterling for every day's default: provided that the total of such penalties shall not exceed one thousand pounds sterling, and in case the Company shall fail to commence the said work within the said period of one year aforesaid then all the rights and powers with regard to the construction and working of the tramway authorised by the second section of this Act shall cease and determine.

Tramways not to endanger public safety.

24. The tramways shall be so constructed and worked as not to hinder the safe passage of the ordinary traffic upon and across the roads, streets and public places, or to endanger the safety of the public.

Rental to be paid to Council.

25. The Company shall, subject to the terms of the proviso hereinafter contained, pay to the Council for the use of the streets, roads and public places upon which the tram lines run and for the rights and privileges granted a rental at the rate of fifty pounds sterling per annum per mile of tram road laid, and such rental shall continue until such time, if any, as the Legislature of the Colony shall grant, and the Council shall avail itself of the power to levy and collect rates in respect of the rails and rolling-stock, and so soon as such power shall be acted upon the said annual payment shall cease: Provided, however, that after the period of ten years whenever in any year the amount of profit between the gross earnings and the actual working expenses (which latter shall be taken to include maintenance and a reasonable allowance for wear and tear) shall be greater than a sum equal to the average of five hundred pounds per mile of tramways being worked by the Company in the Municipality under this Act, then the Company shall pay as rental per mile one-tenth of the amount of such profits.

Right of Company to collect tolls.

26. The Company shall have the right and power to charge and collect fares for the carrying of passengers and parcels upon or over all lines so to be constructed: provided that the tariff of such fares shall be exhibited in a conspicuous place in each car, carriage or conveyance, and shall not be increased at any time until after public notice shall have been given in the *Gazette* and in

two or more newspapers published in this city and approved by the Council; and provided always that no fares or charges shall in any case at any time exceed those mentioned in the Schedule to this Act.

Making of further Tramways.

27. The Council may whenever it deems necessary to do so for the public interests demand and require the Company to make tramways and extensions of the said tramways in or over any streets, roads or public places within the Municipality, and in case the Company shall refuse to comply with such demand, then the Council shall, notwithstanding anything to the contrary in this Act contained, be at liberty to contract with any other person, persons, or body in respect thereof, and may cause any tramway so contracted for to be worked by electricity or otherwise.

Manner of carrying out the work.

28. With respect to any work done or required to be done by the Company under the powers hereby conferred or otherwise or in consequence of the consent of the Council and whether during construction or during maintenance it is provided:

(*a*) That no road, street, bridge, sewer, drain, culvert, pipe, wire, or property belonging to the Council or the public shall be entered upon, broken up, or opened up, or otherwise dealt with until the Company shall have given to the Council notice in writing of its intention so to do, not less than three days before beginning or doing any such work or thing (except in cases of emergency after the construction of the tramways have been completed arising from defects in any of the works and then so soon as it is possible after the beginning of the work or the necessity for the same shall have arisen), such notice shall set forth clearly and distinctly the work it is intended to perform, and a general notice of the intention to carry out the whole scheme shall not be a sufficient compliance with the terms hereof which shall be read in connection with the next following sub-section dealing with the carrying out of the necessary work by sections.

(*b*) The Company shall at all times when required thereto by the Council or its appointed officer furnish such plans, sections and information respecting the construction at any time about to be or being undertaken by it, and respecting the routes, grades or other details as may be required by the Council, and in the event of non-compliance with such requirement forthwith on demand, shall be debarred from proceeding with any work until it has so done to the satisfaction of the Council.

(*c*) The Council may during the progress of any works inspect all material used or proposed to be used thereon, and may require proper material to be used or the work to be done in a proper manner, and in the event of the instruction of the Council or its authorised official not being carried out,

the Council shall be entitled to prevent the further carrying out of the works hereby authorised until its instructions have been obeyed.

(*d*) No road, street, bridge, sewer, drain, culvert, pipe, wire, or anything as aforesaid shall, except in cases of emergency aforesaid, be entered upon, broken, or opened up, or otherwise dealt with, except under the superintendence of the Council, or its appointed officer, and according to such plans and in such manner as shall be approved by the Council or its appointed officer; or in the case of any pole, wire, pipe or other property of the Postmaster-General otherwise than in accordance with the provisions of any Act for regulating the employment of electricity for the purposes of electric lighting and powers generally, which may be passed during the present or any future Session of Parliament, or any regulation which may be framed under the authority of such Act; and the works of the Company shall be carried out in sections approved by the Council or its appointed officer to the intent that each section shall be speedily and expeditiously completed and with the least possible inconvenience to the public and traffic, the whole attention and energy of the Company being as far as possible devoted to carrying out the works section by section.

(*e*) The Company shall with all convenient speed complete each section of the work undertaken, and carry away forthwith all rubbish occasioned thereby, and shall reinstate and make good and maintain against subsidence the road, street, bridge, sewer, drain, culvert, pipe, wire or other property interfered with, and shall at all times whilst any operations are being carried on, take every precaution to prevent accident, and shall cause sufficient lights and watchmen to be placed and kept up every night during which the surface of any road, street, public place or bridge continues broken up, or during which any danger from any cause may arise to the public.

(*f*) All operations of the Company shall be carried on in such manner as not to interfere in any way with sewers, drains, waterpipes, gaspipes, street lamps, electric cables or wires whether above or below the surface of the street or other like works, and no approval by the Council of any plan of work shall in any way be deemed to avoid the necessity of due compliance with the terms of this sub-section unless such plan specifically provides for any such interference.

(*g*) In the event of its being necessary for the due carrying out of the Company's operations that any sewer, drain, waterpipe, gaspipe, street lamp, electric cable or wire as

aforesaid, or other like works, shall be removed temporarily, obstructed or deviated, no such act shall be done without the consent, in writing, of the Council being first had and obtained, and in the event of such consent being granted, the Council may elect to carry out the removal, temporary obstruction or deviation itself or by its servants, in which case the Company shall forthwith reimburse to the Council the reasonable expenses which it may incur, or to which it may be put by so doing, and whenever by this Act the Council is authorised to recover expenses from the Company, the fact that any person or persons are in the ordinary employ or pay of the Council shall not debar the Council from making claim for, and recovering any sum or sums paid to him in respect of the period of time he was so employed.

(*h*) All operations of the Company shall be carried on without causing any damage to any street, road, bridge, sewer, drain, culvert, pipe, wire, underground works or other property of the Council, and should any damage be done at any time in contravention hereof, the Council may by notice, in writing, require the Company to make good the same forthwith, and should it not do so, the Council may cause to be done what is necessary to repair such damage and recover the expenses incurred thereby forthwith from the Company.

(*i*) 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 Council without giving such notice as aforesaid, or in any manner different from that which shall have been approved of or determined by the Council, 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 work or reinstating or making good any of the city property interfered with by it, or in carrying away the rubbish occasioned by its works, or if it neglects to take the precautions against accidents, or neglects to carry out substantially not only the terms of this section but also every term or condition of this Act, it shall forfeit to the Council a sum not exceeding Five Pounds 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 Council shall not in any way debar the Council in its option from taking other legal action for the enforcement of the terms of this Act or from exercising any other legal remedies.

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As to streets less than thirty feet in width.

29. Notwithstanding anything to the contrary contained in this Act, the Company shall have no right to lay any tram rails or execute any works in any street less than thirty feet in width, but the Council, upon receiving due security from the Company for all costs, expenses and compensation for expropriation to which the Council may be put in and about so doing, shall use their best and utmost endeavour to cause such road or street to be widened to such extent as in the opinion of the Council is advisable, having regard to the position and situation of the street.

Power of Council to purchase.

30. The rights and powers conferred upon the Company with regard to the construction of the tramways in the second section of this Act mentioned, which are put into operation within a period of five years from the date of this Act, shall thereafter continue for a further term of twenty years. At the expiration of the said periods, together twenty-five years, the Council shall have and may execute the option of purchasing the whole of the property and plant of the said undertaking, situate within the limits of the Municipality, and if such option be not exercised the rights and powers granted under this Act shall continue for a further term of five years, at the expiration of which period the Council shall have the like option, and so on for successive terms of five years, unless or until at the expiration of any such term the Council shall exercise the option so reserved to it. In the event of such option being exercised, the price to be paid shall be calculated upon the basis of the actual capital amount expended in construction and equipment of the undertaking, reasonable deduction being made for the wear and tear of the said property and plant; and in the event of any difference as to the amount, the same shall be determined by arbitration, and in the fixing of the purchase price by the abitrators they shall proceed upon the above basis.

In event of option being exercised by Council.

31. (1) In the event of the option referred to in the preceding section being exercised by the Council at the end of the term of 25 years, or at the end of any succeeding term of 5 years, then the Council shall also have the option of purchasing the undertaking, property and plant, of the City Tramways Company, Limited, so far as the same shall then be situate within the limits of the Municipality of Cape Town, excepting only such portions of any land owned by that Company, together with the buildings and plant erected thereon, as that Company or its assigns may require for efficiently working any tramway or portion of tramway they may remain possessed of, or any tramway that they may have hired, or over which at the date of such purchase they may have or be entitled to have running powers. Provided that, in the event of the purchase of the said undertaking, property and plant, the price to be paid to the City Tramways Company, Limited, or their assigns, for the same as it exists at present (including good-

[1] But see § 27, Act 29, 1896 (p. 3629), and § 62, Act 34, 1899 (p. 4186).

will), shall be the sum of £25,000 sterling, and the then value of all additional works or extensions constructed after the passing of this Act, which, if not mutually agreed upon, shall be determined by arbitration, and in fixing the purchase price of such additional works or extensions, no further account shall be taken of the goodwill of the business. And provided, further, that in the event of such purchase, the City Tramways Company, Limited, or its assigns, shall, so long as they continue to own or work any tramway that connects with the tramway purchased have the right without hindrance to run their cars, or so many of them, as they may desire over the portion of the tramway acquired by the Council, under the powers of purchase hereinbefore given them, upon such reasonable terms and conditions as to running powers and the supply of electric power as may from time to time be fixed by arbitration.

Furnishing balance-sheets and statements.

32. The Company shall annually, and so often as any balance-sheet, statement of profit and loss, and report be prepared by or submitted to the shareholders or members, forward a duly certified copy thereof and of each of such documents to the Council, and the Council shall have the right of requiring the Company to verify and explain the particulars of such balance-sheet for the purpose of ascertaining the amount of rental under section twenty-five, and in like manner to verify and explain the particulars of the capital amount expended on the construction and equipment of the undertaking, should the power to purchase by the Council be exercised under sections thirty and thirty-one. In the event of any difference, or question, relating to the amount of rental or purchase amount, the same shall be determined by arbitration.

Arbitration.

33. For the purpose of any arbitration under this Act, the provisions of the "Lands and Arbitration Clauses Act, 1882," are hereby incorporated and shall apply.

Power to sell or purchase.

34. The Company shall have full power and authority to sell, lease, or otherwise dispose of the said lines of tramway when constructed, to any other company, syndicate or person, or public body, to purchase or hire any other tramway or works, property, plant, material, buildings or appliances connected therewith, and to enter into any working arrangements with any other company having similar objects which now or hereafter may exist within the Cape Division.

Powers given to City Tramway Company and Sea Point Tramway Company.

35. The City Tramway Company incorporated under Act 24 of 1881, and the Sea Point Tramway Company incorporated under Act 33 of 1861, shall have full power and authority to cede, assign and make over to the "Metropolitan Tramways Company," all the powers and rights conferred upon the said Companies under the said Acts and any subsequent Acts respectively; and thereupon in each case all the provisions of the said Act or Acts with regard to construction, equipment, maintenance and working of the tramways in the said Act or Acts described, shall be applicable to the "Metropolitan Tramways Company (Limited)."

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Obstruction to be removed.

36. If any person or persons shall drive or lead any wagon, cart, carriage or other vehicle, or any horse or other animal upon the said tramway lines in such manner as to wilfully obstruct and hinder, or shall in any other way wilfully obstruct or hinder any car or conveyance belonging to the Company, or shall refuse to remove such obstruction, it shall be lawful for any officer 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 forty shillings, 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.

Punishment.

Obstruction of traffic.

37. Nothing in this Act contained shall authorise the Company in any manner to obstruct or hinder the safe passage or crossing or the ordinary traffic on any roads or streets in which such tramway shall have been made, except for the purposes of constructing and maintaining the tramways, posts, wires and works as hereinbefore set forth, but in all cases a sufficient space shall be left at least on one of the sides of the said roads or streets to allow all carriages, cattle and passengers to pass the carriages on the said tramway in a safe and convenient manner; provided that not more than two trailers be attached to each motor car; provided, always, that subject to the provisions of section twenty-four of this Act, rights and facilities shall at all times be enjoyed by the said Company for their carriages to pass without obstruction or hindrance along the several lines of the Company; and upon due and sufficient notice being given, by such whistle, bell, gong, or other contrivance, as the Council may approve, by the driver or conductor or other person in charge of the said carriages of the approach thereof, all persons and vehicles upon or near the lines of rails shall, as soon as practicable remove, so as to allow the carriages of the Company to pass along the line freely and without obstruction.

Punishment of persons wilfully obstructing.

38. Any person who shall wilfully obstruct the officers or servants of the said Company, or any contractors with the Company, in the lawful exercise of their powers in setting out or making, laying down, repairing, or working the tramways authorised by this Act, shall for every such offence be liable to a penalty not exceeding forty shillings, 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.

Penalty for interference, &c.

39. Any person who without lawful excuse shall wilfully do any of the following things, namely:—

Interfere with, remove or alter any part of the tramway, or of the works connected therewith;

Place or throw any stones, wood or other material on any part of the rails, do any damage to any property belonging to the Company, or commit any nuisance by loitering in or upon the Company's premises or otherwise;

Do or cause to be done anything in such a manner as to obstruct any carriage using the tramway or the horses drawing the same, or to endanger the safety of persons therein or thereon or the public:

Or knowingly aid or assist in the doing of any such thing, shall for every such offence be liable [in addition to any proceedings by way of indictment or otherwise to which such person may be subject] to pay a penalty not exceeding forty shillings, 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.

Tolls to be charged equally.

40. 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, by mile, or otherwise in respect of all goods of the same description; and no reduction or advance in any such tolls, fares or rates shall be made either directly or indirectly in favour of or against any particular Company or person travelling upon or using the said tramway.

Penalty for avoiding or refusing to pay fare

41. If any person travelling in any carriage on the tramway shall avoid or attempt to avoid payment of the fare, or if any person shall refuse to pay his fare, after it has been demanded by the conductor or other duly authorised servant of the Company, or having paid the fare for a certain distance, shall knowingly and wilfully proceed in any such carriage beyond such distance, and refuse to pay the additional fare for the additional distance, or attempt to avoid payment thereof, or if any person shall knowingly and wilfully refuse or neglect on arriving at the point to which such person has paid the fare, to quit such carriage, such person shall for every such offence be liable to a penalty not exceeding forty shillings, and in default of payment to imprisonment with or without hard labour for any term not exceeding three days, unless such fine be sooner paid.

Recoverable in Magistrate's Court.

42. All penalties imposed by this Act shall be recoverable in the Court of the Resident Magistrate of Cape Town, and if at the suit of the Company then for the benefit of the Company.

Tolls to be painted in conspicuous letters on stations.

43. A list of all the tolls authorised by this Act to be taken, and which shall be exacted by the Company, shall be published by being exhibited in some conspicuous place on the stations of the Company, or in or upon the cars, and the Company shall have the right to recover, by legal process in the Court of the Resident Magistrate as aforesaid, all such charges from passengers and from the owners of goods, articles or things conveyed by the Company, and shall moreover have the right of retaining such goods, articles or things until the charges appertaining to the same have been duly paid; provided, always, that such tariff of charges

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may be altered by the Company in accordance with the provisions of section twenty-six of this Act.

Power to make bye-laws.

44. The Company shall have the power to make bye-laws as to the stopping of the cars for taking up and setting down passengers, the space in the cars to be occupied by passengers, the conditions upon which persons will be allowed to travel upon or use the cars, 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 from time to time to add to and vary such bye-laws. Such bye-laws and any additions thereto or alterations thereof shall be submitted to the Governor for approval, copies of the same being first transmitted to, and approved of by the Council at least fourteen days prior to being so submitted and upon the Governor's approval being obtained, and proclamation made in the *Gazette*, such bye-laws shall have the force of law, but may at any time be revoked or altered by the Governor by proclamation.

Exclusive right to use Tramways with flanged wheels.

45. The Company shall have the exclusive right to run upon the tramways cars or carriages plying for hire, with flanged wheels or wheels specially adapted to run upon the rails; any person contravening the provisions of this section shall incur a penalty of forty shillings for each offence, and in default of payment imprisonment for any period not exceeding seven days.

No director or shareholder to be a Town Councillor.

46. No director or shareholder of the Company shall be capable of being elected or of continuing to sit as a Town Councillor.

Tramway subject to any general Act.

47. Nothing in this Act contained shall exempt the tramway from the provisions of any general Act relating to tramways, or the use of electric power which may hereafter pass during this or any future Session of Parliament.

Carriage of mails.

48. The Company shall, when requested by the proper authority to do so, make provision for the conveyance to or from any of its stations of such mails, letter bags, and articles ordinarily conveyed by the post as the Postmaster-General may from time to time require, and as may be agreed between him and the Company; the Company shall be responsible for the safe conveyances of such mails, and shall obey and observe all such regulations respecting the taking up and delivery of the same as the Postmaster-General may reasonably require: in the event of any difference arising between the Postmaster-General or any other public body and the Company the matter shall be decided by arbitration.

Interpretation.

49. In this Act the following terms shall have the meanings assigned to them as follows:—

The Company shall mean the "Metropolitan Tramways Company [Limited]."

The tramway shall mean the lines of tramway authorised by section two of this Act, or any of them, together with such deviations therefrom or extensions thereof as may be constructed in accordance with this Act.

The "Council" shall mean the Town Council of the City of Cape Town.

The "Municipality" shall mean the Municipality of Cape Town as defined by Act 26 of 1893.

Short title. 50. This Act may be cited for all purposes as the "Metropolitan Tramways Company Act, 1895."

SCHEDULE.

Maximum Tolls and Rates of Charge.

Passengers.

Schedule. The maximum rate of charge to be made for the conveyance of any passenger between any one point and any other point, without change of cars, within the present City limits reached by the Company's routes, shall not exceed three pence. The rate of charge payable by each passenger for his conveyance from any point to any other point on the Tramway system shall give him the right to take with him his ordinary luggage not exceeding 20 lbs. in weight without any charge being made for the carriage thereof, any excess over such weight, however, being charged for at parcel rates. The conductor or official in charge of any passenger car shall be entitled to decline to allow any passenger to take with him any luggage over 20 lbs. in weight, and he may decline to receive for conveyance by such car any parcel or package which, notwithstanding its weight being less then 20 lbs., is unreasonably bulky, or of an undesirable character. The restriction upon rates of charge for the conveyance of passengers shall not be taken to debar the Company from running any special car or carriage for any special purpose 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 within the City limits by the Company in respect of small parcels not included in those allowed under the preceding portion of this Schedule for carriage thereof on the whole or any part of the lines 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, fourpence.

For any parcel exceeding thirty-five pounds in weight and not exceeding fifty pounds in weight, sixpence.

For any parcel exceeding fifty pounds in weight and not exceeding seventy-five pounds in weight, nine pence.

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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 the owners of the tramway may think fit to charge, after notice given.

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.

Nothing herein contained shall be held to bind the Company to carry goods in carriages on the tramway, other than goods which the passengers are allowed to take with them, until they have given notice in one or more newspapers in Cape Town of their intention to do so.

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ACT

To Extend the Term of Incorporation of the Cape Town and Green Point Tramway Company, and to confer additional powers on such Company.

Preamble.

WHEREAS by the first section of Act 19 of 1879, the term of incorporation of the Cape Town and Green Point Tramway Company is limited to the first day of July, 1903, and it is desirable to extend the said term for a further period of seventeen years, reckoned from the said date:

And whereas subsequent to the passing of the said Act, a second line of tramway was laid over portions of the route defined in Act 33 of 1861, incorporating the said Company, parallel to the line in the said Act 33 of 1861 referred to, and still exists:

And whereas the plans and section of the said tramway referred to in the Preamble of Act 33 of 1861 cannot be found, and in consequence thereof, a plan showing the lines of tramway constructed under the said Act, and the lines as now existing, has been lodged with the Clerk of the House of Assembly:

And whereas it is desirable that the exclusive right of working the said tramway as now existing with the powers, and under the conditions hereinafter set forth should be conferred upon the said Company:

And whereas it is desirable to empower the said Company to sell or lease the said tramway and other property of the Company, to enter into working arrangements with any other Company having similar objects, or otherwise deal with the said tramway and other property of the Company:

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Be it therefore enacted by the Governor of the Cape of Good Hope, with the 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 assigned to them as follows:—

The Company shall mean the "Cape Town and Green Point Tramway Company" and its assigns.

The Road Authority shall within the limits of the Cape Town Municipality mean the Town Council of the City of Cape Town, and within the limits of the Municipality of Green Point and Sea Point the Commissioners, Council or other Municipal Board in that Municipality.

The Council shall mean the Town Council of the City of Cape Town.

The Municipality shall mean the Commissioners, Council or other Municipal Board of the Green Point and Sea Point Municipality.

Extension of duration of Tramway Company.

2. Notwithstanding anything contained in the thirty-ninth section of Act 33 of 1861 and the first section of Act 19 of 1879, the Act 33 of 1861 as amended by the Act 19 of 1879 shall continue and be in force until the first day of July, 1920, and the several provisions of the said Acts shall, excepting in so far as the same are in conflict with the terms of this Act, apply to the Company hereby incorporated until such last mentioned date as if the same had been hereby re-enacted.

Exclusive right to use tramways with flanged wheels.

3. The Company shall have the exclusive right to run upon the tramways, as now existing with the powers at present exercised or conferred by the said Acts, cars or carriages plying for hire with flanged wheels or wheels specially adapted to run upon the rails, Any person contravening the provisions of this section shall be liable to a penalty of forty shillings for each offence.

Power of Company with consent of Municipality to alter position of tram lines.

4. The Company shall further have the right, with the consent of the Council and Municipality within their respective limits, to alter the position of the tram lines upon any road or street to such position upon such road or street as in the opinion of the Council or Municipality respectively will be in the public interest, and upon such alteration the Company shall have the rights conferred by the preceding clause of this Act.

Power to sell or purchase.

5. The Company shall have full power and authority to sell or lease the said tramways and any other property of the Company, to enter into working arrangements with any other company or body having similar objects, or otherwise to deal with the said tramways and other property of the Company.

Power to purchase.

6. The Council at the expiration of the period in the first section of this Act referred to have the option of purchasing the undertaking, property, and plant of the Company in so far as the same shall thus be situate within the limits of the Cape Town Municipality, and the Municipality shall at the same time have

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a similar option with regard to such part of the undertaking, property, and plant of the Company as is situated within its Municipality: provided always that the said options shall not be binding upon the Company unless the Council and the Municipality shall between them acquire from the Company the whole of the said undertaking, property, and plant. If such options be not exercised, the rights and powers of the Company shall continue for a further term of five years, at the expiration of which period the Council and Municipality shall have the like options, and so on for successive terms of five years, unless or until at the expiration of any such term the Council and Municipality shall exercise the options reserved to them, or the Council exercise the further option hereinafter given: Provided that in the event of the Municipality failing or neglecting to give notice of its intention to exercise its option within one month from the expiration of any of the aforementioned periods of seventeen years, or within one month from the expiration of any of the successive periods of five years, as the case may be, the Council shall have a further option to purchase within a period of three months reckoned from the expiration of the said period of one month the whole of the undertaking, property, and plant of the Company, but in the event of the Council exercising such further option, the same shall be exercised in respect of the whole undertaking, property, and plant in this Act referred to.

Method of settling purchase price.

7. In the event of the purchase of the said undertaking, property and plant as is hereinbefore provided, the price to be paid for the same as it exists at present (including goodwill) shall be the sum of thirty-three thousand pounds sterling, and the price of all additional works or extensions constructed after the passing of this Act, if not mutually agreed upon, shall be determined by arbitration under the provisions of the Lands and Arbitrations Clauses Act, 1882; provided that in fixing the purchase price of such additional works or extensions no further account shall be taken of the goodwill of the business. In the event of the Council and Municipality each purchasing the section of the said undertaking, property, and plant within the area of its Municipality and its becoming necessary to proceed to arbitration, then the Council and the Municipality shall jointly appoint one arbitrator, and the Company shall appoint a second arbitrator, these two arbitrators appointing a third, and the arbitrators, in making their award, shall assess the total amount to be paid by the Council and the Municipality to the Company, and shall apportion such amount between the Council and the Municipality respectively, in accordance with the value of the respective sections of the undertaking, property and plant acquired by the Council and Municipality respectively.

No compensation.

8. The Road Authority shall at all times have the right, free from any payment or compensation, and without let or hindrance, by themselves, their servants or contractors, to place, construct,

renew, maintain, and repair through, above, or beneath any roads, streets, squares, and places over or in connection with which any rights are conferred upon the Company, and through, above, or beneath the tram rails and the tramways already or that may hereafter be laid down, all sewers, drains, water pipes, gas pipes, cables or wires, and all works required for drainage, sewerage, flushing, or supply of water, and the lighting of the town and Municipality, or in connection with any public works: provided always that in carrying out such works the Road Authority, their servants, or contractors, shall use every reasonable means not to delay traffic on the line.

Paving of road by the Company opposite places of public worship.

9. Wherever any track passes any place of public worship, the surface of the road, street, or public place to the extent hereinafter mentioned shall be paved by the Company with wood or such other material as may be required by the Road Authority, and shall by it be maintained with such material in such state and in good and efficient repair. The said extent shall be an area in length extending from a point in the road, street, or public place a reasonable distance before the track reaches that part of the roadway opposite to the place of public worship to a point a reasonable distance beyond the point where the track leaves the roadway opposite to such place of public worship, and in width a distance equal to eighteen inches outside each of the tracks added to the width of the surface between the rails and the width between the tracks. Everything to be done by the Company in terms of this and the last preceding section shall be performed to the satisfaction of the Road Authority.

Relaying of streets.

10. If after the construction of any line the Road Authority shall relay the street which it traverses with a material essentially different from that in use at the time of such construction, the Company shall at the time of such relaying, replace that portion of the street which in terms of this Act it is required to construct, maintain and keep in repair, with such material and in such manner as to be in accordance with the portion of the street so relaid or replaced, unless the Road Authority otherwise direct and the Company shall maintain the same in such state and in good and efficient repair.

Construction of culverts and drains.

11. Whenever in laying down the lines it may be found necessary to construct any culverts or drains, the same shall be constructed by the Company to the satisfaction and approval of the Road Authority; and all culverts or drains so constructed, shall at all times be maintained in good order and repair by the Company to the like satisfaction and approval.

Gauge of tramway.

12. The rails of tram lines shall be of the usual and ordinary kind, and shall be laid to a gauge of not less than four or more than five feet apart, the surface of the rails being level with the surface of the street, and the same shall be kept and maintained in a condition of repair to satisfy this requirement.

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Expenses of removal of rails.

13. All expenses incurred by the Road Authority in the removal and replacement of rails after the first laying down thereof consequent upon the necessity of repairing, altering or removing sewers, drains, pipes, wires and cables shall be paid and borne by the Company.

Paving by Company.

14. Wherever the said tramways are laid, a toothing course of good stone or wood shall be laid by the Company on either side of each rail, each toothing course to extend alternately not less than eight and five inches from each line of rails, and the same shall be maintained by the Company in such state and in good and efficient repair. The rest of the space between the rails and to a distance of eighteen inches outside of each rail shall be constructed and maintained in a good and efficient state of repair by the Company with a material not inferior to that of which the remainder of the road or street is constructed, all requirements in this section being done to the reasonable satisfaction of the Road Authority.

Tramways not to endanger public safety.

15. The tramways shall be so constructed and worked as not to hinder the safe passage of the ordinary traffic upon and across the roads, streets and public places, or to endanger the safety of the public.

Fittings and width of cars.

16. The cars and rolling stock of the Company shall be of modern pattern and not exceeding seven feet six inchees in width, approved by the Municipality, and comfortably fitted up for the conveyance of passengers, and lighted. Each car shall be supplied with not less than five incandescent lamps each of sixteen candlepower including head and tail lights.

Position of standards and wires.

17. If electricity be used as the motive power of the tramways, the standards, poles, cables and overhead wires shall as to their height above the roadway and in all other respects be subject to the approval of the Road Authority, and to the requirements of the Road Authority, as set forth in any resolutions, standing orders, or municipal regulations, and the position of the standards and poles shall be subject to the approval of the Road Authority.

Rate of speed.

18. The rate of speed at which the cars shall travel within the Municipality of Cape Town shall not exceed seven miles an hour in any of the principal or business streets, and ten miles an hour in residential streets or roadways. If any difference shall arise as to what are principal or business or residential streets or roadways the decision thereon shall rest with the Council, who, notwithstanding that any street or roadway may have been previously classified under one heading, may at any time thereafter cause it to be placed under the other class should circumstances in the opinion of the Council require it: provided that the Council may limit the rate of speed in any residential street to seven miles an hour.

Servants of Company and cars to be licensed.

19. The drivers, guards and other servants of the Company, and the cars, carriages and conveyances of the tramway shall require to

be licensed by the Road Authority and be subject to such bye-laws and regulations as now exist or may hereafter be lawfully made.

Maintenance of the works.

20. The whole of the works and tramways shall be maintained by the Company at all times in a good, proper, and efficient state of repair to the satisfaction of the Road Authority, and in default thereof the Company shall be liable to a penalty not exceeding five pounds in respect of each such default, and an additional two pounds for each day during which such default shall continue after the Company has received notice thereof, the amount of the penalty to be absolutely in the discretion of the Road Authority.

Penalty for non-maintenance.

Indemnification of Council from damage by electrolysis or otherwise.

21. The Company shall keep the Road Authority and every other body or person harmless and indemnified from and shall forthwith reimburse and make good all loss, costs, damages and expenses to which such Road Authority, body, or person may be put by reason of electrolysis or any neglect or default on the part of the Company or its servants in the execution of works under the provisions of this Act, in the execution of powers granted hereby in the due performance of the provisions of this Act, and in the safe, proper, and efficient working of the tramways and electric power, or from any failure, defect or insufficiency of or in the plant, machinery and works, or otherwise.

Power of Road Authority in case of Company ceasing to run.

22. If the said tramways or any part thereof shall during a period of two days consecutively cease to run or be worked for the use of the public, unless from strike of operatives or some other cause beyond the control of the Company, or if any section of the tramways be not properly or efficiently worked, the Road Authority may give one month's notice in writing to the Company, and at the expiration of the said period all powers conferred upon the Company in so far as the said powers relate to any unused, unworked, or improperly worked portion of the line, shall cease and determine, and the Road Authority may as to any such portion exercise the option of purchasing the same upon the terms hereinbefore set forth just as if the period of time at which the Road Authority has such option had arrived.

Rails to be taken up in certain events.

23. The Company shall, upon such notice, and if the Road Authority shall not purchase, be bound and obliged at its own cost to remove the rails and other plant, and to restore the road or other place to a condition fit for the traffic, having regard to the material of which such road or other place is constructed. And should the Company fail to do so, the Road Authority may remove the rails and do all things necessary to the restoration of the road or other places as aforesaid, and demand and recover the cost incurred thereby from the Company.

Manner of carrying out the work.

24. With respect to any work done or required to be done by the Company under the powers hereby conferred or otherwise, or in consequence of the consent of the Road Authority, and whether during construction or during maintenance, it is provided:

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(*a*) That no road, street, bridge, sewer, drain, culvert, pipe, wire or property belonging to the Road Authority or the public shall be entered upon, broken up or opened up, or otherwise dealt with until the Company shall have given to the Road Authority notice, in writing, of its intention so to do, not less than three days before beginning or doing any such work or thing (except in cases of emergency after the construction of the tramways have been completed, arising from defects in any of the works, and then so soon as it is possible after the beginning of the work or the necessity for the same shall have arisen). Such notice shall set forth clearly and distinctly the work it is intended to perform, and a general notice of the intention to carry out the whole scheme shall not be a sufficient compliance with the terms hereof, which shall be read in connection with the next following sub-section dealing with the carrying out of the necessary work by sections.

(*b*) The Company shall at all times, when required thereto by the Road Authority or its appointed officer furnish such plans, sections and information respecting the construction at any time about to be or being undertaken by it, and respecting the routes, grades or other details as may be required by the Road Authority, and in the event of non-compliance with such requirement forthwith on demand, shall be debarred from proceeding with any work until it has so done to the satisfaction of the Road Authority.

(*c*) The Road Authority may, during the progress of any works, inspect all material used or proposed to be used thereon, and may require proper material to be used or the work to be done in a proper manner, and in the event of the instructions of the Road Authority or its authorised official not being carried out, the Road Authority shall be entitled to prevent the further carrying out of the works hereby authorised until its instructions have been obeyed.

(*d*) No road, street, bridge, sewer, drain, culvert, pipe, wire, or anything as aforesaid shall, except in cases of emergency aforesaid, be entered upon, broken or opened up, or otherwise dealt with, except under the superintendence of the Road Authority or its appointed officer, and according to such plans and in such manner as shall be approved by the Road Authority or its appointed officer; or in the case of any pole, wire, pipe, or other property of the Postmaster-General otherwise than in accordance with the provisions of any Act for regulating the employment of electricity for the purposes of electric lighting and powers

generally which may be passed during the present or any future Session of Parliament, or any regulation which may be framed under the authority of such Act; and the works of the Company shall be carried out in sections approved by the Road Authority or its appointed officer to the intent that each section shall be speedily and expeditiously completed and with the least possible inconvenience to the public and traffic, the whole attention and energy of the Company being as far as possible devoted to carrying out the works section by section.

(*e*) The Company shall with all convenient speed complete each section of the work undertaken, and carry away forthwith all rubbish occasioned thereby, and shall reinstate and make good and maintain against subsidence the road, street, bridge, sewer, drain, culvert, pipe, wire or other property interfered with, and shall at all times whilst any operations are being carried on, take every precaution to prevent accident, and shall cause sufficient lights and watchmen to be placed and kept up every night during which the surface of any road, street, public place or bridge continues broken up, or during which any danger from any cause may arise to the public.

(*f*) All operations of the Company shall be carried on in such manner as not to interfere in any way with the sewers, drains, waterpipes, gaspipes, street lamps, electric cables or wires, whether above or below the surface of the street or other like works, and no approval by the Road Authority of any plan of works shall in any way be deemed to avoid the necessity of due compliance with the terms of this sub-section unless such plan specifically provides for any such interference.

(*g*) In the event of its being necessary for the due carrying out of the Company's operations that any sewer, drain, waterpipe, gaspipe, street lamp, electric cable or wire as aforesaid, or other like works, shall be removed temporarily, obstructed or deviated, no such act shall be done without the consent, in writing, of the Road Authority being first had and obtained, and in the event of such consent being granted, the Road Authority may elect to carry out the removal, temporary obstruction, or deviation, itself or by its servants, in which case the Company shall forthwith reimburse to the Road Authority the reasonable expenses which it may incur, or to which it may be put by so doing, and whenever by this Act the the Road Authority is authorised to recover expenses from the Company, the fact that any person or persons are in the ordinary employ or pay of the Road Authority shall not debar the Council from making claim for and recovering any sum or sums paid to him in respect of the period of time he was so employed.

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(*h*) All operations of the Company shall be carried on without causing any damage to any street, road, bridge, sewer, drain, culvert, pipe, wire, underground works or other property of the Road Authority, and should any damage be done at any time in contravention hereof, the Road Authority may by notice, in writing, require the Company to make good the same forthwith, and should it not do so, the Road Authority may cause to be done what is necessary to repair such damage and recover the expenses incurred thereby forthwith from the Company.

(*i*) 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 Road Authority without giving such notice as aforesaid, or in any manner different from that which shall have been approved of or determined by the 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 work or reinstating or making good any of the city property interfered with by it, or in carrying away the rubbish occasioned by its works, or if it neglects to take the precaution against accident, or neglects to carry out substantially not only the terms of this section but also every term or condition of this Act, it shall forfeit to the Road Authority a sum not exceeding Five Pounds 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 Road Authority shall not in any way debar the 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.

Penalties recoverable in Magistrate's Court.

25. All penalties imposed by this Act shall be recoverable in the Court of the Resident Magistrate of Cape Town.

Right of Company to collect tolls.

26. The Company shall have the right and power to charge and collect fares for the carrying of passengers and parcels upon or over all lines so to be constructed; provided that the tariff of such fares shall be exhibited in a conspicuous place in each car, carriage or conveyance, and shall not be increased at any time until after public notice shall have been given in the *Gazette* and in two or more newspapers published in this city and approved by the Road Authority; and provided always that no fares or charges shall in any case at any time exceed those mentioned in the Schedule to this Act.

Furnishing balance sheets and statements.

27. The Company shall annually, and so often as any balance sheet, statement of profit and loss, and report be prepared by or

submitted to the shareholders or members, forward a duly certified copy thereof and of each of such documents to the Road Authority. And the Council and the Municipality shall have the right of requiring the Company to verify and explain the particulars of such balance sheet for the purpose of ascertaining the amount of rental under section twenty-eight.

Rental.

28. The Company shall pay to the Council and the Municipality respectively, a rental at the rate of fifty pounds sterling per annum per mile of tram road laid upon the streets and roads within the limits of Cape Town and Green and Sea Point Municipalities respectively: Provided, however, that after a period of ten years whenever in any year the amount of profit between the gross earnings and the actual working expenses (which latter shall be taken to include maintenance and a reasonable allowance for wear and tear) shall be greater than a sum equal to the average of five hundred pounds per mile of tramway being worked by the Company in their respective Municipalities under this Act, then the Company shall pay as rental per mile one tenth of the amount of such profits.

Arbitration.

29. In case of any difference or dispute arising between the Municipality or any other public body or company and the Company, or in case of any difference or dispute arising between the respective Municipalities or between any of them and any other Road Authority or public body having control of the roads over which any tramways which may be worked in connection with the Company's lines in accordance with the provisions of this Act may pass, as to the exercise of powers conferred by this Act, the said difference or dispute shall be referred to arbitration, and thereupon all the provisions of the Lands and Arbitrations Clauses Act, 1882, shall apply to the same; provided always that nothing in this section contained shall be of binding effect upon the Town Council of the City of Cape Town.

No director or shareholder to sit on Council or Municipality.

30. No director or shareholder of the Company shall be capable of being elected or of continuing to sit as a member of the Council or Municipality.

Tramway subject to any general Act.

31. Nothing in this Act contained shall exempt the tramway from the provisions of any general Act relating to tramways or dealing with electric power which may hereafter pass during this or any future Session of Parliament, or from any revision or alteration under the authority of Parliament of the maximum rates or tolls or charges authorised by this Act.

Carriage of mails.

32. The Company shall, when requested by the proper authority to do so, make provisions for the conveyance to or from any of its stations of such mails, letter-bags, and articles ordinarily conveyed by the post as the Postmaster-General may from time to time require, and as may be agreed between him and the Company; the Company shall be responsible for the safe conveyance of such mails, and shall obey and observe all such regulations

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respecting the taking up and delivery of the same as the Postmaster-General may reasonably require.

Short title.

33. This Act may be cited as the "Cape Town and Green Point Tramway Company's Extension Act, 1895."

Schedule

SCHEDULE.

MAXIMUM TOLLS AND RATES OF CHARGES.

Passengers.

1. The maximum rate of charge to be made for the conveyance of any passenger between any central terminus, at Cape Town and Sea Point or either way, shall not exceed sixpence; from such terminus to Three Anchor Bay or either way, shall not exceed threepence; and from Sea Point to Three Anchor Bay or either way, shall not exceed threepence. The rate of charge payable by each passenger for his conveyance from any point to any other point on the Tramway system shall give him the right to take with him his ordinary luggage not exceeding twenty lbs. in weight without any charge being made for the carriage thereof, any excess over such weight, however, being charged for at parcel rates. The conductor or official in charge of any passenger car shall be entitled to decline to allow any passenger to take with him any luggage over twenty lbs. in weight, and he may decline to receive for conveyance by such car any parcel or package which, notwithstanding its weight being less than twenty lbs., is unreasonably bulky, or of an undesirable character. The restriction upon rates of charge for the conveyance of passengers shall not be taken to debar the Company from running any special car or ccarriage for any special purpose upon any special occasion, upon such terms as may be agreed upon 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.

2. The tolls or rates to be charged by the Company in respect of small parcels not included in those allowed under Clause 1 for carriage thereof on the whole or any part of the lines shall not exceed:

For any parcel not exceeding twenty pounds in weight, threepence.

For any parcel exceeding twenty pounds and not exceeding thirty-five pounds in weight, fourpence.

For any parcel exceeding thirty-five pounds and not exceeding fifty pounds in weight, sixpence.

For any parcel exceeding fifty pounds and not exceeding seventy-five pounds in weight, ninepence.

For any parcel exceeding seventy-five pounds and not exceeding one hundred pounds in weight, one shilling.

Parcels exceeding one hundred pounds in weight, such reasonable sum as the owners of the tramway may think fit to charge, after notice given.

The Company may demand and take, in addition to the tolls and rates of charge in the last preceding clause 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.

Nothing herein contained shall be held to bind the Company to carry goods in carriages on the tramway, other than goods which the passengers are allowed to take with them, until they have given notice in one or more newspapers in Cape Town of their intention to do so.

No. 24—1895.] [August 2, 1895.

(1) ACT

To Make Provision for the Support, Education and Apprenticeship of Destitute Children.

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 repugnant provisions.

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

Meaning of the term "destitute child."

2. For the purposes of this Act the term "destitute child" shall mean any child of European parentage who comes within any of the following descriptions, that is to say:—

(*a*) Who is found habitually begging or being in any public place for the purpose of begging.

(*b*) Who is found wandering and not having any home or settled place of abode, or proper guardianship, or visible means of subsistence.

(*c*) Who is found in a state of destitution without means of support, and who shall be without father, mother or lawful guardian, or whose father, mother or lawful guardian shall be unable to provide for its support and education.

(*d*) Who shall reside in any reputed brothel, or, being a female child, who shall reside with any known or reputed prostitute, whether such prostitute shall be the parent of the child or not.

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[1] Extended by Proclamation 34, 1897, to all the Native Territories.

No. 24—1895.

(*e*) Who shall associate or dwell with any person, not being the parent of the child, known or reputed to be a thief or drunkard, or with any such person convicted of vagrancy.

Clergyman and Justices of the Peace to report cases of destitute children to Magistrate.

3. Every minister of religion, Justice of the Peace or Field-cornet, who shall find or who shall become aware of any destitute child, apparently under the age of fifteen years, may report the fact to the Resident Magistrate of the district.

Duty of Magistrate to enquire into case and report.

4. It shall be the duty of such Magistrate, upon the existence of any such child being brought to his notice as aforesaid, forthwith to institute a full and proper enquiry into the matter, and if upon such enquiry it shall appear to such Magistrate that such child is a destitute child within the meaning of this Act, and is apparently under the age of fifteen years, he shall report the matter to the Colonial Secretary.

Minister may order committal to school.

5. It shall be lawful for the Colonial Secretary, upon receiving such report, to issue an order directed to such Magistrate authorising him to take charge, control and custody of such child, and to commit such child either to such suitable institution as may be approved of by the Colonial Secretary, or to some public undenominational school, available for the purpose, as the Colonial Secretary shall name in such order: Provided that whenever it may be practicable such institution or school shall be situated within the town or district in which the father, mother or lawful guardian of the child shall be resident at the date of such committal, and provided, further, that the managers of such school or institution shall be willing to receive such child.

Duty of Magistrate on receiving such order.

6. Upon the receipt of the order in the last preceding section mentioned, it shall be lawful for such Magistrate, by an order in writing signed by him, to commit such child to the institution or school mentioned in the first named order for a period which without the consent of the Colonial Secretary shall not exceed three years.

Charges for relief to be recoverable from parents or step-fathers.

7. In any case in which relief from the public funds has been afforded to any destitute child, and the parents or step-parents of any such child at any time within six years of the date of such relief shall be of sufficient means and ability to repay and reimburse the amount of such relief or any portion thereof, it shall be lawful for the Magistrate, upon information being given and after due inquiry, to order such parents or step-parents to pay the whole or any part of the amount paid out of the public funds for the maintenance of such child, either in one sum or in such instalments as, in his judgment, such parents or step-parents can reasonably afford and ought to contribute, and the amount so awarded shall be a debt due to the Government to be recovered in any competent Court.

Penalty for interfering with officer in execution of order.

8. It shall be lawful for such Magistrate by such order to authorise any officer therein named to execute the same, and any

person who shall resist or interfere with any such officer in the execution of such order, shall be liable to a penalty not exceeding five pounds.

Reception by Managers of School —what is implied by.

9. The reception of such child by the Managers, Board, or Council of any institution or school to which he is so committed, shall be deemed to be an undertaking by them to teach, train, clothe, lodge and feed such child for the period, and subject to the terms and conditions hereinafter set forth.

Period of committal to school.

10. The order committing such child to an institution or school shall specify the period for which the child shall be kept at such institution or school.

Misconduct of child at school.

11. If a child whilst at an institution or school under the provisions of this Act shall wilfully neglect or refuse to conform to the rules of such school, or shall escape from, or shall neglect to attend such school, he shall be liable to such punishment as may be provided for by regulations approved by Parliament issued under section fourteen of this Act.

Penalty for aiding to escape from school.

12. Every person who knowingly assists directly or indirectly any such child to escape from such school during the period for which he has been committed to such institution or school, or directly or indirectly induces any such child so to escape, or knowingly harbours or conceals any child who has escaped from such institution or school, or prevents or assists in preventing him from returning to such school, shall be liable to a penalty not exceeding five pounds.

Payment to be made to Schools for Education, &c., of child.

13. The Colonial Secretary shall, out of moneys available for the purpose, pay to the Managers, Board or Council, of any institution or school, such sums as he may from time to time find necessary for and in respect of the education, clothing, care and maintenance of each child committed to such institution or school under this Act, for every year or portion of a year during which such child shall be kept at such institution or school: Provided that in no case shall the amount so paid on behalf of any one child be at a higher rate than eighteen pounds per annum.

How School Regulations to be framed.

14. The conditions required to be fulfilled by any institution or school agreeing to receive any such child, with reference to the care, clothing, training, discipline and maintenance of such child, shall be provided for by regulations framed by the Governor, and approved by Parliament.

Resident Magistrate *ex-officio* guardian of destitute children in his district.

15. The Resident Magistrate of every district shall be *ex-officio* the guardian of every destitute child within such district until he or she shall have reached the age of twenty-one and twenty respectively, or shall otherwise cease to be under the operation of this Act.

Apprenticeship of destitute children.

16. At the expiration of the period for which under the provisions of this Act any child has been committed to an institution or school as aforesaid, it shall be lawful for the Resident Magistrate, who shall be guardian as in the last preceding section mentioned, subject to the approval of the Colonial Secretary to bind by inden-

ture any such child whose time shall have thus expired, as an apprentice in case of a boy, until he shall have attained not more than the age of twenty-one years, and in case of a girl until she shall have attained not more than the age of twenty years, or shall have married, whichever shall sooner happen, to such body, corporation, firm or person willing, and, in the opinion of such Magistrate, fit and competent to have the control and custody of the child, for the purpose of being employed in such trade, business or occupation, or employment, as to such Magistrate shall seem fit: Provided that whenever it may be practicable such body, corporation, firm or person shall be or shall reside within the town or district in which the father, mother or lawful guardian of the child shall be resident at the date of such indenture.

Provision of certain other laws as to destitute children to apply.

17. Before and after the apprenticeship of any destitute child under this Act the provisions of the Act No. 15 of 1856, as amended by the Act No. 18 of 1873, the Act No. 28 of 1874, and the Act No. 7 of 1875, dealing with destitute children apprenticed thereunder shall, *mutatis mutandis*, and in so far as they are not inconsistent, apply to destitute children apprenticed under this Act; provided that in every contract of apprenticeship under this Act, provision shall be made for separating and keeping apart as far as possible during the time of working, feeding, sleeping and recreation of destitute children of different sexes and of destitute children from persons not of European parentage; and provided further that any wage which shall be stipulated for by such Magistrate on behalf of such apprentice shall be paid into such post office or other savings bank as such Magistrate shall direct, and shall be payable to such child at the termination of such apprenticeship, but shall not previously be withdrawn save on the written order of such Magistrate.

Apprentices to be kept apart.

Penalty for neglect.

18. If any person ill-uses or neglects to perform his contract in respect of any child apprenticed to such person, or violates any regulation concerning such child, he shall be liable to a penalty of not exceeding ten pounds or in default of payment to be imprisoned with or without hard labour for any term not exceeding three months.

Termination of period or apprenticeship under certain circumstances.

19. If at any time after the committal of any child to an institution or school under this Act, and before the apprenticeship of such child as aforesaid, the parents, guardians or any relative of such child except where such parent, guardian or relative, shall be a known or reputed prostitute, or a known or reputed thief or drunkard, or a person convicted of vagrancy, shall satisfy the Colonial Secretary that they or any of them are able and willing to support and educate such child, and to provide suitably for the care and maintenance thereof, it shall be lawful for the Colonial Secretary to surrender or order the surrender of such child to such parent, guardian or relative as the case may be.

Short title.

20. This Act may be cited for all purposes as "The Destitute Children's Relief Act, 1895."

No 25—1895.] [August 2, 1895.

ACT

To Authorise the Town Council of Port Elizabeth to Acquire, Construct, Equip and Maintain certain Tramways.

Preamble.

WHEREAS it is desirable and expedient that the Town Council of Port Elizabeth should be authorised and empowered, either by contractors or by its own servants, to construct, maintain and work lines of tramway within the Municipality of Port Elizabeth for the conveyance of passengers and parcels, and to describe and define the course which the said lines may take, and the limits within which they may run, the motive power to be employed being electricity, steam, horses or otherwise, as the said Council may determine, and to acquire, erect and maintain the necessary power stations, machinery, buildings and other premises, standards to carry wires, and electric wires suitable to such an undertaking; and that the said Council should also be authorised to purchase the lines of tramway, horses, cars, stations and other property and plant belonging to the Port Elizabeth Tramway Company, Limited, for a sum not exceeding Twenty thousand pounds, and to subsequently work them if necessary; and that to enable the said Council to procure 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 Seventy thousand pounds; 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 of not less than one-half per cent. and not more than one per cent. on the said capital by way of a sinking fund in order to enable the said Council to pay off the said debentures, 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 contribution as aforesaid after applying the net earnings of the said tramways to the payment of such interest and sinking fund; and also that the said Council should be authorised to work such tramways by contractors or by its own servants, or to lease the same to any person or persons, or Company or Companies, or to sell the same:

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

Borrowing powers.

1. It shall be lawful for the said Council, from time to time, to borrow and to take up at interest such sum or sums of money, not exceeding in the whole Seventy thousand pounds 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 to be borrowed by the said Council.

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Power to construct and maintain tramways.

2. The said Town Council are hereby authorised either by their own servants or by contractors to construct and lay down such a line or lines of tramway, together with all necessary sidings, loops and turn-outs within the limits of the Municipality, as may from time to time be determined by a resolution of the majority of the Town Councillors duly carried at an ordinary meeting of the said Council, and to acquire or erect all power stations, machinery, buildings and other premises and sites necessary for the proper working of such lines of tramway, as well as standards for carrying wires and electric wires, and to engage the necessary professional assistance and servants. The nature and class of the buildings, rails, machinery, plant and materials to be used, and the manner of laying and constructing the same, shall be in the discretion of the Council.

Power to purchase property of Port Elizabeth Tramway Company.

3. The Port Elizabeth Tramway Company, Limited, are hereby authorised, should the shareholders thereof so decide, to sell, and the said Town Council are hereby authorised and empowered to purchase the lines of tramway, horses, cars, stations, property and plant at present belonging to the said Port Elizabeth Tramway Company, Limited, for a sum not exceeding Twenty thousand pounds sterling: Provided always should no agreement of sale be arrived at between the said Company and the said Council, all the rights and privileges at present possessed by the said Company and the said Council under Act 30, 1879, shall remain in full force and effect, and that the price to be paid to the said Tramway Company shall remain an open question to be hereafter decided between the Council and the said Tramway Company: Provided that on the completion of an agreement of purchase as aforesaid, the Act No. 30 of 1879 shall be and be taken to be repealed.

Routes of first lines to be constructed.

4. The first lines of tramway to be constructed shall be as follows:—

1st. From Market-square, along White's-road, Western-road, Whitlock-street, Parliament-street, and Cape-road to the limit of the sold Municipal land.

2nd. From Market-square along North and South Union-streets to the foot of Walmer-road.

3rd. From Market-square along Main-street, Queen-street, Princes-street, Adderley-street, across Municipal land to the North End Park.

Power to deviate from plans; tram lines not to be nearer kerb than 9 ft. 6 in. except where necessary.

5. The rails of the said lines of tramway may deviate, where necessary, from the Plans filed in respect of this Act with the Clerk of the House of Assembly, and may be laid upon any portion of the streets, roads or open spaces along or across which the said tramway shall go; provided that they shall not be laid nearer to the kerb on either side of any street, road or open space than nine feet six inches, except in such portions of South Union Street, North Union Street, Market Square, White's Road, Western Road, Whitlock Street, Owen Street and Princes Street, where it may be

found necessary for the proper construction or working of the said lines of tramway, or in the interests of the public, to lay the lines nearer to the kerb than nine feet six inches.

Protection of life and property.

6. The said lines shall be so constructed, and the electrical insulation so laid down, that there shall be no danger to life or to property.

Council and others to take precautions in working of electric lines.

7. The Council or any person or Company undertaking any work under this Act, shall take all reasonable precautions in constructing and maintaining the lectric lines and circuits and other works of all descriptions, and in working their undertaking, so as not to affect injuriously, by fusion or electrolytic action, any gas-pipe or other metallic pipes, structures or substances, and shall be bound to make good all damage caused to any such gas-pipe or other metallic pipes, structures or substances, by reason or in consequence of any omission or commission on their part.

Rails to be level with street.

8. Wheresoever the tramways shall be laid down across or along the portion of any street or road actually used for traffic, the uppermost surface of the rails shall be as nearly as practicable on a level with the surface of the street or road.

Limit of extension of cars beyond wheels : motive power and speed allowed.

9. No car or carriage used on the tramways shall extend beyond the outer edge of the wheels of such car or carriage more than twenty-four inches on each side, such cars or carriages may be worked by electricity, steam or other motive power or by horses or other animals, or some may be worked by electricity, steam or other motive power, while others may be drawn by horses or other animals: Provided, however, that should the said cars or carriages be worked by steam or by electricity they shall not proceed at a greater rate of speed than eight miles an hour, along the principal business streets and along the other streets and roads at such speed as the Corporation shall deem desirable.

Prohibition against other persons using tram line.

10. The said Town Council shall have the sole right on the said lines of tramway, to be constructed under the authority hereby conferred, to run cars or carriages with flange wheels or other wheels suitable only to run on the rails; and any person or persons using the said rails, to run cars or carriages or other vehicles with flange wheels or other wheels suitable only to run on the rails, without having first obtained the sanction of the said Town Council, shall be liable to a penalty not exceeding five pounds sterling, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding one month, unless such fine shall be sooner paid: Provided, however, that the public shall have the right of passing along or across any part of the street or road in which a tramway is laid, whether on or off the tramway with carriages not having flange wheels.

Penalty for obstructing tramway or endangering passengers.

11. Every person who shall wilfully do, or cause to be done, anything in such manner as improperly to obstruct any car or carriage using the said tramway, or the horses drawing the same, or to endanger the safety of persons conveyed in and upon the

same, or who shall aid and assist therein, shall, on being convicted thereof, be liable to a penalty not exceeding five pounds sterling, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding one month, unless such fine shall be sooner paid.

Penalty for obstructing Council or their servants.

12. Any person who shall wilfully obstruct the officers or servants of the Council, or any contractors with the Council, in the lawful exercise of their powers in setting out, or making, laying down, maintaining, repairing or working the tramways authorised by this Act, shall for every such offence be liable to a penalty not exceeding five pounds sterling, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding one month, unless such fine be sooner paid.

Provision against hindering traffic.

13. If any person or persons shall drive or lead any waggon, cart, carriage, or other vehicle, or any horse or other animal upon the line of the said tramway, in such manner as improperly to obstruct or hinder any car or carriage belonging to the said Council, or shall refuse to remove such obstruction when required to do so, it shall be lawful for any officer of the said Council, or any person whom he may call to his assistance, to remove such obstruction, or to call in the aid of the police who shall, on being called upon, assist such officer of the Council to remove such obstruction.

Penalty for interfering with or injuring tram line or plant.

14. Every person who shall interfere or meddle with, or do anything to injure, damage, or destroy any of the constructions, standards, wires or other property of the said Town Council, erected or acquired under the powers conferred by this Act upon the said Council, or remove or alter any part of the tramway or of the works connected therewith, or place or throw any stones, wood or other substance on any part of the rails, shall, upon conviction, be liable to a penalty not exceeding twenty-five pounds sterling, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding six months, unless such fine shall be sooner paid, or to imprisonment with or without hard labour for any period not exceeding six months, without the option of a fine.

Provisions against carriage of dangerous goods.

15. No person shall be entitled to carry, or require to be carried, over any part of the said tramways any goods which may be of a dangerous nature; and if any person shall send by any such tramway any such goods, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing, to the Town Clerk or other proper officer of the Council with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding five pounds sterling for every such offence, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding one month, unless such fine be sooner paid, and it shall be lawful for the Council to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or to require the same to be opened in order to ascertain the fact.

16. The said Town Council shall have the power to frame regulations regarding the running of cars and the fares to be charged for the conveyance of passengers and parcels, and for preventing the commission of any nuisance in or upon any car or carriage, or in or against any premises belonging to them, and providing penalties for the infringement of such regulations and for non-payment of fares and for travelling without paying fares; and such regulations, when submitted to and approved of by the Governor in manner provided for by Act No. 14 of 1868 and proclaimed in the *Gazette*, shall have the full force of law.

Power to frame regulations.

17. The said Council shall have the power to prosecute any person or persons who shall contravene any of the sections of this Act or any of the regulations framed under this Act, in the Court of the Resident Magistrate of the district in which the offence shall be committed.

Power to prosecute for contravention of Act.

18. All fines recovered by virtue of any such prosecutions shall be paid to the said Town Council.

Fines to be paid to Council.

19. Nothing in this Act shall prevent the said Council from proceeding by means of a civil action in any competent Court for recovery of any damages that may be sustained by them for injury or damage done to any of the plant, buildings or appliances to be acquired or erected under this Act, from the person causing such injury or damage, and for the recovery of any fares, tolls or charges due, whether such person shall be prosecuted for the contravention of any of the sections of this Act, or of any regulations framed by virtue thereof, or not.

Power to sue for damages or fares.

20. In order to pay the interest and to establish the sinking fund hereinafter mentioned, and to provide for all claims arising 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 annual rental, or if no rental be paid, then upon the estimated annual value of the whole of the immovable property within the limits of the said 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 Act No. 14 of 1868, so far as the same are applicable; and all rates so imposed and asssessed under the provisions of this Act shall be, and be deemed to be, a charge upon the property so assessed, and be recoverable from the owner on the day on which the same shall become due or from any future owner or occupier thereof. Such rate shall not be levied until it shall have been ascertained whether the net income derived from the said tramways for the preceding year shall have been sufficient to provide for the payment of the said interest and sinking fund for the said year, and, if not, what the deficiency shall be in respect thereof, and the rate to be levied shall be calculated so as

Power to levy special rate.

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only to provide for such deficiency, if any. And provided further that no such rate shall be levied upon such property as is exempted from the burden of rates by section sixty-four of the said Act No. 14 of 1868, or otherwise.

Assessment in Tenants' Roll to be assessment for purposes of this Act.

21. The amounts for assessment entered 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 after 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 sixty-sixth Section of the Act No. 14 of 1868 shall apply to the hearing and deciding upon objections to such valuation.

Rate to become due on date to be fixed, publication thereof to be made.

22. 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 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 in one or more of the newspapers published within the said Municipality, and a copy of the same shall be affixed to some conspicuous place in or near the Town Hall.

Collector to be appointed, jurisdiction in actions for recovery of rate.

23. As soon as any rate shall be assessed as aforesaid, the Council shall appoint under its Corporate Seal a person to collect the same, which rate shall, on non-payment thereof, be recoverable as a separate and distinct rate at the suit of such collector by action in the Resident Magistrate's Court having jurisdiction within the said Municipality, or in the Resident Magistrate's Court of the district in which such defaulter shall reside; and in any such suit in any Resident Magistrate's Court, not within the Municipality, an extract from the records of the Council, certified as correct under the Common Seal of the Council and the hand of the Mayor and Town Clerk, shall be *primâ facie* evidence of the things and matters alleged therein.

Public Bodies' Debts Act to be applicable.

24. 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."

Separate Accounts to be kept and be deposited for inspection.

25. 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 said tramways contemplated by this Act (distinguishing sums received for rates imposed under the provisions of this Act), and of all moneys expended upon the construction, maintenance and

working of the tramways 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, for the inspection at all reasonable times of any householder of the Municipality, an Account shewing the particulars aforesaid, and giving any other information which the said Council shall deem it necessary or expedient to impart: Provided that every such account shall be made up to the 31st December in each and every year.

Creation of sinking fund.

26. In order to provide a fund for the payment of all moneys borrowed under the provisions of this Act, and for the gradual extinction of the debt to be 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 as shall be issued under authority of this Act, and a further sum of not less than ten shillings and not more than one pound sterling 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 shall annually be 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 and unextinguished.

Costs of Act to be paid out of funds borrowed.

27. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said Council out of the moneys to be so borrowed as aforesaid.

Power to sell, let or work tramways.

28. It shall be lawful for the said Council at any time to sell or let to any person or persons, company or companies, the said tramway, plant, power stations and premises, or to sell or let the rights to construct and work the same, or work them by contractors or in such other manner as they may see fit, and to enter into all and any contracts or agreements for that purpose. In the event of any such sale, letting, or contract, the Council shall be empowered to delegate to the person or company purchasing or hiring the said tramway, plant, power stations and premises, or working them under contract, all or any of the powers and duties conferred or imposed by sections two to nineteen of this Act, inclusive, and as soon as notice of such delegation shall have been published in the *Gazette* by the Council and by the said purchaser, hirer or contractor, the said purchaser, hirer or contractor shall be and be taken to be endued with such powers, and subject to such duties, as shall be specified in such notice, and the relative provisions in the said sections shall, so far as the same can be made applicable, apply and refer, *mutatis mutandis*, to such hirer, purchaser or contractor: Provided that in the case of sale or letting the provisions of the forty-first section of Act No. 14 of 1868 shall, *mutatis mutandis*, apply, in respect to the consent of the Governor, and the giving of notice of the intended sale or letting

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Surplus income to be paid into general funds of Council.

29. Should the net income derived from the said tramways in any year, after paying all expenses connected therewith, be more than sufficient to pay the interest and contribution to the sinking fund referred to in section twenty-six, then the surplus shall be paid into the general funds of the said Council, and may be applied in such manner as the said Council may decide.

Interpretation clause.

30. The word "Municipality" used in this Act shall mean the Municipality established by the aforesaid Act No. 14 of 1868. The words "Town Council" and "Council" shall mean the Municipal Council of Port Elizabeth. The words "Street" and "Road" shall mean the whole space reserved as such street or road, and not only the hardened or formed portion of such street or road, and shall include all streets and roads open to the use of the public, whether the ownership of the same shall be vested in the said Council or not.

Repeal of conflicting laws.

31. Any of the provisions of Acts Nos. 14 of 1868, 25 of 1873, 31 of 1877, 30 of 1879, or 8 of 1881, or of any other Act or Law that may be inconsistent with this Act shall, in so far as the same may be inconsistent, be, and the same are, hereby repealed.

Tramway subject to any general Act.

32. Nothing in this Act contained shall exempt the tramway from the provisions of any general Act relating to tramways, or dealing with electric power, which may hereafter pass during this or any future Session of Parliament.

Short title.

33. This Act may be cited for any purpose as "The Port Elizabeth Municipal Tramways Act, 1895."

No. 26—1895.] [August 2, 1895.

ACT

To Amend the "Friendly Societies Act, 1892."

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, as follows:—

Appointment of nominee by member of a Friendly Society.

1. A member of any Society, registered under the "Friendly Societies Act, (1) 1892," may, by writing under his hand delivered at or sent to the registered office of the Society, nominate any person to whom any money, payable by the Society on the death of such member not exceeding the sum of one hundred pounds, shall be paid at his decease, and may from time to time revoke or vary any such nomination by a writing under his hand similarly delivered or sent, and, on receiving satisfactory proof of the death of a nominator, the Society shall pay to the nominee the amount due to the deceased member, not exceeding the said sum of one hundred pounds.

Nomination not a will or codicil. Exemption from Succession Duty.

2. The writing under which any person is nominated as aforesaid shall not be deemed a will, codicil or testamentary instrument, and the amount not exceeding one hundred pounds to be paid by

(1) No. 5.

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the Society to such nominee as aforesaid shall not be liable to Succession Duty under the "Succession Duty Acts." (1)

No. 27—1895.

3. If a member of such Society as aforesaid, entitled from the funds thereof to any sum of money, dies intestate and without having made any nomination under this Act which remains unrevoked at his death, such sum not exceeding one hundred pounds, shall be payable, without letters of administration, but subject to the payment of succession duty, to the person who appears to the majority of the Trustees of the Society, with the approval of the Master of the Supreme Court or the High Court of Griqualand, upon such evidence as he may deem satisfactory, to be entitled by law to receive the same.

Payment when member dies intestate, and without appointing nominee.

4. Whenever the Society, after the decease of any member, with the approval of such Master as aforesaid, pays any sum of money to the person, who, at the time appears to the Trustees to be entitled under the previous section, the payment is valid and effectual against any demands made upon the Trustees or the Society by any other person.

Such payment valid and effectual against all demands.

5. This Act shall be cited for all purposes as "The Friendly Societies Amendment Act, 1895."

Short title.

No. 27—1895.] [August 2, 1895.

ACT

To Amend the Law relating to the Administration of the Estates of Deceased Persons, Minors and Others labouring under certain Disabilities.

amended by act 24 of 1913 sec 1.

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 thirty-fourth section of Ordinance No. 104 of 1833, the seventh section of Act 14 of 1864, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act are hereby repealed.

Repeal of Repugnant laws.

2. There shall be expunged from the twenty-first section of Ordinance No. 104 of 1833, the words "not being less than six weeks from the day of publication."

Amendment of Ordinance 104.

3. Notwithstanding anything contained in sections fourteen and sixteen of Ordinance 104 of 1833, if one or two spouses shall have lawfully appointed the survivor of them to be his or her sole heir and the sole executor or executrix of his or her will, then such survivor shall not be required to frame or to lodge with the Master an inventory of the goods, assets, and effects of the estate of the predeceasing spouse.

Exemption from obligation to frame or lodge inventory.

4. Notices of death shall, in addition to the particulars mentioned in the tenth section of Ordinance No. 104 of 1833, contain

Additional information to be contained in death notices.

[1] No. 5, 1864.

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and set forth the following particulars, in so far as the same shall be known to the person giving notice:—

(*a*) The name of the surviving spouse, if any, of the deceased.

(*b*) The name and approximate date of death of any predeceased spouse of the deceased:

(*c*) Whether the deceased left a will no not.

Penalty for neglecting to file death notice, will or inventory.

5. Any person who is required by law to deliver or transmit to the Master or any Resident Magistrate, or Field-cornet, as the case may be, any such notice of death, or any will or inventory, and who fails to do so without any reasonable excuse, shall, in addition to any other liability which he may incur through such default, be subject to a fine not exceeding five pounds sterling.

Duty of person in possession of asset of estate of deceased person.

6. Every person not being the executor of the estate of a deceased person duly appointed in the Colony who shall at the taking effect of this Act or thereafter have or come into the possession or custody of any property or asset belonging to such estate shall forthwith either deliver such property or assets to the duly appointed executor if any then be in the Colony or report the particulars thereof to the Master; and if such first mentioned person shall fail to do so or shall part with any such property or asset to any person not authorised by the Master by letters of administration or other direction to receive the same he shall, apart from any other liability he may incur thereby, be liable for all dues payable to the Government in respect of such property or asset.

Meetings for election of executors or tutors dative.

7. Meetings for the election of executors or tutors dative shall be held at such time and place and before such officer as the Master shall appoint.

Summary appointment of executor to estate not over £100 in value.

8. The Master may summarily appoint an executor dative to administer any unrepresented estate of which the value appears to him after inquiry not to exceed one hundred pounds sterling.

Executor may require solemn declaration in support of claim.

9. Any executor, testamentary or dative, may if he think fit require any person preferring any claim as a creditor against the estate of which he is the executor to substantiate such claim by a solemn declaration setting forth the details of such claim with such particularity as the executor may reasonably require, and may refuse to recognise such claim until such declaration has been delivered to him, and it shall be competent for any court by which any such claim shall be adjudged in favour of any claimant to decline to grant such claimant his costs against the estate in case such court shall deem that the information given by the claimant to the executor was insufficient, and that the executor acted with prudence and discretion in contesting such claim.

Sums under £10 and sums of which ownership is unknown.

10. If any sum of money paid into the Guardian's Fund be less than ten pounds, or if the Master of the Supreme Court is unable after careful enquiry to trace the person entitled to claim any sum of money received by him he may transfer such sum to a

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dormant account to be kept in such manner and in such books as the Governor shall prescribe, instead of dealing with it as directed by the twenty-seventh section of Ordinance No. 104 [1] of 1833, and the second section of Act No. 22 of 1887.

No. 28—1895.

Master's powers as to sums under £100 credited to minors.

11. In any case in which the total amount standing to the credit of any minor in the Guardian's Fund does not exceed one hundred pounds, it shall be competent for the Master of the Supreme Court if after careful enquiry it shall appear to him to be for the interest of such minor to do so, to pay and apply the whole or any part of such amount for the maintenance, education or other benefit of such minor: Provided always that nothing herein contained shall authorise the said Master to disregard or act contrary to the terms of any will or other deed under the provisions of which such amount shall have been received, or to any order of any competent court regarding such amount or any part thereof.

No interest allowed on certain moneys paid into Guardian's Fund.

12. No interest shall be allowed on any moneys paid into the Guardian's Fund after the taking effect of this Act under the provisions of the thirteenth section of Ordinance No. 105 of 1833, or the one hundred and fifteenth section of Ordinance No. 6 of of 1843, save in respect of moneys to which minors or lunatics shall be found to be entitled, and then only for the period during which minority or insanity shall continue and the money shall remain in the Guardian's Fund.

Definition of the word Master.

13. The word "Master" in this Act where it is not specially defined, shall be taken to mean the Master of the Supreme Court, save and except in relation to:—

(*a*) Deaths occurring in the districts of Kimberley, Barkly, West, Herbert and Hay, notices of which may by law be required to be transmitted to the Master of the High Court; and

(*b*) Estates administered by executors, tutors or curators appointed by the Master of the High Court;

in which relations it shall mean the Master of the High Court.

Short title.

14. This Act may be cited for all purposes as "The Estates Administration Act, 1895."

No. 28—1895.] [August 2, 1895.

ACT [2]

To Provide for the Construction and Equipment of certain Lines of Railway.

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:—

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[1] Evidently intended for Ordinance No. 105.

[2] See Acts 24 and 30, 1896 (pp. 3613 and 3634); 40, 1898 (p. 4003); 36, 1899 (p. 4205); 19, 1900 (p. 4289).

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Interpretation Clause.

1. In this Act the following terms shall have the following meanings, unless any such meaning shall be inconsistent with the context:

"Company" shall mean any Company duly registered in this Colony in accordance with law;

"Concessionary" shall mean any Company or person who shall by any agreement under this Act undertake for the payment of a subsidy by the Governor, the construction of any line of railway authorised by this Act;

"Contractor" shall mean any Company or person who shall by any agreement undertake to the Governor to construct any line of railway authorised by this Act to be constructed by the Governor.

Lines of railway to be constructed.

2. The following lines of light railway shall be constructed under the provisions of this Act upon the gauge at present in general use in this Colony:—

(1) A line of railway from Mossel (1) Bay, *via* George, Oudtshoorn and Willowmore, to a point on the Graaff-Reinet Railway, at or near Klipplaat;

(2) A line of railway from a point, at or near Somerset East, *via* Cookhouse and Bedford, to Fort Beaufort;

(3) A line of railway from Fort Beaufort, *via* Alice, to King William's Town;

(4) A line of railway from Graaff-Reinet, *via* Middelburg, to Middelburg Road.

Governor to call for offers for construction of lines 1, 2 and 3.

3. As soon as conveniently may be after the passing of this Act the Governor shall by public advertisements in this Colony and in England call for offers for the construction of the several lines of railway numbered (1), (2) and (3) in the last preceding section upon terms and conditions to be framed in accordance with the provisions of this Act.

How offers to be made and when.

4. Such offers shall be sent in, in writing, to the General Manager of Railways or to such other person as the Commissioner may appoint to receive the same on or before a date to be stated in such advertisements as aforesaid, not being in any case a date later than the first day of March, 1896.

Conditions as to percentage or subsidy required by persons making offer.

5. Every offer sent in as aforesaid shall state what percentage, not exceeding forty per cent. of the actual cost of construction as determined under this Act and what sum not exceeding one thousand five hundred pounds sterling per mile, for all lines save and except the section of the line from Mossel Bay to Oudtshoorn, and what sum not exceeding two thousand pounds per mile for the said section, the Company or person making the offer will, in accordance with the provisions of this Act and relative agreement, agree to accept by way of subsidy from the Governor for and in respect of the construction of the line or lines of railway to which such offer refers: provided that in calling for tenders for the

[1] But see § 1, Act 30, 1896 (p. 3634); 40, 1898 (p. 4003).

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construction of the line from Mossel Bay to Klipplaat, the same shall be invited not only for the whole line but also for two distinct and separate sections, viz.: (1) Mossel Bay to Oudtshoorn, and (2) Oudtshoorn to Klipplaat.

General terms and conditions to be set forth.

6. The general terms and conditions to be inserted in any agreement entered into with any concessionary shall be set forth in such advertisement, and shall be framed in accordance with the provisions of this Act, but as to the details of specifications, route, and other matters relating to the construction of any of the said lines it shall be sufficient in any such advertisement to set forth that the same may be inspected or ascertained at the office of the General Manager of Railways or such other place as the Commissioner may appoint.

What general terms and conditions amongst others, shall be contained in any offer.

7. The terms and conditions shall be fixed by the Governor, and shall, amongst others, make provision to secure the following objects:

(*a*) That good and substantial security to the satisfaction of the Governor shall be given by every concessionary for the duue completion of the line in respect of which his offer is accepted;

(*b*) that a substantial sum, not being less than £1,000 sterling in any case, shall be deposited with the Commissioner by every company or person making an offer on or before the date when such offer is sent in, which sum shall be returned if such offer is not accepted, or in case such offer be accepted, and good and substantial security be given; but shall be forfeited in case such offer be accepted, but the concessionary shall fail thereafter to comply with the condition as to good and substantial security;

(*c*) that the subsidy agreed upon shall be payable upon the due completion of such sections of the said lines respectively, as the Governor shall determine, and as shall be stated in such advertisement;

(*d*) that the amount of actual cost incurred in respect of the construction of any section or line shall be ascertained either by the certificate of a Government engineer appointed for the purpose, or in such manner and upon production of such proofs as the Governor shall approve, and that the total amount of the subsidy shall be computed upon the actual cost of the entire line in respect of which the offer of any concessionary is accepted, including the cost of such bridges, culverts, tunnels, stations or other fixed appurtenances of the line as the Governor shall approve;

(*e*) that at any time after the expiration of twelve years from the date of the acceptance of any offer, it shall be lawful for the Governor, with the authority of both Houses of

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Parliament, and after giving at least six months' notice, to purchase and take possession of any line undertaken by any concessionary under the provisions of this Act, the purchase price to be the amount of the actual cost determined as aforesaid, with the addition of ten per cent. and the deduction of an amount for wear and tear to be determined, in case of difference, by arbitration, credit to be taken in the account for all amounts paid by way of subsidy;

(*f*) that the tariffs of fares for passengers and rates for goods, produce, live-stock and vehicles, shall be reasonable tariffs, subject to the approval of the Governor, and shall after settlement be liable to be re-adjusted by the concessionary from time to time with the like approval, at the request of the Governor, acting upon a resolution of both Houses of Parliament; and 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 same description; and no reduction or advance in any such tolls, fares or rates, shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the said railway;

(*g*) that reasonable arrangements conferring on the Government running powers and providing facilities for through traffic, shall be made as between the concessionaries of each line and the Colonial Government, and also similar arrangements as between different concessionaries in respect of the various subsidised lines;

(*h*) that the line shall be commenced and completed within periods to be determined in each agreement, each line to be, however, completed within four years from the date of the taking effect of this Act, unless the Governor shall for special reasons extend the said period with the authority of both Houses of Parliament;

(*i*) that in the event of the insolvency or liquidation of any person or company being concessionary of any line, the Governor shall be entitled then to exercise, without notice, the option provided by sub-section (*e*) to purchase the said line, and in the event of the said option not being exercised, and the line being disposed of, the purchaser shall be liable to all the conditions of the agreement with the concessionary, save in so far as the same may be modified with the consent of the Governor.

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Provisions as to payment by the Government of percentage or subsidy agreed upon.

8. It shall be lawful for the Governor before the completion of any section of any line to make payments in advance upon the provisional certificates of a Government engineer appointed for the purpose certifying to the actual cost of the work then done upon such section; provided that the amounts so advanced shall in no case exceed either forty per cent. of the actual cost so provisionally certified, or, as the case may be, the sum of two thousand pounds or one thousand five hundred pounds sterling per mile of the portion of such section then completed.

Formal agreement to be executed.

9. If and when any offer for the construction of any of the said four lines has been accepted by the Governor and good and substantial security has been given for the due completion of the line a formal agreement shall be executed embodying the terms and conditions upon which the concessionary may undertake the construction of such line.

Provision for construction by the Government of portion of line (1) in case no agreement shall be entered into.

10. If no satisfactory agreement shall be entered into relative to the construction of line (1) aforesaid, or relative, in accordance with the preceding sections three to nine inclusive, to the construction of the portion of line (1), one hundred and fifty-four miles in length, from Oudtshoorn *via* Willowmore to the point hereinafter mentioned, the Governor shall cause the portion of the said line from Oudtshoorn *via* Willowmore, to a point on the Cape Government Railway at or near Klipplaat to be constructed and equipped in accordance with the following provisions of this Act.

Construction by Government, if and when determined on, to be by public tender by contractors.

11. In either event contemplated in the last preceding section as to line (1) aforesaid, and as soon as conveniently may be after the passing of this Act as to line (4) aforesaid, the Governor shall cause the aforesaid portion of line (1) and the said line (4) to be constructed and equipped, and shall for that purpose call for tenders for the construction of each of the said lines by contractors who shall have the powers conferred by this Act in relation to the construction of the said lines.

Maximum cost of lines (1) and (4).

12. The cost of the construction and equipment of the aforesaid portion of line (1) shall not exceed £650,000, and of the line (4) aforesaid shall not exceed £446,000.

Governor authorised to raise loans to provide funds for construction of lines under this Act.

13. For the purposes of this Act, that is to say, for the provision of funds to meet the amount required from time to time for the payment of subsidies and for the construction of the lines of railway authorised to be constructed by contractors under this Act, the Governor shall raise by loan amounts not exceeding the several sums specified in Schedule A to this Act, and the cost incurred in raising any such loan, including discount, if any, commission, and other incidental charges, shall be a first charge against the amount of such loan.

Surveys to be made and approved before the work is commenced.

14. The route of the several lines of railway authorised by this Act or any part of any such line may be surveyed in detail by such persons as the Governor may appoint, and the details of the route of any section of any such line as shown by the working plans

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and sections thereof shall be approved by the Governor before the work in such section is commenced.

Power of entry upon land, provision for compensation for damage done by means of arbitration.

15. For the purpose of setting out any line of railway authorised by this Act, the Governor and the concessionary, or the contractor, as the case may be, may by 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 and formation of the soil, making full compensation to the occupier of the said land for any damage thereby occasioned, such compensation to be, within three months from the date when such damage is alleged to have been sustained, recovered, in case the amount is not settled by consent, either by arbitration if that course be mutually agreed upon or by action in some competent court.

Power of entry on and possession of waste Crown land under this Act.

16. The concessionary or contractor, as the case may be, may with the permission of the Governor 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 any line of railway authorised by this Act, or for any other purpose relating to the due execution of this Act, or of any agreement between the Governor and such concessionary or contractor, and may with the like permission, and free of charge, enter upon any such land lying convenient to such line of railway and there dig for, excavate, and carry away all stones, clay, or other materials required for any of the purposes aforesaid: Provided

(*a*) that nothing herein contained shall be construed to establish any servitude in favour of such concessionary upon any such land, not being land reasonably required for the actual working of the railway, which may hereafter be sold or leased by the Colonial Government to any purchaser or lessee;

and (*b*) That the term "Waste Crown land" shall not be taken to include any land that has been or may be acquired by the Colonial Government by purchase or otherwise for any special purpose.

Provisions of §§ 146 and 147 of Act No. 40 of 1889, to apply to concessionary or contractor under this Act.

17. The concessionary, in respect of every subsidised line authorised by this Act and the Governor, in respect of every line authorised by this Act to be constructed by a contractor, shall for the purpose of the construction and maintenance of the several lines of railway authorised by this Act, and for any other purpose relating to the due execution of this Act, or of any agreement between the Governor and any concessionary or contractor 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, for the purposes set forth in section one hundred and forty-one of the said Act: Provided

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(*a*) that the extent of the land taken for any line of railway shall not exceed fifty feet for the formation line, together with such sufficient 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 such 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 or compensation 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 Arbitrations Clauses Act, 1882.

Provisions of §§ 153, 154, 204 and 205, of Act 40 of 1889, to apply.

18. The provisions of sections one hundred and fifty-three, one hundred and fifty-four, two hundred and four, and two hundred and five of the Act No. 40 of 1889, shall apply *mutatis mutandis* in respect of the several lines of railway authorised by this Act, as though the said lines were public roads, the Governor or the concessionary, as the case may be, being deemed and taken to be referred to in the said sections in place and stead of the Divisional Council.

Powers in regard to streets or roads crossed or intersected by lines authorised under this Act.

19. At all places where the line of any railway authorised by this Act shall intersect or cross the line of any street or road, it shall be lawful for the concessionary or the contractor, as the case may be, to make and carry such line of 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 the said street or road, and such concessionary or contractor shall 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 shall also maintain and keep in repair all such crossings, bridges, viaducts, cuttings, embankments, approaches, culverts and drains as aforesaid.

Power, with Governor's approval of construction of public roads across any line authorised by this Act.

20. Nothing in this Act contained shall prevent the construction, in accordance with law, of any public road crossing any line of railway authorised by this Act at a suitable and convenient place approved of by the Governor, provided that all damage occasioned by the construction of such road shall be made good by the public authority constructing the same.

No line shall be opened for traffic without Governor's sanction.

21. No line of railway constructed by any concessionary under this Act, and no portion of any such line, shall be opened for traffic until the Governor shall be satisfied by the certificate of a Government engineer appointed for the purpose, that such line, or the portion thereof, is sufficiently completed for the safe conveyance of passengers.

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How far provisions of Act 19 of 1861 are to apply.

22. The provisions of Act No. 19 of 1861, entitled "The Regulation of Railways Act, 1861," and of any law now or hereafter amending the said Act, shall apply to every concessionary and the line of railway constructed by such concessionary, and shall also, save as to sections twenty-nine and thirty of the said Act, and any amendments of the said sections, likewise apply *mutatis mutandis* to the Governor, and to any line of railway constructed by any contractor under this Act.

Power to construct, erect and work Telegraph or Telephone along lines of Railway.

23. Every concessionary may construct, erect and work, for the purposes of the line of railway undertaken by such concessionary, but for no other purpose, a telegraph and telephone, or either, along or near such line of railway, subject always to the provisions of Act No. 20 of 1861, commonly called "The Electric Telegraph Act, 1861," and of any law now or hereafter amending the said Act.

Provisions of Lands and Arbitrations Act, 1882, to apply.

24. The provisions of the "Lands and Arbitrations Clauses Act, 1882," shall apply to all arbitrations arising under any provisions of this Act, or under any agreement contemplated by this Act.

Guage, &c., to be same as that of Colonial Government Railways.

25. The lines of light railway authorised by this Act shall, as to the gauge and in general, be similar to the lines of railway now in use and forming the Colonial Government Railways, save that in the construction the particulars set forth in Schedule B to this Act shall be as far as possible observed.

Effect and Short Title.

26. This Act shall take effect forthwith upon its promulgation, and may be cited for all purposes as "The Railways Extension Act, 1895."

Schedule A.

SCHEDULE A.

(1) For providing a subsidy for the line from Mossel Bay *viâ* George, Oudtshoorn, and Willowmore to a point on the Graaff-Reinet Railway at or near Klipplaat £375,000

(2) For providing a subsidy for the line from Somerset *viâ* Cookhouse and Bedford to Fort Beaufort £116,250

(3) For providing a subsidy for the line from Fort Beaufort *viâ* Alice to King William's Town £82,500

(4) For the construction of the line from Oudtshoorn *viâ* Willowmore to a point on the Graaff-Reinet Railway at or near Klipplaat, in case no concessionary shall undertake the construction of line (1), in which event the above amount of £375,000 will not be required, or of the line aforesaid from Oudtshoorn to Klipplaat, in which event the amount of £231,000, portion of the said amount of £375,000 will not be required ... £650,000

(5) For the construction of a line from Graaff-Reinet *viâ* Middelburg to Middelburg Road... £446,000

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SCHEDULE B.

No 29—1895.
Schedule B.

PARTICULARS FOR RAILWAY CONSTRUCTION UNDER THIS ACT.

(1) Embankments—
  (*a*) under 10 feet high, to be 12 feet wide, but not less, at the top;
  (*b*) 10 feet high or more, to be 14 feet wide, but not less. at the top.
(2) Formation in Cuttings, exclusive of width required for side drains, to be 14 feet, but not less, at the bottom.
(3) Ballasting to be 12 inches in depth, but not less save where the Government Engineer shall certify that the formation will permit of reduction.
(4) Permanent Way to consist of steel rails of 46¼ pounds to the yard: if heavier rails be laid concessionary to bear extra cost.
(5) Sleepers to be of steel, iron, or wood—
  (*a*) spaced on an average to the number of not less than 1,760 per mile;
  (*b*) at the joints of rails to be 2 feet 6 inches apart from centre to centre;
  (*c*) if of wood, to be 6 feet 6 inches long, 9 inches wide, and 4½ inches deep, but not of less dimensions;
  (*d*) if iron or steel, the design to be approved by the Government Engineer.

No. 29—1895.] [August 2, 1895.

Repealed by Ord. No. 14 of 1916

(1) ACT

To Regulate the Sale of Bread by Weight.

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 Ordinance No. 2 of 1838, entitled an Ordinance for regulating the Sale of Bread, and so much of any other law as is repugnant to or inconsistent with the provisions of this Act, are hereby repealed. Repeal of Laws.

2. From and after the first day of November, 1895, every licensed baker or licensed retail dealer, within any Municipal or Village Management area, who shall sell or offer for sale, or shall knowingly permit to be sold, or offered for sale, or delivered after sale by any person in his service or employment or in any shop or premises occupied by him, any bread, unless such bread be sold by weight, that is to say, each loaf being of one of the following weights, namely, half lb., one, two, three, four or any number of pounds, shall be liable to a fine not exceeding two pounds for each offence; provided that nothing in this section contained shall Bread to be sold by standard weight

[1] Extended to all Native territories by Proclamation 34, 1897.

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affect any bread of the kind or denomination usually called French or fancy bread or rolls, when expressly sold or offered for sale only as such.

Weights and measures to be kept by bakers and retail dealers.

3. From and after the said 1st day of November, 1895, every licensed baker and every licensed retail dealer, within any Municipal or Village Management area shall fix or cause to be fixed in some conspicuous part of his shop or licensed premises, and on or near the counter, a beam and scales with the standard weights as established by law in the Colony, or other sufficient balance in order that all bread except as aforesaid there sold may from time to time be weighed in the presence of the purchasers if they shall so require; and if any such baker or retail dealer shall neglect to fix such beam and scales or other sufficient balance in manner aforesaid, or to provide and keep for use a proper beam and scales and proper weights or balance, or shall use any false weight or shall refuse to weigh bread sold in his shop when required so to do by the purchaser thereof, he shall be liable to a fine not exceeding five pounds for each offence.

Local Authority may prosecute.

4. The Commissioners or Council of any Municipality, Borough or Corporate Town, and the Board of Management of any place wherein the Villages Management Act, 1881, is in force, may respectively order proceedings to be taken for the recovery of any penalties due under, and for the punishment of any person offending against this Act within the limits of such Municipality, Borough or Corporate Town, or such place as the case may be, and may order the expenses of such prosecution to be paid out of any fund at its disposal, and all penalties recovered under this Act, at the instance of such Commissioners, or Council, or such Board of Management respectively shall be paid to the Council, Commissioners, or Board of the Municipality, Borough, Town or place as the case may be, wherein the offence for the commission of which such penalty is recovered was committed.

Short Title.

5. This Act may be cited for all purposes as "The Sale of Bread Act, 1895."

No. 30—1895.] [August 6, 1895.

(1) ACT

To Authorise and empower Local Authorities to make certain Regulations.

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 mean:

(*a*) The Council or Board of Commissioners of any Municipality, Borough or Corporate Town;

[1] Extended as modified to district of Matatiele by Proclamation 240, 1905.

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(*b*) The Board of Management of any community or place in which the "Villages Management Act, 1881," is in operation.

No. 30—1895.

Local Authority may make certain regulations.

2. Notwithstanding anything to the contrary in any law contained it shall be lawful for any Local Authority acting under the provisions of its special law with regard to the making of regulations, or, in the absence of such special law, then in pursuance of a resolution adopted by at least two-thirds of the members present at any duly constituted meeting of such Local Authority after due notice, to make regulations for prohibiting and preventing the presence of natives such as Kafirs, Fingoes, Basutos, Hottentots, Bushmen, Korannas, Griquas, Bechuanas, Zulus and the like, in the streets, public places or thoroughfares, within the local limits of the jurisdiction of such Local Authority, between the hours of nine p.m. and four a.m., without a written pass or certificate from their employer, or from some person duly authorised by such Local Authority, and whom such Local Authority shall be obliged to appoint to sign such pass or certificate: Provided that no such regulation shall apply to such natives as are by Act 39 of 1887 exempted from the operation of certain disqualifying Acts of Parliament, or to those who are the registered owners of any immovable property within the area of such Local Authority, or to any member of the family of such owner there resident with him, or to those who have certificates of good character from the Resident Magistrate of any district, which certificates shall be renewed annually, and may at any time be withdrawn; and provided, further, that no such regulation shall prohibit or prevent the residents in any municipal native location from being in the streets, public places or thoroughfares in such location between the hours aforesaid.

Regulations duly published to have force of Law.

3. Every regulation duly made by any Local Authority under the provisions of the preceding section shall on its approval by the Governor be published in the *Gazette*, and upon such publication shall have the force and effect of law within the local limits of the jurisdiction of such Local Authority, and every person contravening any such regulation duly published as aforesaid, shall be liable to a fine not exceeding ten pounds or, in default of payment, to imprisonment with or without hard labour for any period not exceeding three months.

Authority to make, alter, or revoke regulations.

4. Notwithstanding anything to the contrary contained in any law, it shall be lawful for any Local Authority from time to time to make, alter or revoke regulations,

(*a*) For prohibiting brothels, the overcrowding of houses, dwelling-places, and rooms, and the erection of objectionable buildings within the local limits of its jurisdiction.

(*b*) For regulating the sanitary appliances of closets and privies in connection with buildings within such local limits, and for prohibiting the use of such of them as in the opinion of the Local Authority should not be allowed to continue.

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Every regulation made by any Local Authority under the provisions of this section shall be deemed to be a regulation made under the provisions of the law under which such Local Authority is established, and all the provisions of such law with regard to the bye-laws and regulations made thereunder shall apply *mutatis mutandis* to regulations made under the provisions of this section.

Short title.

5. This Act may be cited for all purposes as "The Local Authorities Increased Powers Act, 1895."

No. 31—1895.] [August 6, 1895.

ACT

To Apply a Sum not exceeding Sixteen Thousand Two Hundred and Forty-one Pounds Six Shillings and Fivepence Sterling for the purposes of meeting and covering certain Unauthorised Expenditure.

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:—

Revenue charged with £16,241 6s. 5d.

1. The public revenue of this Colony is hereby charged with a sum not exceeding sixteen thousand two hundred and forty-one pounds six shillings and five pence sterling, which sum shall be paid for unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended the 30th June, 1894, as described at page 274 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 1893-94" [G. No. 1—'95], presented to both Houses of Parliament by command of the Governor.

Short title.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1895."

No. 32—1895.] [August 6, 1895.

ACT (1)

To Consolidate and Amend the Law relating to the Civil Service.

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:—

Repeal of laws.

1. Subject to the exceptions hereinafter contained, the Laws mentioned in the Schedule B to this Act, together with 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

[1] See Act 13, 1896 (p. 3596), as to appointment and status of Sheriff of Colony. Act 36, 1896, § 69, *et seq.*, as to service under Harbour Boards (p. 3676). As to Native territories, see Proclamation 278 of 1896.

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repealed. But such repeal shall not invalidate anything lawfully done before the taking effect of this Act under the said Laws or any regulations duly framed thereunder, which regulations shall be in all respects as valid as if they had been framed under this Act; and shall not discharge any person appointed under the provisions of any of the said Laws from any service or obligation which he may be liable to fulfil under such Laws respectively, nor shall such repeal infringe upon any rights acquired under the said Laws.

Repealed by act 29 of 1912 No. 29 1895. sec 76.

DEFINITIONS.

Civil Service defined.

Who not to be deemed Civil Servants under this Act.

2. For the purpose of this Act, the Civil Service of the Colony shall include and consist of all persons continuously employed in the discharge of duties other than purely police or military in any department of the public service; not being Ministers of the Crown, or Judges of the Supreme Court or their Clerks or private secretaries to the Governor or aides-de-camp to the Governor, or officers of Parliament.

Provided:

(*a*) That such persons are not remunerated solely by fees or allowances.

(*b*) That their whole time is devoted to the public service, except in the cases of the Solicitor-General, the Crown Prosecutor at Kimberley, the Assistant Law Adviser to the Crown, and any other person to whom a retiring allowance may be granted under the provisions of the forty-seventh section of this Act.

Fixed Establishment of Civil Service defined.

3. The Fixed Establishment of the Civil Service of the Colony as above defined shall consist:—

(*a*) Of every person now holding or who may hereafter be appointed to any office mentioned in the Schedule A to this Act, excepting a person holding office on probation or appointed temporarily under the provisions of the twentieth section hereof.

(*b*) Of every person holding or who may hereafter be appointed to any office of like rank which the Governor may direct to be placed in such Schedule.

(*c*) Of all other persons now in the public service of the Colony and already duly placed on such Establishment.

(*d*) And of all persons engaged in the discharge of duties not of a purely temporary character, appointed under the provisions of the twenty-first section of this Act, or discharging like duties at the date of the taking effect thereof, who on the completion of at least ten years' continuous service, shall obtain from the head of their department a certificate of efficiency and good conduct.

Repealed by act 29 of 1912 sec 76.

Interpretation clause.

4. The word "Minister" in this Act shall be taken to mean the Minister for the time being controlling the department to which any person is appointed or in which he is serving.

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CIVIL SERVICE EXAMINATION.

Civil Service Examination.

Repealed by Act 29 of 1896. sec 76.

5. All candidates for admission into the Civil Service to fill any office included in Schedule A to this Act, shall be required to pass an examination (to be styled the Civil Service Examination) in such subjects and by such persons as the Governor shall from time to time prescribe and appoint and in accordance with regulations framed under this Act: Provided that the Governor may, by the regulations to be framed under the eighty-eighth section hereof, exempt candidates who are graduates of any University of recognised standing, specified in such regulations, or undergraduates of the University of the Cape of Good Hope, from the necessity of being examined in any one or more of such subjects.

Candidates for Civil Service Examination.

6. No person shall be accepted as a candidate for the Civil Service Examination unless he is

(1) Over seventeen and under twenty-five years of age.

(2) Free from physical or mental defect or disease which would be likely to interfere with the proper discharge of his duties.

(3) Of good character and of temperate habits.

(4) Not an unrehabilitated insolvent.

(5) A person who has not at any time been sentenced to imprisonment without the option of a fine in this Colony or elsewhere, or

(6) Free from any other legal disability prescribed in this Act or elsewhere.

Provided:

(*a*) That no person shall be deemed to be under any legal disability merely by reason that he is a native, if he shall by virtue of the provisions of Act No. 39 of 1887, be exempted from the operation of the laws mentioned in Schedule A to the said Act.

Certain officers of Cape Mounted Riflemen eligible for Civil Service Examination.

(*b*) That any officer of the force called the "Cape Mounted Riflemen" who is or above the rank of Lieutenant, may be accepted as a candidate although he may be over twenty-five years of age.

(*c*) That any person who having passed the examination and having been ranked in the second class, has been appointed on probation under the provisions of the thirteenth section of this Act, may likewise, so long as he serves continuously in any office included in Schedule A, and is under twenty-five years of age, be accepted as a candidate:

Case in which a candidate over 25 and under 30 years of age may be accepted.

(*d*) That in case the persons appointed to hold the examinations under the provisions of the fifth and eighty-eighth sections hereof, unanimously recommend, that for reasons fully set forth in such recommendation, it is in their

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opinion expedient in the interests of the Service that a person named therein being over twenty-five and under thirty years of age should be accepted as a candidate, it shall be lawful for the Governor, should he see fit, to direct that such person shall be accepted as a candidate; and a return of the names of all persons so accepted within the preceding calendar year, together with the recommendations aforesaid, shall be embodied in the annual report of the persons appointed to hold the examinations, which shall be laid before Parliament.

Official lists of passed candidates to be kept ranked in 2 classes.

7. Candidates who have passed the Civil Service Examination shall in accordance with such regulations, be ranked in two classes according to their proficiency in the subjects of examination, and official lists of such candidates shall be kept in such office as the Governor may from time to time direct, and shall show the percentage of the maximum number of marks obtained by each candidate in the several subjects of examination.

On attaining age of 25 or 30, or appointment on probation name to be removed from list.
Civil service candidates in temporary employment to remain on list of passed candidates.

8. As soon as any candidate under twenty-five years of age shall have attained the age of twenty-five years, or if accepted as a candidate under the provisions of proviso (*d*) of the sixth section of this Act, shall have attained the age of thirty years, or in either case shall have been appointed on probation under the provisions of the thirteenth section of this Act, his name shall be removed from such official lists, but should he be appointed under the provisions of the twenty-first section of this Act, to any office not included in Schedule A, before he has attained the age of twenty-five years, or thirty years, as the case may be, his name shall not be removed from the official list of candidates so long as he serves continuously in such office or in any similar office.

When names of C.M.R. officers to be removed.

9. As soon as any officer of the force called the "Cape Mounted Riflemen," who may have passed the Civil Service Examination, shall have been appointed on probation under the provisions of the thirteenth section of this Act, or shall retire from or cease to be employed in the Public Service in any capacity, his name shall be removed from such official lists.

CIVIL SERVICE LAW EXAMINATION.

Civil Service Law Examination.

10. The Council of the University of the Cape of Good Hope shall hold from time to time a Civil Service Law Examination in the following subjects:—

(1) Elements of Roman Dutch law.
(2) Elements of English law.
(3) Selections from the law of this Colony.

And such Council shall from time to time frame bye-laws and regulations for the conduct of such examinations, and for establishing, in regard to the prescribed subjects, the standards of qualification to be applied to the candidates, and shall appoint the times and places for holding examinations.

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List of those who have passed to be kept.

11. Lists of candidates who have passed the Civil Service Law Examination shall be kept in such office as the Governor may from time to time direct, and in these lists shall be included the names of persons in the Civil Service of the Colony who have passed any other existing Law Examination of the University of the Cape of Good Hope, and who may request that their names should be included in such lists.

Higher law examinations.

12. Any person on the Fixed Establishment of the Civil Service, or any passed candidate, who shall also have passed the Civil Service Law Examination, shall be entitled to enter for the examinations for the degree of Bachelor of Laws held by the University of the Cape of Good Hope, or for such other higher legal examinations as may in lieu of the aforesaid examinations be provided for by regulations under section eighty-eight of this Act: Provided that

(*a*) No such person shall by reason of his having passed such University Examinations be held to be entitled to the degree aforesaid unless he shall at the time of entrance have been a Bachelor of Arts or Master of Arts of the said University, or a holder of the second-class certificate in literature and science.

(*b*) The names of all such persons who have passed such University or other examinations shall be placed upon a list to be preserved in the office of the Attorney-General, which list shall show the year in which each such person has passed any such examination and his order of merit in each year.

(*c*) No person shall be deemed to be disqualified for appointment as a Resident Magistrate or Assistant Resident Magistrate by reason that he shall not have passed such University or other examination.

ADMISSION INTO CIVIL SERVICE.

How appointments to offices in Schedule A to be made.

13. Whenever it becomes necessary to admit a person into the Civil Service to fill any office included in Schedule A to this Act which may be vacant, the Minister shall, subject to the provisions of the fifteenth, sixteenth and twentieth sections hereof, select from the official lists of candidates who have passed the Civil Service Examination the person in his opinion best fitted to fill the office, and the name of such person shall thereupon be submitted to the Governor for appointment on probation: Provided always that, notwithstanding the definition in section two of this Act, this selection may be extended to any person who has passed the Civil Service Examination, and who, being under the age of twenty-five years, holds at the time of selection the position of a Judge's clerk, in which case appointment on probation need not be insisted on, but such appointment may be an appointment on the fixed establishment, and the time of service performed by such candidate in

Judges' clerks.

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No. 32—1895. Repealed by Act 29 of 1912 sec 76.

the capacity of Judge's clerk if continuous, shall count as public service; provided further that the contributions of any such Judge's clerk so appointed to the Civil Service and Widows' Pension Fund shall be taken as having accrued from the date of his appointment as Judge's clerk, but that he shall be permitted to pay the amount due for his period of service as Judge's clerk in such instalments as the Minister may consider reasonable.

At least twelve months probation necessary.

14. Subject to the provisions of the last preceding section as to Judges' clerks, the person so selected as aforesaid shall not be placed on the Fixed Establishment of the Civil Service until he shall have served on probation for a period of at least twelve months, and until he shall have received a certificate signed by some officer specified in Schedule A, under whom he shall directly have served, and countersigned by the permanent head of his Ministerial Division in case he shall not have served directly under such head, attesting his fitness to be permanently employed in that division and that his conduct and diligence during probation have been satisfactory, for a period of at least twelve months immediately preceding the date of such certificate.

Certain Officers in the Cape Mounted Riflemen of ten years service eligible for offices in Schedule A to this Act.

15. Subject to the provisions of the twenty-fourth section of this Act, it shall be lawful for the Governor to appoint any officer of the force called the "Cape Mounted Riflemen," to any office included in Schedule A to this Act, which may be vacant: Provided that such officer shall have served in such force, or partly in such force and partly in the Cape Infantry or Cape Field Artillery, for at least ten years, as an officer of or above the rank of a Lieutenant, and shall have passed the Civil Service Examination in the First Class.

Employés after 10 years service in certain departments eligible for any office in such department.

16. Every person who is now or shall hereafter be on the Fixed Establishment of the Civil Service of the Colony shall be eligible for appointment to any office included in Schedule A to this Act in the Department of the General Manager of Railways, or in the Department of the Postmaster-General, or in the Field Establishment of the Department of the Chief Inspector of Public Works, or to the position of Conservator of Forests in the Forest Department: Provided he shall have served at least ten years in the Department in which he is appointed to any such office as aforesaid; but the fact of any such person having been appointed to any such office under the provisions of this section shall not make him eligible (if otherwise ineligible) to hold an office included in such Schedule in any Department other than that in which he shall have served ten years or upwards: provided that service in the departments of the General Manager of Railways and the Chief Inspector of Public Works may be calculated together for the purposes of this section.

No more than 18 months' probation allowed.

17. Except in so far as is prescribed in the next succeeding section, no person shall continue to serve on probation in any department for more than eighteen months, and should any such person fail within eighteen months to obtain the requisite certificate

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Repealed by Act 29 of 1907 sec 76

of his fitness to be permanently employed, the Governor shall decide whether such person is unfit for service generally, or shall be allowed a further trial for twelve months or such less term as the Governor may think fit in another department: Provided that no person shall be allowed more than two trials.

Special circumstances allowing three years probation.

18. Should any person serving on probation, selected from the second class of candidates who have passed the Civil Service Examination, have received from the head of his department, within the period of eighteen months from his first appointment, a certificate of his fitness to be permanently employed, but shall not have passed the Civil Service Examination in the first class, he may, in order to afford him a further opportunity to obtain a position in the first class, be retained on probation until the expiration of three years from the date of his first appointment, but no longer.

How clerks on probation may be removed.

19. At any time during the period of probation of any person it shall be lawful for the Governor with or without notice as he may deem fit, to remove him from the service.

Cases in which a minister may appoint a person who has not passed Civil Service Examination.

20. Whenever the permanent head of a ministerial division, in which it is necessary to fill any office included in Schedule A to this Act, shall report, that, for reasons set forth in such report, the qualifications requisite for such office as defined by the Minister are wholly or in part professional, or otherwise peculiar, and not ordinarily possessed or to be acquired in the Civil Service, or possessed by candidates who have passed the Civil Service Examination, and that the requisite qualifications are not possessed in sufficient degree, by any available person then holding any office in such Schedule, it shall be lawful for the Governor to appoint to such office such other person possessed of such qualifications, as shall be deemed best fitted to fill the vacancy, either permanently or temporarily or on probation as he may think fit, and to dispense wholly or partially with any examination prescribed in this Act, and to substitute therefor such other examination as, with reference to the special requirements necessary, he may see fit to prescribe, or entirely to dispense with any examination. Within thirty days after the meeting of Parliament in each year, there shall be laid on the table of both Houses a return of all appointments made under the provisions of this section from the date of the opening of the preceding Session of Parliament to the date of such meeting, such return to include the aforesaid definition: Provided that any person appointed on or after the 2nd day of September, 1892, under the provisions of the thirteenth section of Act No. 42 of 1885 or of this section to fill any such office in any department shall be eligible to fill any other office included in such Schedule in such department, but such appointment shall not render him eligible to hold an office in any other department.

Return of all appointments made under this section to be laid before Parliament.

Persons appointed under this section eligible for promotion only in their own department.

Appointment of officers not mentioned in Schedule A.

21. The Minister may appoint to any offices not included in Schedule A to this Act, such persons as may be necessary for the efficient conduct of the public service; provided that due provision

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shall have been made by Parliament or be made in accordance with law for the salaries or wages of the persons so appointed: and if at any time the Minister shall deem it expedient in the interests of the public service to dispense with the services of any person employed under the provisions of this section, not being a person on the Fixed Establishment, he shall be at liberty to do so.

Services may be dispensed with unless on fixed Establishment.

22. All persons appointed under the provisions of the last preceding section of this Act for the discharge of clerical or other duties shall, as far as practicable, be selected from the lists of candidates who have passed the Civil Service Examination, and as soon as may be after the 30th June and 31st December in each year, every Permanent Head of a Ministerial Division shall render to the Controller and Auditor-General a return of all appointments in his division, of persons who have not passed the Civil Service Examination, made during the preceding six months under the provisions of the preceding section, for the discharge of clerical or such other duties as may be specified in regulations approved by the Governor.

Clerks to be as far as possible selected from lists of passed Civil Service candidates, and certain half-yearly returns to be rendered to Controller and Auditor-General.

23. Such returns shall be rendered in such form and shall embrace such particulars as may be prescribed in such regulations, and the names and other necessary particulars respecting all persons mentioned in such returns whose emoluments exceed a minimum prescribed in such regulations, shall be submitted by the Controller and Auditor-General to Parliament, with his Report thereon, as an annexure to his Annual Report.

Such returns to be in prescribed form, and names of persons receiving more than a certain minimum salary to be laid before Parliament.

MAGISTERIAL APPOINTMENTS.

24. It shall not be lawful permanently to appoint to any office of Resident Magistrate or Assistant Resident Magistrate, or to appoint as Acting Resident Magistrate for any period longer than three months, any person who, on the first day of January, 1887, had not served ten years or upwards in the Civil Service of the Colony, unless his name shall appear in the lists of candidates mentioned in the eleventh section of this Act and he shall have served at least five years, provided always that no such appointment shall be made unless any such person to be so appointed shall possess a sufficient knowledge of both the English and the Dutch languages.

Qualifications necessary for appointment as Resident Magistrate.

SUPERANNUATION: PENSIONS: ALLOWANCES: GRATUITIES.

25. It shall be lawful for the Governor to call upon any person in the Civil Service of this Colony who shall have attained the age of sixty years, or in the case of telegraphists, engine drivers, firemen, guards and shunters who shall have attained the age of fifty years, to vacate his office on condition of being paid the superannuation allowance which may be granted to such person in consideration of his past services by virtue of any regulations in force for the time being; and thereupon the office held by such person shall be deemed to be vacant.

Civil Servants when 60 and in certain cases when 50 may be required to retire on pension.

Repealed by Act 29 of 1912 Sec 6.

Amended by Act 32 of 1936 Sec 84.

or if such person (not being a person employed by the Railway Administration) consents thereto & the P.S.C approved under the Public Service Act 1923 so recommends who shall have attained the age of fifty-five years.

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Service on which pension or gratuity shall be computed.

26. In computing the pension or gratuity which may lawfully be granted to any person under the provisions of this Act, all continuous service in any department of the Civil Service shall be taken into account for pension purposes, excepting:—

Services excepted from the computation.

(*a*) Services (if any) rendered by him while under seventeen years of age.

(*b*) Services (if any) rendered by a contributor to the Civil Service Pension Fund after the first day of July, 1886, in respect of which he may not have actually contributed to the Civil Service Pension Fund.

(*c*) Services rendered by an officer on probation, if during such probation he shall have elected not to contribute to the Civil Service Pension Fund.

(*d*) Services in respect of which he may already have received a gratuity calculated under the provisions of this Act, or of Act 42 of 1885, or paid in accordance with the terms of a special contract, at or after the expiration of such contract.

Persons not entitled to pension or gratuity.

27. It shall not be lawful to grant any pension or gratuity under the provisions of this Act:

(*a*) To any person engaged in the discharge of duties of a purely temporary character;

(*b*) Or to any person who not having been on the Fixed Establishment of the Civil Service on the 10th day of August, 1885, has not contributed to the Civil Service Pension Fund.

No pension to officers paid by fees.

(*c*) Or to any person who is paid entirely by fees or allowances.

Or if dismissed or retiring voluntarily

(*d*) Or to any person dismissed for misconduct, or by his own act or suffering any legal disability which would have disqualified him from appointment, or who voluntarily retires from the service on grounds other than those set forth in the next succeeding section of this Act.

(*e*) Or to any person engaged for a fixed term of months or years.

amended by 8, 1916 and 32 of 1916

No allowance to officers under 60, or in certain cases 50, except in cases of illness, &c.

28. Except as is hereinafter provided, it shall not be lawful to grant a superannuation allowance under the provisions of this Act to any person ceasing to serve on the fixed establishment of the Civil Service who shall be under ~~sixty years of age, or in the case of telegraphists, engine drivers, firemen, guards and shunters, who shall be under fifty years of age~~, unless upon medical certificate, to the satisfaction of the Governor, that he is incapable, from infirmity of mind or body, to discharge the duties of his office, and that such infirmity is likely to be permanent.

1 an age at which he can be retired

Rates of such allowances.

29. Subject to the exceptions and provisions hereinafter contained, the superannuation allowance which may be granted, after the taking effect of this Act, to any person who shall have served in the Civil Service of the Colony, and for whom provision shall not otherwise have been made by Act of Parliament, or

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who may not be specially excepted by the authority of Parliament, shall be as follows:—

To any person whose service for pension purposes is less than one year a refund of his contributions to the Civil Service Pension Fund.

To any person whose service for pension purposes is at least a year, but less than ten years a gratuity not exceeding the amount arrived at by allowing a month's salary and emoluments or wages for each complete year of service.

To any person whose service for pension purposes is ten years an annual allowance of ten-sixtieths of such salary and emoluments;

And, in like manner, a further addition to the annual allowance at the rate of one-sixtieth in respect of each additional year of service, until the completion of a period of service of forty years, when an annual allowance of forty-sixtieths may be granted; and no addition shall be made in respect of any service beyond forty years.

The Governor may frame rules with respect to pensions of officers who have served under another Government or a Harbour Board.

30. (1) It shall be lawful for the Governor to frame or approve of rules similar to those which may be in force in the United Kingdom for the calculation of the pensions which may be granted on their retirement to officers who may have served partly in the Colonial Civil Service and partly in the Imperial Service, or in that of another British Colony, or in that of any State, Territory, or civilized power, in South Africa, or in that of any Harbour Board in the Colony, and for the charging of equitable shares of such pensions to the revenues of the Colony.

Gratuities in case of bodily injury while on duty.

31. It shall be lawful for the Governor to grant to any person, to whom at his retirement any pension or gratuity might lawfully be granted, and who is compelled before the completion of ten years' service, to quit the Civil Service by reason of severe bodily injury, or permanent ill-health, occasioned, without his own default, while engaged in the discharge of his public duty, a gratuity not exceeding the amount arrived at by allowing three months' pay for each year of service, which would have been counted for pension purposes, or a superannuation allowance not exceeding ten-sixtieths of the annual salary and emoluments of his office.

Allowance to officers incapacitated by infirmity.

32. It shall be lawful for the Governor to grant to any person, to whom at his retirement any pension or gratuity might lawfully be granted, and who is compelled, from permanent infirmity of mind or body, to leave the public service before the completion of ten years' service, such sum of money by way of gratuity as the said Governor may think proper, but so that no such gratuity shall exceed the amount arrived at by allowing one month's pay for each year of service, which would have been counted for pension purposes.

Allowance to widows and children

33. Should any person, to whom at his retirement any pension or gratuity might lawfully be granted, die from bodily

[1] As to service under Harbour Boards see § 68 *et seq.*, Act 36, 1896 (p. 3676)

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of officers dying from injuries while on duty.

injury, occasioned, without his own default, while engaged in the discharge of his public duty, it shall be lawful for the Governor to grant to the widow or children of such person, or to his parents, or brother or sister, if dependent on him, for their maintenance, a gratuity not exceeding an amount, arrived at by allowing one month's pay for each year of service, which would have been counted for pension purposes: Provided that if such gratuity as aforesaid shall appear to the Governor to be inadequate to meet the circumstances of any particular case, he may grant a gratuity, not exceeding one year's pay.

Allowances on abolition of office on Fixed Establishment.

34. It shall be lawful for the Governor to grant to any person retired or removed from the fixed establishment of the Civil Service in consequence of the abolition of his office, such special annual allowance, not exceeding two-thirds of the salary and emoluments of the office, by way of compensation, as on a full consideration of the circumstances of the case may seem to the said Governor to be a reasonable and just compensation for the loss of office: Provided that such special annual allowance shall not exceed the amount which might be granted if one-third of the period of service which would have been counted for pension purposes were added thereto: Provided always that the number of years to be added shall in no case exceed such number as would, if added to the actual age of the person retiring or removed, make up sixty-five.

Power of Governor with respect to officers on Fixed Establishment unfit for their duties.

Amended by 1922 Act 38, Sec. 10

35. Should any person on the fixed establishment of the Civil Service be found to be unfit from any physical or other cause to discharge efficiently the duties of the particular office filled by him, or should it be found necessary to remove any person in order to facilitate improvements in the organization of the Department to which any person belongs by which greater efficiency and economy can be effected, it shall be lawful for the Governor, if such person shall have had ten years' service or upwards, to place him on temporary pension pending the occurrence of a suitable vacancy, or if he shall have had less than ten years' service, to dispense with his services, precisely as if, in either case, he were not on the Fixed Establishment: Provided that no person shall be removed from the service in order to facilitate improvements in the department to whch he belongs without the previous concurrence of both Houses of Parliament.

Person enjoying allowances under 60 or 50 may be called on to serve again.

36. Every person to whom an annual superannuation or compensation allowance shall have been granted before he shall have attained ~~the age of sixty years, or in case of a telegraphists, engine driver, fireman, guard or shunter, before he shall have attained the age of fifty years, shall, until he has attained the age of sixty or fifty years as the case may be~~, be liable to be called upon to resume his duties in his former office, or to fill any public office, or situation of equal or higher rank to that previously held by him in the Colony, for which he is qualified; and if he shall decline, when

an age at which he can be pensioned

Shall until he has attained such age

Ord. 32/1936 sec 84

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called upon to do so, to take upon him such office or situation, or shall decline or neglect to execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to the compensation or superannuation allowance which had been granted to him: Provided that no such person shall be liable to be called upon to serve again if he shall have remained unemployed in the Service for a period of five years.

Allowances to cease on appointment to office of equal value thereto.

37. In case any person enjoying any superannuation allowance, in consequence of his having retired from office on account of age, infirmity, or any other cause, or enjoying any compensation for past services upon the abolition or reduction of office, shall be appointed to fill any public office in this Colony or elsewhere of which the whole or any part of the salary and emoluments are payable out of the Imperial Revenue or out of the Revenue of this or any other Colonial Government or of any Harbour Board of the Colony, such allowance or compensation shall cease to be paid for any period subsequent to such appointment, if the annual amount of salary and emoluments so payable be equal to those of the office formerly held by him, and in case they shall not be equal to those of his former office, then no more of such superannuation allowance or compensation shall be paid to him than what, with the salary and emoluments of his new appointment, so payable, shall be equal to that of his former office; provided that this section shall not apply to any person enjoying, at the date of the taking effect of this Act, any such superannuation allowance or compensation as aforesaid, by reason that he shall become a Minister in this Colony.

Made nominal reduction by the passing of Act No 36 of 1936 see 11 Substituted by sec 92 of Act No 27 of 1923. See L.O. Ca 0 261 1939 Justice 1/124/39 219 9/8/39

Calculation of term of service of officers re-appointed.

38. It shall be lawful for the Governor, on the ultimate retirement of any person who may have been re-employed under the last preceding section, to grant to such person a retiring allowance, not exceeding forty-sixtieths of his salary and emoluments, based on his periods of actual service before and after his temporary retirement, which would have been counted for pension purposes, precisely as if such periods had formed continuous service: Provided that if such retiring allowance so re-calculated be less than that granted to him at his previous retirement, he shall be entitled to receive such previous allowance, and in such case he shall also be entitled to a refund of all contributions (if any) to the Civil Service Pension Fund made after the date of such previous retirement.

Special cases in which larger allowances may be granted.

39. It shall be lawful for the Governor to grant to a person to whom at his retirement any pension or gratuity may lawfully be granted, a superannuation compensation, gratuity, or other allowance of greater amount than the amount which might be awarded to him under the foregoing provisions, when special services rendered by such person, and requiring special reward, shall appear to him to justify such increase, but so that such allowance shall in no case exceed the salary and emoluments enjoyed by such

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person at the time of his retirement: Provided that the minute detailing the circumstances under which such increase was recommended to the Governor shall be laid before and be approved of by both Houses of Parliament before it be granted, and it shall be lawful for the Governor to grant to any person any such allowance or less amount than otherwise would have been awarded to him, when his defaults or demerits in relation to the public service appear to him to justify such diminution: Provided that in the case of a contributor to the Civil Service Pension Fund who neither is dismissed for misconduct, nor voluntarily retires from the service on grounds other than those set forth in the twenty-eighth section of this Act, such allowance shall not be less than the amount actually contributed by such person to the Civil Service Pension Fund.

How averages are obtained for calculating superannuation allowances.

40. Any superannuation or compensation allowance which may be granted to any person after the passing of this Act shall not be computed upon the amount of the salary and emoluments enjoyed by him at the time of his retirement, unless he shall have been in the receipt of the same for a period of at least three years immediately before the granting of such superannuation allowance; and in case he shall not have enjoyed his then existing salary for that period, such superannuation or compensation allowance shall be calculated upon the average amount of salary and emoluments received by such person from time to time during the three years next preceding the commencement of such allowance: Provided that, if at the date of his retirement the whole period of service of such person be less than three years, any superannuation or compensation allowance which may, under the provisions of this Act, be granted to him, shall be calculated on his average salary and emoluments during his whole period of service: Provided, also, in the case of a person re-employed under the thirty-sixth section hereof, that, if, at the date of his ultimate retirement, his whole period of service subsequent to the date of his re-employment shall have been less than three years, his superannuation or compensation allowance shall be calculated upon his average salary and emoluments during the last three years of his actual service, precisely as if a period of temporary retirement had not existed: Provided lastly that in the case of a person, who shall have been employed on daily wages, any superannuation allowance which may be granted to him, may, should he desire it, be calculated upon the average amount of wages and other emoluments received by him for either of the three years preceding his retirement or for the entire period of his service.

Basis of calculation of workmen's pensions.

Continuous services required in calculation of allowances.

41. Service in respect of which superannuation or compensation allowances may be granted must in all cases be continuous, unless interrupted by reduction of office, leave of absence, or other temporary suspension of employment, not arising from misconduct or voluntary resignation; and in computing the amount of any

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superannuation or compensation allowance, the term salary and emoluments shall be taken to include:

What salary and emoluments include.

(1) House rent or house allowance, or the annual value of quarters in any buildings belonging to or possessed by the Crown which an officer may be allowed to occupy, to an extent not exceeding one-sixth of the average salary and other emoluments of the office during the three years preceding;

(2) The net amount of fees to an extent not exceeding one-fourth of such salary;

(3) The allowed value of rations;

(4) And any other unquestionable remuneration for personal service;

but it shall not include local allowances contingent on the high cost of living in certain localities, or allowances for horse keep, or locomotion, or stationery, or any other allowance contingent on the particular nature and actual transaction of the business of the office, and presumably spent in the discharge of such business: Provided that the net amount of fees shall be obtained by deducting from the average gross amount of fees received during the three years next preceding, the average office expenses during such three years payable by the officer himself.

No leave of absence beyond two months to officers about to retire on pension.

42. It shall not be lawful to grant leave of absence for any period exceeding two months to any person who purposes to retire or whom it is proposed to place on pension at or within six months of the termination of such leave; and should any person who has obtained leave of absence for any period exceeding one month, voluntarily retire on pension during such leave, or within six months after its termination, any superannuation allowance which may lawfully be granted to him under the provisions of this Act shall be calculated on his period of service up to the date from which leave commenced: Provided that if it be established by medical certificate, to the satisfaction of the Governor, that such person is incapable, from infirmity of mind or body, of resuming the duties of his office at the termination of his leave, or though he has resumed service, of continuing to serve for six months thereafter, and that such infirmity is likely to be permanent, it shall be lawful for the Governor to direct that the period of service of such person shall be reckoned up to the date of the close of his leave or of his ultimate retirement as the case may be.

Exceptions.

Fractional part of month not to count.

43. In the computation of superannuation or compensation allowances, no fractional part of a month, and no increase of salary or emoluments granted after the date of the application to be allowed to retire, shall be taken into consideration.

Pension not claimable by person not retiring from all the offices held by him.

44. Unless the Governor shall consider that it is necessary in the public interest or just on the ground of good service and special infirmity, it shall not be lawful to grant a superannuation

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or compensation allowance to any person holding more than one appointment or office until he shall retire from all the offices held by him.

Absence on leave to count as service if on full or half-pay.

45. For the purpose of calculating any superannuation or compensation allowance, absence on leave with pay in accordance with this Act shall be regarded as service, and the person during such absence on leave shall be deemed to have drawn his full salary and emoluments, but any period of absence on leave without salary shall not be reckoned in the period of service.

When pension awarded may be stopped.

Repealed by 1923 Act 27.

46. After a pension or superannuation allowance has been awarded to any person, the same may thereafter be rescinded, in case it shall be discovered that during his tenure of office he was guilty of any offence which if known might have merited dismissal, or if he shall refuse or neglect to comply with a reasonable request by the Governor to perform some special duty in relation to the affairs of his late office.

Pensions only to persons whose duties occupy their whole time.

47. Save as hereinafter is excepted, it shall not be lawful to grant any superannuation allowance to any person holding an office, in regard to which the holder is not required to give his whole time to the public service; but nothing herein contained shall prevent the Governor from directing that a retiring allowance be granted under the preceding sections of this Act, to the Solicitor-General, the Crown Prosecutor at Kimberley, the Assistant Law Adviser to the Crown, or to the holder of such other office as he may from time to time determine to be entitled to a similar grant: Provided that no such direction as to any such last-mentioned holder shall be of force and effect until the expiration of thirty days from the date on which a minute, embodying the reasons on which it was made, shall have been laid before both Houses of Parliament.

Exceptions.

Pension to be calculated on actual service.

48. Save as may in this Act be excepted, the superannuation allowance to be granted to any person holding office in the Civil Service of the Colony shall be calculated according to the actual period of service of such person, and no addition shall on any pretext whatsoever be made to such period: Provided that nothing in this section contained shall be taken to prejudice the rights under then existing superannuation regulations of any person who previous to the 9th day of February, 1886, was on the fixed establishment of the Civil Service.

Mixed Service.

Pensions of persons transferred to or from the Civil Service.

49. Should any person, serving the Governor of this Colony in a capacity to which a pension calculated according to the scale of one-fiftieth of yearly pay may be granted for each year of service, be transferred to the Civil Service of the Colony, or *vice versa* from the Civil Service to service in such capacity, then, on the ultimate retirement of such person, it shall be lawful for the Governor to grant to him a pension or superannuation allowance according to the rules of the service from which he retires, allowing, however,

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one-sixtieth of the amount on which such pension or superannuation allowance may be calculated in respect of each year in which he shall have served in the Civil Service, and one-fiftieth of such amount for each year in which he shall have served in such other capacity: Provided that no pension or retiring allowance may be granted under this section, unless the aggregate number of years of service of such person shall have been at least ten years, if he shall at the time of his retirement have been serving in the Civil Service; or at least fifteen years, if at such time he shall have been serving in such other capacity, and shall, further, have served in such other capacity for at least ten years: Provided lastly that no pension granted under this section may exceed the maximum pension of the service from which he retires.

Pensions of persons employed partly in Civil Service and partly in Police.

50. The Superannuation Allowance of any person who on his retirement shall have served partly as a Police Officer, as defined in the "Police Superannuation Act, 1874," and partly in some other capacity or capacities in the Civil Service referred to in the preceding section of this Act, shall be calculated under the provisions of such section as if his service as a "Police Officer" had been service under the "Police Regulation Act, 1882."

Civil Service Pension Fund.

Who must contribute to Civil Service Pension Fund.

51. A monthly deduction for the Civil Service Pension Fund shall be made from the salaries and emoluments or wages of all persons who may be contributors to such Fund at the date of the taking effect of this Act, and subject to the conditions hereinafter contained a like deduction shall be made from the salary and emoluments of every person appointed on monthly or annual salary who may thereafter be admitted into the Civil Service, as defined in the second section of this Act: Provided that no such contribution shall be made

Exceptions.

(*a*) unless and until the person has attained the age of 17;
(*b*) if he is engaged in the discharge of duties of a purely temporary character;
(*c*) by any person appointed on probation unless he shall elect to contribute during such probation;
(*d*) by any person engaged for a fixed term of months or years;
(*e*) by any person appointed under the provisions of the twenty-first section of this Act who may be upwards of forty years of age at the date of his admission into the public service.

Option of future day pay employés to contribute to Civil Service Pension Fund.

52. Every person who may be appointed under the provisions of this Act on daily wages but for the discharge of duties not of a purely temporary character, may elect, if then seventeen years of age or upwards, within one month from the date of his appointment, or if then under seventeen years of age, within one month of his becoming seventeen years of age, whether or not he shall become a contributor to the Civil Service Pension Fund; and should he elect to become a contributor to such fund, his contri-

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bution shall accrue from the date of his appointment, or the date on which he shall become seventeen years of age, as the case may be.

Date form which contribution to be computed.

Option of present day pay employés to contribute to the Civil Service Pension Fund.

Limitation of period of commencement of date of contribution.

53. Every person who, at the date of the taking effect of this Act may be employed in the Civil Service on daily wages, but in the discharge of duties not of a purely temporary character, and who has not theretofore elected to become a contributor to the Civil Service Pension Fund, may elect within three months from such date or within one month of his becoming seventeen years of age whether he will become a contributor to such Fund; and should he so elect may further elect from what date within his period of service (not however, before the first day of July, 1886, and in no case later than the first day of July, 1895, or earlier than the date on which he shall have attained the age of seventeen years), his contributions to such fund shall accrue or be calculated, and any such person will be permitted to pay the amount due for the period for which he may elect to contribute, in such instalments as the Minister may consider reasonable: Provided that such person shall also pay interest at the rate of five per cent. per annum for the period between the end of the month, in respect of which any contribution may be made, and the date on which such contribution is actually paid: Provided further that any person who, before the taking effect of this Act, shall have resigned *pro forma*, and, without any break, have rejoined for the purpose of placing himself within the one month rule, shall be allowed the like option, to take effect as from the date of the original employment.

Contributions on continually varying pay may be averaged annually.

54. In every case in which the amounts paid to a contributor to the Civil Service Pension Fund as wages or emoluments vary from month to month, his monthly contribution to such fund shall be made on such sum as may be determined for the year, with the approval of the Minister, as fairly representing his annual emoluments capable of being taken into account for pension purposes.

Present rate of contributions to be 3 per cent.

55. Until the Governor shall otherwise direct, all contributions to the Civil Service Pension Fund shall be at the rate of three per cent. per annum on the salaries or wages, and all other emoluments of contributors capable of being counted for pension purposes, and shall ordinarily be collected by deduction from such salaries and emoluments or wages: Provided that when the amount of any fees receivable by any officer cannot be definitely ascertained beforehand, the deduction aforesaid shall be made upon the average net amount of such fees received annually during the three financial years next preceding: Provided further that no such direction of the Governor shall take effect until the Legislative Council and House of Assembly shall have communicated to the Governor their concurrence therein.

Governor, with consent of Parliament, may alter rate of deduction.

Grant to widow or children of contributor dying before retirement.

56. Should any contributor to the Civil Service Pension Fund die while in the service before any superannuation allowance has been granted to him, leaving a widow or one or more minor

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children, it shall be lawful to grant to such widow or minor children an amount equal to the total contributions of such contributor to such Fund.

Contingent grant to widow or children of pensioner.

57. Should any contributor to the Civil Service Pension Fund, to whom a pension has been granted on his retirement, die, leaving a widow or one or more minor children, before the aggregate amount paid or payable to him as pension has become equal to the total amount contributed by him to such Fund, it shall be lawful to grant to such widow or minor children an amount equal to the excess of such total contributions over the total amount paid or payable to him as pension up to the date of his death.

Widows' Pension Fund.

Who must contribute to Widows' Pension Fund.

58. Every person who, not being a contributor to the Civil Service Pension Fund, is at the time of the passing of this Act a contributor to the Widows' Pension Fund, and every person thereafter appointed to be a Judge of the Supreme Court, and every male contributor to the Civil Service Pension Fund shall, provided his salary or wages, exclusive of other emoluments, amount to £100 per annum or upwards, be required to contribute to the Widows' Pension Fund at the rate of one per cent. per annum on his salary and emoluments or wages.

Rate of contribution.

Basis of computation of contributions to Pension Funds, where contribution is made to both.

59. In all cases in which any person contributes both to the Civil Service Pension Fund and to the Widows' Pension Fund, whatever amount may be taken to be or to represent his annual emoluments for the purpose of determining his contribution to the former, shall likewise be taken to be his annual emoluments for the purpose of determining his contribution to the latter.

How Pensioners must contribute.

60. Every contributor to the Widows' Pension Fund who may be placed on a yearly pension, shall be required to continue to contribute to such fund at the rate of one per cent. on the amount of his salary and emoluments at the date of his retirement, unless in case such pension be less than £100 per annum, the pensioner shall have obtained the consent of the Governor to his ceasing to contribute to such fund or to contribute only on the amount of his pension.

Steps to be taken by contributors desirous of securing higher pensions for widows.

61. Every contributor to the Widows' Pension Fund who shall be desirous before he has himself retired on pension of securing a pension for his widow beyond what the deduction of one per cent. would secure, shall, at the time of his proposing to have a further sum beyond the one per cent. aforesaid deducted from his salary or pension, produce to the Treasurer the certificate of some duly qualified medical practitioner in this Colony, as to his state of health; and it shall be competent for the Treasurer, in case such medical practitioner shall not certify that such officer is in sound health, either to refuse his application altogether, or to require such a deduction from the salary or pension of such

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officer, greater than if he were in sound health, as such officer and the Treasurer may agree upon, and in case they may not be able to agree, the application shall be considered as refused.

Mode of collection for Widows' Pension Fund.

62. All contributions to the Widows' Pension Fund at the rate of one per cent. per annum on salary and emoluments or wages shall ordinarily be made by monthly deduction therefrom; ~~and in all cases at the death of any contributor, any difference between the contribution for a complete year, counting from the~~ date ~~from which his first contribution was calculated, and the month~~ly ~~deductions actually made, shall be deducted from the first payment which may be due to his widow.~~

deleted by act 32/1936 Sec 84.

Mode of calculating Widows' Pensions.

63. There shall be paid to the widow of every contributor to the Widows' Pension Fund a pension calculated on the actual contribution of such contributor to such fund in accordance with the tables approved by a competent actuary and now in use, or of such other tables calculated on a like basis and approved by a competent actuary as the Governor may direct to be used in lieu of those now in use, and with regulations framed or approved by the Governor: Provided that in cases in which the contributions have not greatly varied for a number of consecutive years, the calculation may be made as if the contributor had actually contributed during such years at the average rate for such years: Provided, further, that no such pension shall exceed one-third of the salary of the contributor during the year immediately preceding his retirement from the service, or death as the case may be, nor shall any such pension exceed the sum of two hundred and fifty pounds sterling per annum.

Variations in pay due to absence of officer on leave not to affect Widows' ordinary Pensions.

64. Any temporary diminution of the contribution of an officer or employe on the ground of his being absent on leave, and receiving during such absence less than his usual salary and emoluments or wages, and any temporary increase of the contributions of an officer or employé on the ground of his receiving, in addition to his usual salary and emoluments, or wages, a portion of the salary and emoluments or wages of another officer or employé absent on leave, shall not affect the pensions payable to the widows of such officers or employés: Provided that no diminution or increase of contribution on such grounds shall be made in the case of payments at a higher rate than one per cent. per annum.

When surrender value may be allowed.

65. Should any contributor to the Widows' Pension Fund retire from the service on a gratuity, the surrender value of his contributions to such fund computed by such actuary as aforesaid may be refunded to him.

Pension not exceeding £10 per annum may be commuted.

66. Whenever any pension payable to a widow under the provisions of this Act shall not exceed the sum of ten pounds per annum, it shall be lawful for the Governor before any payment of such pension shall have been made to commute such pension by the payment of a capital sum of money calculated according to the estimated duration of the life of the pension-holder.

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Rules to be observed in calculating amount payable in respect of commutation.

67. In calculating the amount payable in respect of the commutation of any widow's pension under the preceding section of this Act, the following rules shall be observed:—

(*a*) The age of the pension-holder shall be reckoned at the age she will attain on the birthday next succeeding the date of her becoming entitled to such pension.

(*b*) Interest shall be calculated at the rate of three per cent. per annum.

(*c*) The duration of life of persons whose pensions it is proposed to commute shall for the purposes of this Act be calculated according to tables approved of by the Governor.

Civil Service and Widows' Pension Funds.

Contributions to be a basis of pension.

68. In computing pensions and gratuities the amounts on which contributions have been duly and properly paid to the Civil Service Pension Fund, shall as far as practicable be taken as a basis.

Contributions to be lodged in a Deposit Account.

69. All amounts contributed to the Civil Service Pension Fund and Widows' Pension Fund shall be lodged in the Treasury to the credit of a separate Deposit Account, entitled the "Pension Funds Deposit Account," and the Accounting Officer of these funds shall keep two separate accounts described as "Civil Service Pension Fund," and "Widows' Pension Fund," respectively, to each of which shall be credited all contributions belonging thereto.

What pensions to be charged to Civil Service Pension Fund.

70. All pensions and gratuities granted to contributors to the Civil Service Pension Fund, who have not contributed to such fund during the whole period of their actual service capable of being counted for pension purposes, shall be divided into two parts in proportion to the number of years of such actual service during which they contributed to such fund, and the number of years (including police or military service, if any), during which they did not contribute thereto; and the first-mentioned portions of such pensions and gratuities, and the whole pensions or gratuities granted to persons who contributed to such fund during the whole of their actual service capable of being counted for pension purposes, and no other pensions or gratuities, shall be charged to the Civil Service Pension Fund.

Only calculated Widows' Pensions chargeable to Widows' Pensions Fund.

71. All pensions to widows calculated under the provisions of this Act and all amounts payable under the provisions of this Act in respect of the commutation of such pensions, and no other widows' pensions, shall be charged to the "Widows' Pension Fund."

Treasurer may invest balance in Government debentures or stock.

72. It shall be lawful for the Treasurer to invest any portion of the balances to the credit of the Civil Service Pension and Widows' Pension Funds in Government Debentures or Stock, and to sell any such Debentures or Stock which may have been previously purchased, and a statement of all moneys received and disbursed on behalf of the said funds and of all investments and

Statement of transactions of Fund to be laid before Parliament annually.

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sales under the provisions of this section shall be laid before both Houses of Parliament annually.

Payments from General Revenue to Civil Service Pension Fund.

73. From and after the passing of this Act there shall be paid from the General Revenue to the credit of the Civil Service Pension Fund:

(*a*) The sum of one pound for every pound thereafter contributed, in accordance with this Act, by contributors to such fund;

(*b*) Any further sums which may from time to time be voted by Parliament to enable such fund to meet its annual liabilities under this Act;

(*c*) And in addition to the above, interest at the rate of three per cent. per annum on the average uninvested balance of the fund at the end of each month.

Payments from General Revenue to Widows' Pension Fund.

74. As soon as may be after the 30th of June in each year, there shall be paid from the General Revenue to the credit of the Widows' Pension Fund:

(*a*) Interest at the rate of five per cent. per annum on the average uninvested balance of the fund at the end of each month;

(*b*) An amount equal to the difference between the amount of every widow's pension computed under the provisions of this Act on a three per centum basis, and what would be its amount had it been computed on a five per cent. basis;

(*c*) The difference between the interest actually realised on investments and interest at the rate of five per cent. per annum on the amounts actually invested;

(*d*) And such amounts (if any) as may from time to time be necessary to maintain the solvency of the fund.

At the end of every 5 years, actuarial enquiry to be made into working of the Funds.

75. At the end of every period of five years, commencing from the 1st day of January, 1895, in the case of the Widows' Pension Fund, and in the case of the Civil Service Pension Fund from the 1st day of January, 1892, a complete statement of all moneys received and disbursed under the provisions of this Act, together with all such further particulars connected therewith as may be required for a full investigation into the working and condition of the said Funds, shall be submitted by the Treasurer to a competent actuary, and the report of such actuary shall be laid before both Houses of Parliament as soon as practicable after the expiration of such period.

Security and Public Service Guarantee Fund.

Security to be given by public officers.

76. It shall be the duty of the Treasurer to fix and determine the amount of security to be given by the holder of every office in the Civil Service of the Colony involving the receipt, custody, or payment of public money, or the receipt, issue, or custody of stamps, and to frame a schedule for the guidance of public officers,

repealed by Act 29 of 1907

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Repealed by Act 29 of 1912 Sec 7(b)

showing the amount so fixed in respect of such offices, and from time to time to amend such schedule as circumstances may require: Provided that in determining the amount of security to be required of the holder of any such office the said Treasurer shall act in conjunction with the Minister.

"Public Service Guarantee Fund."

77. The holders of offices from whom security is required shall as heretofore be required to contribute to the fund styled the "Public Service Guarantee Fund," and all contributions or other moneys payable to the said fund shall be lodged to the credit of a separate deposit account in the Treasury.

Payments thereto to be lodged in Treasury.

Deductions in case of officers not hitherto called on to give security.

78. Whenever any person who has not previously contributed to the Public Service Guarantee Fund, in respect of any appointment held by him, is appointed to any office in the public service of the Colony, the holder of which is required to give security, a deduction of one-eighth per cent. on the amount for which he is required to give security shall be made on account of such fund from the first payment of salary in respect of such office, and such person shall further contribute to such fund at the rate of one-eighth per cent. per annum on such amount from the date of his entering on the discharge of the duties of such office.

Adjustment of contributions to fund where a less or greater security for new office required.

79. Should any person appointed to any office in respect of which security is required have contributed to such fund in respect of an office previously held by him, he shall contribute to such fund at the rate of one-eighth per cent. per annum on the amount of security required in respect of such new office, and such contribution shall accrue from the date of his entering on the discharge of the duties of such new office; and the increase if any in the amount to be contributed shall for the first contribution be deducted from the first payment of salary in respect of such new office: Provided that if the period for which he shall have previously contributed shall not have expired, a portion of such previous contribution, proportionate to such unexpired period, shall be deducted from the first contribution required by this section.

Cases in which security not hitherto required.

80. Every person who may at any time hold an office in the public service of the Colony in respect of which, in the opinion of the Treasurer, security should be given, but who has not been required to give any security, shall from a date appointed by the Governor contribute to the Public Service Guarantee Fund, as if he had been first appointed to such office at such date.

First contributions to fund regulated.

81. In respect of every first annual contribution to the said fund, an amount proportionate to the period between the date from which it commences to accrue, and the 31st of March next ensuing, shall be deducted from the first payment of salary payable to the holder of the office in respect of which security is given, and thereafter the annual contribution shall be payable in advance, on the 31st of March in each year, and shall be deducted from the payment of salary for the said month of March, and should any

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deduction not be made as prescribed in this Act, the amount shall be forthwith recovered from the person in default.

Initial deductions may be altered by Parliament.

82. The rates of initial deduction and of annual contribution to the Public Service Guarantee Fund set forth or referred to in this Act, may from time to time be altered and amended by resolutions of both Houses of Parliament, and thereafter such amended rates shall be substituted for the rates set forth or referred to in this Act, as if the same had been originally inserted therein.

Recovery from person who has rendered the fund liable to pay for his default.

83. Should any person who has become a contributor to the Public Service Guarantee Fund cause any pecuniary loss to the public revenue of the Colony, by reason of any wrongful act or omission, the amount of such loss shall be charged against such person, and shall, as far as possible, be recovered in such manner as the Attorney-General may direct; and in case the amount recovered shall be insufficient to cover such loss, it shall be lawful for the Paymaster-General on being authorised so to do by the Treasurer, to pay out of the aforesaid fund such sum as shall be sufficient to make good the amount of loss sustained by the revenue, not exceeding however the amount for which security was given by the defaulter: Provided that if any amount be subsequently recovered from such defaulter, such amount shall be applied, firstly, to make good the deficiency (if any) still remaining due to the revenue, and secondly, to the reimbursement of such fund.

Interest at 3 per cent. on quarterly balance of fund.

84. It shall be lawful for the Governor to cause interest to be paid from and out of the public revenue, at the rate of three per cent. per annum, on the uninvested balance at the close of each quarter to the credit of the said fund.

Power to invest balance.

85. It shall be lawful for the Treasurer to invest any portion of the balance to the credit of the said fund, in Government debentures or stock, and to sell any such debentures or stock which may have been previously purchased.

Statement of accounts of fund to be laid before Parliament.

86. A statement of all moneys received and disbursed on behalf of the said fund, showing all defaulters and the circumstances under which any disbursements from the fund have been made, and of all investments and sales under the provisions of the last preceding section, shall be laid before both Houses of Parliament annually.

Complete statement of moneys, &c., to be prepared every 5 years and laid before Parliament.

87. At the end of every period of five years, commencing from the 1st day of January, 1895, the Treasurer shall cause to be prepared a complete statement of all moneys received and disbursed on behalf of the Public Service Guarantee Fund under the provisions of this Act, and of the position of the said fund, together with all such further particulars connected therewith as may be required for a full investigation into the working and condition thereof, which shall be laid before both Houses of Parliament during the first session after the expiration of every such period.

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GENERAL.

No. 32—1895.

Power of Governor to frame rules.

88. It shall be lawful for the Governor from time to time to make, add to, amend, or repeal rules for:—

(1) The Subjects, Standards, and conduct of examinations held under this Act, and of all matters relating to the proper carrying out of such examinations and the record of their results.

(2) The effectual working and management of the Pension and Guarantee funds provided or referred to in this Act.

(3) The grades, classification, conditions of promotion, with or without further examination, duties, hours of attendance, and leave of officers; and

(4) The efficient performance of their duties by all officers.

The Governor may for the violation of any duty prescribed by such rules provide penalties for the punishment of offenders by way of reprimand, fine, deprivation or reduction of salary or emoluments, reduction in rank, suspension for a period, fixed or indefinite, or dismissal.

Suspension for breach of rules.

89. If any officer on the Fixed Establishment of the Civil Service be guilty of any breach of these rules, such officer may be suspended by the Minister pending inquiry into such breach.

Drunkenness.

90. No person who is proved to the satisfaction of the Governor to be habitually using intoxicating beverages to excess shall be retained in the public service.

Conviction of crime, &c.

91. If any officer be convicted of any crime, and sentenced to imprisonment without the option of a fine, or become insolvent, or be imprisoned for debt, or be proved to the satisfaction of the Governor to be so addicted to intoxicating beverages as to be frequently unfit for the performance of his duties, he shall be deemed to have forfeited his office, and thereupon cease to perform his duties or receive his salary, and pending any inquiry under this section as to any officer, the Minister may suspend him from office upon such conditions as he may deem just.

Power of reinstatement by Governor.

92. When any officer has forfeited his office by reason of becoming insolvent or being imprisoned for debt, if he prove to the satisfaction of the Governor that his insolvency or imprisonment has not been caused or attended by any fraud, extravagance or dishonourable conduct, the Governor may reinstate such officer in his former position or place him in some other, if he be in other respects fit for the performance of the requisite duties and able to undertake them.

All departments to be considered as one service.

93. The several departments of the Civil Service of the Colony shall be considered and treated as one service; and every person serving therein shall be liable at any time to be transferred or removed by the Governor from one office or department to another, and from one station to another, on promotion or otherwise, whensoever the interests of the service may require it; and when so transferred or removed, except at his own request, the actual

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No. 32—1895.

Repealed by Act 28 of 1912

reasonable travelling expenses of himself and family shall be paid on production of proper vouchers. Provided that no person, unless disrated, in accordance with such rules as aforesaid, shall be transferred without his own consent to an office of a lower grade or one to which a lower salary, including allowances capable of being calculated for pension purposes, is attached.

Procedure on resignation.

94. Any officer on the fixed establishment of the Civil Service, who may desire to resign his appointment, shall be required to give such notice, not exceeding three months, of his intention so to do, as the Minister may require; and any such officer leaving the service, without having given such notice shall forfeit such sum, not exceeding one month's salary, as the Governor may determine.

Short title.

95. This Act may be cited for all purposes as the "Civil Service and Pensions Funds Act, 1895."

Schedule A.

SCHEDULE A.

Clerk to the Executive Council.
Secretary to the Prime Minister.
Under Secretary for Native Affairs.
Chief Magistrates and Resident Magistrates in Native Territories.

Under Colonial Secretary.
Commissary of Ordnance.
Superintendent-General of Education.

Assistant Treasurer,
Controller and Auditor-General.
Principal Distributor of Stamps.
Controller and Chief Inspector of Licences and Stamps, etc.
Collector and Sub-Collectors of Customs.
Postmaster-General.

Secretary to the Law Department.
Solicitor-General.
Crown Prosecutor.
Masters and Registrars of Superior Courts.
High Sheriff.
Registrar of Deeds.
Civil Commissioners.
Resident Magistrates.

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Secretary for Public Works.
Chief Inspector of Public Works.
General Manager of Railways.

Under Secretary for Agriculture.
Surveyor-General.

Such Professional Officers and such other persons employed in the Departments or Offices of which the foregoing are the heads or permanent heads as are engaged in the discharge of such clerical duties, or of such other duties as may be specified in regulations approved of by the Governor, and whose Offices are declared by the Governor to be such as should ordinarily be held by persons who have passed the Civil Service Examination.

Surgeons Superintendent and Resident Surgeons of Hospitals and Lunatic Asylums, and Assistants to the same.
Keeper of the Archives.
Deputy Inspectors of Colleges and Schools.
The Assistant Law Adviser.
Interpreters of Superior Courts.
The Inspecting Commissioners.
Shipping Master and Port Officers.

Inspector of Prisons.
Chief of the Detective Department.
Superintendents and Resident Chaplains of Convict Stations.
Inspectors and Assistant Inspectors of Roads, and Clerks of Works.
Government Botanist.
Director Bacteriological Institute.
Colonial Veterinary Surgeon.
Conservators of Forests.
Inspectors of Mines.
Examiner of Diagrams.

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No. 33 1895.

Schedule B.

SCHEDULE B.

LAWS REPEALED.

Number and Year.	Title.	Extent of Repeal.
Act 22 of 1879 ...	"The Public Service Widows' Pension Act, 1879."	The whole.
Act 3 of 1880 ...	"The Civil Service Widows' Pensions Amendment Act, 1880."	The whole.
Act 14 of 1882 ...	The "Civil Service Widows' Pensions Amendment Act, 1882."	The whole.
Act 42 of 1885 ...	The "Civil Service Act, 1885."	The whole.
Act 23 of 1886 ...	"The Civil Service Pension Fund Act, 1886."	The whole.
Act 31 of 1888 ...	The "Civil Service and Pension Fund Acts Amendment Act, 1888."	The whole.
Act 5 of 1891 ...	The "Widows' Pension Fund Amendment Act, 1891."	The whole.
Act 34 of 1892 ...	The "Civil Service Act, 1892."	The whole.
G. W. Ordinance 20 of 1874 ...	Ordinance to substitute in the Province of Griqualand West certain tariffs of fees and charges for certain other tariffs in force in the Colony of the Cape of Good Hope.	Tariff 12 of Schedule 2.

No. 33—1895.] [August 6, 1895.

ACT [1]

To Regulate the Sale of Produce on the Public Markets of the Colony.

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 repugnant laws.

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

Sale of cereals, &c., on public markets.

2. From and after a day to be fixed by Proclamation by the Governor, cereals and their products, potatoes, onions, dried beans, peas and lentils, sweet potatoes and dried fruits, except when offered in lots of less than fifty pounds weight, shall be sold on any public or municipal market in the Colony by the one hundred pounds weight, and any market-master who shall from and after the said date sell or offer for sale on any public or municipal market such articles otherwise than in accordance with the provisions of this Act shall be liable to a penalty not exceeding two pounds for each offence.

[1] See Ord. 6, 1837 (p. 220), 20, 1847 (p. 421). See also Act 19, 1896 (p. 3602). which limits the operation of this Act.

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3. This Act may be cited for all purposes as the "Public Markets Act, 1895." Short title. No. 34—1895.

No. 34—1895.] [August 6, 1895.

(1) ACT

To Declare and Amend the Law with regard to Vagrancy and Squatting.

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. No person charged, after the passing of this Act, with being an idle and disorderly person under the provision of section four of Act No. 23 of 1879, as amended by Act No. 27 of 1889, shall be acquitted merely by reason that the Resident Magistrate before whom he is tried, shall find that the accused had no intention to steal at the time when he was found upon any farm, or in or near any dwelling-house, shop, store, stable, o t-house, garden, vineyard, kraal, or other enclosed place. Section 4 of Act No. 23 of 1879, as amended by Act No. 27 of 1889 construed.

2. Any person charged after the passing of this Act with a contravention of section twenty-five of Act No. 35 of 1893, as to whom the court before which he is tried, shall find that he has rebutted the presumption of intent to steal in manner provided by section twenty-six of the said Act, may notwithstanding such rebuttal be forthwith found guilty of a contravention of section four of Act No. 23 of 1879, as amended by Act No. 27 of 1889, and upon conviction be liable to the penalties thereby provided. Section 4 of Act No. 23 of 1879, as amended by Act No. 27 of 1889, to apply to person rebutting presumption of theft on trial under sections 25 and 26 of Act 35 of 1893.

3. This Act may be cited as the "Vagrant Law Amendment Act, 1895." Short title.

No. 35—1895.] [August 6, 1895.

ACT

To Provide for the Construction or Acquisition of certain New and Additional Works or Buildings.

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 purpose of constructing the works, and acquiring buildings as detailed in Schedule A to this Act, it shall be lawful for the Governor to apply out of the revenues of the Colony from time to time, as the sums are required, the amount of fifty-eight thousand pounds sterling. Provision as to applying sum of £58,000.

2. For the purpose of constructing the works set forth in Schedule B to this Act, it shall be lawful for the Governor to apply a sum of one hundred and seventy-four thousand pounds sterling out of moneys authorised to be raised under the provisions of the "Temporary Loans Act No. 20 of 1883." It shall be lawful to borrow under Temporary Loans Act for certain purposes.

[1] Extended to all Native Territories and Walfish Bay by Proclamations 34, 1897, and 180, 1905.

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No. 36 1895.

Balances of Railway Construction Balances Account to be applied.

3. For the purpose of constructing the works set forth in Schedule C to this Act, it shall further be lawful for the Governor to apply the sum of eighty-eight thousand pounds sterling from and out of the balance on Railway Construction Balances Account, and it shall also be lawful to transfer the unspent Balance on the Relaying Account to Railway Construction Balances Account.

Money authorised to be raised under "Temporary Loans Act" made a charge against General Revenue.

4. The authority to raise the amount of sixty thousand pounds under Schedule C to Act No. 32 of 1891 under the provisions of the "Temporary Loans Act No. 20 of 1883," for the erection of the General Post Office, is hereby withdrawn, and the said amount of sixty thousand pounds is made a charge against the general Revenue of the Colony.

Short title.

5. This Act may be cited for all purposes as "The Public Works Act, 1895."

Schedules.

SCHEDULES.

A.	General Post Office	£39,000
	Residences for Civil Commissioners and Resident Magistrates	10,000
	Breede River Bridge...	9,000
		£58,000
B.	(1) Automatic Vacuum Brakes...	£136,000
	New and Additional Works, Orange Free State Lines	35,000
	Doubling Line, Salt River to Maitland...	3,000
		£174,000
C.	Cape Town Station, Additional Accommodation	£70,000
	Workshops, East London (to complete) ...	18,000
		£88,000

Repealed by Act 10 of 1911

No. 36—1895.] [August 6, 1895.

ACT (2)

For the further Regulation of Private Railways within the Colony of the Cape of Good Hope.

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:—

[1] This Authority is cancelled by Act 24, 1896 (p. 3613).

[2] See Act 16, 1898 (p. 3891); 17, 1898 (p. 3899); 34, 1899 (p. 4155); 7, 1900 (p. 4269); 7, 1903 (p. 4573); 14, 1903 (p. 4606); 16, 1904 (p. 4713); 48, 1905 (p. 4981); 49, 1905 (p. 4995). Extended to Native Territories by Proclamations 183, 1896, and 33, 1897.

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No. 36—1895.

Repeal of repugnant laws.

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

Application of provisions.

2. The provisions of this Act shall apply to the regulation, conduct and general working of all lines of railway used for public purposes (other than lines the property of the Colonial Government) which may already be in operation or may hereafter be constructed under the authority of any Act of Parliament, but shall not limit or prejudicially affect any arrangements more favourable to the Colonial Government which may at the time of the taking effect of this Act be in force or may thereafter be entered into by mutual agreement between the Government and the parties concerned.

Conveyance and delivery of mails to be subject to certain conditions.

3. The conveyance, delivery and general treatment of any mails which may be tendered for transmission over any line of private railway shall be subject to the following conditions:—

(*a*) The Government shall have the right of conveyance to and from any station by any of the ordinary or special trains running over any private railway, of such mails, letter bags and articles ordinarily conveyed by post as the Postmaster-General may from time to time require, and the owner of such railway shall be responsible for the safe custody of such mails and shall obey and observe all such reasonable regulations respecting the taking up and delivery of the same as the Governor may impose.

(*b*) The officers of the Postmaster-General shall have free access to the principal and all other stations on any private railway for the purpose of delivering and receiving such mails.

(*c*) For the conveyance of such mails and the delivery thereof at any station on a private railway there shall be paid to the owner thereof such annual sum as may be agreed upon not exceeding £7 10s. 0d. (seven pounds ten shillings) sterling per annum for each mile of railway open for public traffic dating from the day upon which the mails shall first be conveyed; provided, however, that no payment shall be made in respect of any section of the railway which may not be regularly used for the conveyance of mails: and provided that in the event of any higher payment having been approved of by the Government in connection with any line of private railways, the provisions of this section shall not be held as limiting the power of the Government to continue payment at such higher rate.

(*d*) The Government shall have the right at any time to call upon the owner of any private railway to attach a travelling post office or sorting tender to any of the trains running over such private railway and to haul such travelling post office or sorting tender over such sections of the railway as the Postmaster-General may reasonably

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No. 36—1895.

require; and for the haulage of such travelling post office or sorting tender and the conveyance of the mails therein a payment shall be made to the owner of such private railway at a rate not exceeding £12 (twelve pounds) sterling per open mile per annum in respect of such sections of the line over which such travelling post office or sorting tender may be appointed to travel, and such payment shall be in substitution of the payment specified in the last preceding sub-section and shall be held to cover all liabilities of the Government to the owner in respect of the conveyance of mails over the sections in question.

Erection, maintenance and working of any telegraph, telephone, &c., along any private railway.

4. The erection, maintenance and working of any telegraph, telephone or other electric line of communication already authorised or hereafter authorised to be constructed, worked and maintained upon or along any private railway shall be subject to the following conditions:—

(*a*) All lines of telegraph, telephone or other electric means of communication which may be erected, maintained and worked by the owner of any private railway shall be used exclusively for the purposes of such railway and no other, and shall not be utilised for the transmission of any telegrams or other electric communications except such as are *bonâ fide* transmitted in connection with the proper and efficient working and maintenance of such railway.

(*b*) In all other respects the construction, maintenance and working of any line of telegraph, telephone or other electric means of communication upon or along any private railway shall be subject to the provisions of Act No. 20 of 1861, entitled "The Electric Telegraph Act, 1861."

(*c*) Notwithstanding anything hereinbefore contained the Postmaster-General shall be at liberty to arrange with the owner of any private railway for the acceptance on behalf of the Post Office Department of public telegrams for transmission from or to any station on any private railway with which telegraphic, telephonic or other electric means of communication shall have been established.

Matters in dispute to be decided by arbitration.

5. In the event of any difference arising between the Postmaster-General and the owner of any private railway, the matter in dispute shall be decided by arbitration in accordance with the provisions of Act No. 6 of 1882, entitled "The Lands and Arbitrations Clauses Act, 1882."

Interpretation of terms.

6. In this Act, save where such meanings shall be inconsistent with the context, the following terms shall have the following meanings:—

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(*a*) "Private Railway" shall mean any railway, other than the "Cape Government Railways," used for public purposes, and shall include any tramway whether the method of traction be by means of horses, steam-power, electricity or other motive power.

(*b*) "Owner" shall mean the person or persons, local authority or company actually responsible for the direction or control of any railway undertaking.

No. 37—1895.

7. This Act shall take effect on a day to be fixed by proclamation in the *Gazette*, and may be cited for all purposes as "The Railway Regulations Amendment Act, 1895."

Date of taking effect and Short title.

No. 37—1895.] [August 6, 1895.

ACT

Repealed by Act. 1925 of 1934.

To Amend Act 5 of 1858, Regulating the Duty Payable on Sales by Public Auction, and Ordinance No. 6, 1844, and Act 3 of 1876.

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. From and after the taking effect of this Act all sales by public auction of movable property held on behalf or in aid of any church, religious denomination or benevolent, educational or charitable purpose, including all sales known as bazaar sales, shall be exempt from the payment of (1) auction duty; provided always that every such sale shall be conducted by a duly licensed auctioneer.

Sales by auction of movable property on behalf of churches, charitable purposes, &c., to be exempt from auction duty.

2. It (2) shall be lawful for the Governor, by notice in the *Gazette*, to direct that the duties required by Ordinance No. 6, 1844, and Act 3 of 1876, to be performed by the Civil Commissioner of the division or the Resident Magistrate of the district, shall be performed by some other officer or officers in the division or district in which the person desirous of taking out a licence as an auctioneer shall reside, anything in the said Ordinance or Act to the contrary notwithstanding.

Governor may direct performance of functions prescribed under Ord. 6, 1844, and Act 3 of 1876, by officers other than the Civil Commissioners and Resident Magistrates.

3. This Act may be cited for all purposes as "The Auction Duty Amendment Act, 1895."

Short title.

No. 38—1895.] Repealed by Act 1 of 1911. [August 6, 1895.

ACT

To Amend the Law with regard to the Apprenticing of Juvenile Offenders.

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.

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[1] All auction dues are abolished by Act 11, 1896 (p. 3593). See note to Ord. 6, 1844 (p. 336).

[2] Upon abolition of auction dues this section is no longer applicable.

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No. 38—1895.

Governor may order juvenile offender to be apprenticed.

1. If any male offender under the age of twenty-one and over the age of sixteen years shall be or shall have been convicted of any crime and sentenced to a term of imprisonment exceeding three months, it shall be lawful for the Governor, with the approbation of the Chief Justice, to order and direct that such offender be apprenticed under this Act until he shall have reached the age of twenty-one years, or for some shorter period; provided that such order and direction shall be given within six weeks after the date of such sentence; provided further that no period of apprenticeship under this Act shall exceed four years, unless the sentence shall be for a longer period.

Order to be addressed to R.M., who shall act upon it.

2. Such order and direction shall be addressed and conveyed to some Resident Magistrate who upon receipt thereof shall be empowered and authorised to deal with such offender to whom all the provisions of Act No. 8 of 1889 shall, *mutatis mutandis*, thereupon apply as though such offender had been in terms of the first section of that Act a child under the age of sixteen years convicted of an offence in terms of the fourth section of the Reformatory Institutions Act, 1879.

Effect of contract in regard to the sentence imposed.

3. The release of such offender shall be deemed to take effect on and after the date of the contract of apprenticeship, but of every such contract it shall be a condition that in case any competent court shall declare the said contract to be cancelled on the ground of the disobedience or other misconduct of the apprentice, he shall be liable to be forthwith condemned and ordered by such court to be taken into custody to serve and undergo so much of his original sentence as he shall not at the date of such contract have served or suffered, less only as to any period of imprisonment the time during which such contract shall have subsisted.

Record of proceedings under this Act to be kept.

4. The record of the proceedings before any Resident Magistrate pursuant to any order and direction of the Governor under this Act, shall be by him preserved together with a duplicate of the contract, and shall be forwarded when and if required to the Minister in control of Convict Stations and Prisons.

Short title.

5. This Act may be cited as the "Juvenile Offenders Apprenticeship Act, 1895."

No. 39—1895.] [August 6, 1895.

Repealed by Act. 25 of 1896.

ACT

To Appropriate a sum of Money for the Service of the Year ending the 30th day of June, 1896.

[Spent.]

[p. 3565.]

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No. 40—1895.] [August 6, 1895.

ACT

To Amend the Laws Regulating the Disposal of Crown Lands.

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. The fourth [1] and fifth [1] sections of the "Crown Lands Leasing Act, 1891," together with so much of the "Crown Lands Disposal Act, 1887," or of any other law as may be repugnant to, or inconsistent with, the provisions of this Act, are hereby repealed.

Redemption of Quitrents under Agricultural Lands Act, 1882, as amended by Crown Lands Disposal Act, 1887.

2. [2] The annual quitrent payable in respect of any land granted under the provisions of "The Agricultural Lands Act, 1882," as amended by the twenty-fourth section of the "Crown Lands Disposal Act, 1887," may be redeemed at any time by the payment of a sum equal to twenty times such annual quitrent, but not by the payment of any lesser sum, and any such quitrent may at and after the same rate be redeemed in parts or portions: provided that

(*a*) such parts or portions be either three-fourths or one-half or one-fourth of the original quitrent, as stated in the deed of grant, and in any case in which the quitrent upon any such grant as in this section mentioned has been apportioned under the provisions of the Act No. 7, 1856, or the Act No. 10, 1875, the apportioned quitrent upon any part or share may be redeemed in manner aforesaid:

(*b*) the redemption of the quitrent wholly or in part shall not be deemed to alter the nature of the tenure of the land, and

(*c*) as to any apportionment of quitrent on land granted under the provisions of this Act, the consent of the Governor to such apportionment must be first obtained.

Grants or Reserves of waste Crown Lands to Village Management Boards.

3. Notwithstanding anything to the contrary contained in the "Crown Lands Disposal Act," or any other Law, Grants or Reserves may be made by the Governor for the benefit of the inhabitants of any area in which the "Vllages Management Act, 1881," is in force, of any waste Crown lands within the limits of such area, provided that the lands so granted or the proceeds thereof shall not be used for, or on account of, the ordinary expenditure of the Board of Management of such area but shall be applied to the use and benefit of the said inhabitants in such

[1] See footnote to Act 15, 1887 (p. 2461). Sections 4 and 5 of Act 26, 1891, specially re-enacted by Act 18, 1897 (p. 3735).

See also Act 3, 1905 (p. 4806), regulating procedure in case of sale of land disposed of under this Act and mortgaged to Government.

[2] See also Acts 18, 1896 (p. 3601); 26, 1899 (p. 4128); 46, 1899 (p. 4230), and 10, 1902 (p. 4373), indemnifying for defaults and omissions under this Act in consequence of war and rebellion.

Extended to all the Native Territories by Proclamations 448, 1895, and 33, 1897.

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manner and upon such works or improvements as the Governor may approve, acting in accordance with resolutions of both Houses of Parliament.

Amendment of Sec. 2, Act 15 of 1887.

4. From and after the taking effect of this Act, "The Crown Lands Disposal Act, No. 15 of 1887," shall be read and construed as if the second section thereof were amended by the insertion as an additional sub-section thereto of the following words:—"The said mortgage bond shall be passed within thirteen months from the date of sale, failing which, a fine of one shilling will be imposed for every day thereafter during which such failure continues, up to eighteen months from the date of sale, after which should such failure still continue the balance of the purchase money with interest thereon and the amount of the fine, if any so imposed, shall forthwith become due and payable and shall be recoverable in any competent court of law without further notice, and such court shall decree that upon failure for one month after the date of judgment to pay the said purchase money, interest and fines for which judgment shall have been given, the sale shall become null and void and payments already made in respect thereof shall be forfeited to the Government."

Purchase money under certain sum payable in cash or in instalments extending over three years.

5. The provisions of Act No. 15 of 1887, and of the preceding section of this Act notwithstanding, in all cases where the purchase money is less than twenty-five pounds the whole amount shall be paid in cash or in equal annual instalments extending over a period of three years, the interest on the unpaid instalments calculated at four per centum per annum to be paid from date of sale. The payment of the instalments together with interest thereon shall be secured on the day of sale by two good and sufficient sureties to the satisfaction of the Civil Commissioner, which sureties shall bind themselves in regard to such payments as sureties *in solidum* and co-principal debtors, renouncing the exceptions of excussion and division.

Amended by act 6 of 1909 Sec. 1.

Cancellation of sale on non-payment.

6. If the purchaser or his sureties fail or are unable to make the necessary payments of purchase money required by the preceding sections and by sub-section (*c*) section two of Act 15 of 1887 within the stipulated time, it shall be competent for the Government to cancel the sale, and all payments already made in respect of such sale shall be forfeited to the Government.

Minister may offer Crown lands for selection.

7. Anything in the Act 15 of 1887 to the contrary notwithstanding, it shall be lawful for the Minister from time to time, by notice in the *Gazette*, to offer for selection in the manner and on the terms hereinafter set forth, any Crown lands that may be deemed suitable for the purpose.

Notice thereof to set out particulars.

8. Such notice shall set forth the situation, extent and boundaries of the land so offered, and shall specify the price at which such lands shall be open for purchase together with the cost of survey and other expenses, and such notice shall fix a day at least three months subsequent to the first publication of the notice on and after which the lands so offered shall be open for selection.

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No. 40—1895.

Applications, how to be made.

9. Every application for such land shall be made, in writing, to the Civil Commissioner of the division in which such lands may be situated, who shall note thereon the day on which such application shall be received by him, and forthwith forward the same to the Minister.

When two or more applications made on same day.

10. For the purposes of this Act any two or more applications for the same land received on the same day after the date fixed in the notice shall be deemed to have been made simultaneously and all applications made before the date fixed in the notice shall be treated as if they had been made on the date so fixed.

Allotment according to priority of application.

11. The Minister shall allot the lands so applied for, according to the priority of application, provided that when two or more application shall be made simultaneously for the same land, the right of priority shall be determined by lot.

Declaration to be made by applicant.

12. Every applicant for land under the provisions of this Act shall make and append to his application a declaration to the following effect:—

> I, [A.B.] (insert place of abode and occupation), do solemnly and sincerely declare that I am of the age of twenty-one years and upwards, that I make this present application for my own exclusive use and benefit, and not directly or indirectly for "the use or benefit of any other person whomsoever, that I am not the owner of any land, that I have not made any arrangement or agreement to enable or permit any other person to acquire by purchase or otherwise, the land in respect of which this my application is made."

Deposit by applicant.

13. Every applicant at the time of making application shall deposit with the Civil Commissioner of the division in which such land is situate a sum equal to one-twentieth of the value of such land, and of the survey and other expenses connected therewith, and in the event of his neglecting or refusing to take up the land so applied for, if allotted to him, the said sum shall be absolutely forfeited to the Government: Provided that in the case of the ground applied for not being allotted to him, the amount of his deposit shall be returned to him forthwith.

To whom land may be allotted.

14. Any person of full age may be allotted land under the provisions of this Act, but no person who is the registered owner of any land within the Colony, and no person who has at the time of application made any arrangement or agreement to permit any other person to acquire by purchase or otherwise the land so applied for shall be allotted land, and no person shall be capable of receiving more than one allotment by virtue of selection under this Act.

Licence to be given by Minister.

15. The Minister shall issue to the first applicant, who shall have fulfilled the specified conditions for any land under this Act, or in the event of two or more applications for the same land, to the applicant determined by a lot, a licence to hold the land applied for on the following terms and conditions:—

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(*a*) The licence shall be for five years, reckoned from the next first July, or first January following the date of licence, and shall include the period between the date of licence and such day.

(*b*) The yearly payment in respect of such licence shall be equal to one-twentieth the price fixed for the land so held, together with one-twentieth of the survey and other expenses on such land, and shall be paid in advance.

(*c*) The deposit paid at the time of application shall be in discharge of the amount due on the next first day of January or July, as the case may be.

(*d*) The person to whom such licence is issued shall within six months of the issue of his licence personally occupy the land allotted to him, and shall continue so to occupy such land except as hereinafter provided, for the term of five years, or until he shall obtain a title to such land.

Land not transferable during currency of licence.

16. No land held under the provisions of this Act shall be transferable during the currency of the licence mentioned in the clause next preceding.

Failure to perform condition of occupation.

17. In the event of any failure during the currency of the licence to perform the condition of occupation the Minister may declare the licence absolutely forfeited and the land in respect of which the licence is issued shall revert to Government: ~~Provided that if it is proved to the satisfaction of the Minister that the failure to occupy was caused by drought he may excuse such failure, but such excuse shall not be given for a period of more than twelve months unless such drought continued for a longer period.~~

amended by act 6 of 1919 sec 2.

At the expiration of five years grant may be issued.

18. At the expiration of the five years for which any licence is granted and if the Minister is satisfied that the conditions therein contained have been duly fulfilled he shall cause to be issued to the licensee a grant of the land held and occupied by him on quitrent tenure, subject to the conditions stated in section five of Act 15 of 1887, subject to the payment of fifteen annual instalments each of the amount of one-twentieth of the value of the land together with the value of the survey and other expenses which shall be a first charge on such land and shall be secured by mortgage in favour of the Government: Provided that in the event of it being proved to the satisfaction of the Minister who shall require certificates to that effect that the licensee has after two years of occupation made permanent improvements on the land occupied by him under such licence equal at least to the value of the said land, the Minister may cause to be issued to him a title to the land held or occupied by him, subject to the payment of so many annual instalments of one-twentieth of the value of the land together with the value of the survey and other expenses as shall together with the annual payments made by him in respect of the licence to the said ground make up the whole value and such annual payments due shall be secured by mortgage.

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If instalment not paid within certain time.

19. If any instalment shall not be paid within three months of the date on which it is due and payable an additional sum equal to one-fourth part thereof, by way of penalty, shall be added thereto and shall, together with the instalment overdue, be recoverable at the suit of the Government in any competent Court.

In case of *bona fide* occupation of Crown land for ten years.

20. In cases where any person, not the owner of adjacent property, shall have [1] *bonâ fide* occupied, for a period of not less than ten years, any Crown lands, and shall have effected permanent improvements thereon, the Minister may recommend the sale of such land, or of such portion thereof, as he may see fit, to such person outright at a price to be agreed on: provided that no such sale shall take place until the Legislative Council and the House of Assembly have communicated to the Governor their concurrence therein.

Surrender of land held under Acts 15 of 1887, 26 of 1891, 23 of 1893, or this Act.

21. Whenever any person holding land under the provisions of Act No. 15 of 1887, No. 26 of 1891, No. 23 of 1893, or this Act, shall desire to surrender his land, it shall be lawful for the Governor, if he shall deem fit, to accept such surrender and to cause the title to such land to be cancelled, on condition that the interest on the mortgage bond due up to the date of such acceptance be paid or payment thereof secured by two good and sufficient sureties, to the satisfaction of the Treasurer of the Colony: provided, however, that when any such person shall satisfy the Governor of his inability either to pay such interest or to secure its payment as aforesaid, it shall be lawful for the Governor to remit such interest or to grant such relief in regard to such payment as may to him seem expedient; provided that in all cases the consent of the other mortgagee or mortgagees, if any, to cancellation of title shall first be had and obtained.

If interest on bond on land held under above Acts, in arrear, Governor may resume possession.

22. In case any holder of land under the provisions of Act No. 15 of 1887, No. 26 of 1891, No. 23 of 1893, or this Act as aforesaid, shall be in arrear with the payment of the interest on his mortgage bond for two or more years, it shall be lawful for the Minister to give notice to such holder of the intention of the Governor to resume possession of such land and to cancel the title thereof, and if the interest in arrear, as aforesaid, shall remain unpaid for a period of three months from the date of such notice it shall be lawful for the Governor to cause the title deed to such land to be cancelled and to resume possession of the land and all improvements thereon: provided that in all cases the consent of the other mortgagee or mortgagees, if any, shall first be had and obtained. Returns of cases sanctioned from time to time under this and the preceding section shall be laid before Parliament early in each Session.

Sums received for Crown lands to be applied to reduction of debt of the Colony.

* 23. From and after the first day of July, 1896, any sums that may be received, either by way of instalment, or in full dis-

[1] Occupation on lease under Act 26, 1891, § 4 (p. 2902), not held to be *bona fide* occupation for purposes of this section.

See Act 18, 1897 (p. 3735).

* Repd. by Act 22/1917

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charge of the capital sum for which any Crown land shall have been or may be disposed of, shall be carried to a separate account and shall be applied to the reduction of the debt of the Colony, upon such terms and in such manner as the Governor may from time to time determine. No. 41—1895.

24. This Act may be cited as the "Crown Lands Disposal Act and Leasing Acts Amendment Act, 1895." Short title.

Sections 3-7 inclusive 9-15 " 20, 21, 25, 27, 28 & 30 repealed by Act. No 25 of 1934

No. 41—1895.] [November 11, 1895

ACT (1)

To Make provision for the Annexation to this Colony of the Territory of British Bechuanaland.

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. So much of the Constitution Ordinance, and of any other law in force in this Colony at the time of the taking effect of this Act, as shall be repugnant to or inconsistent with the provisions of this Act shall be and the same is hereby repealed. Repugnant and inconsistent laws repealed.

2. From and after the taking effect of this Act the Territory of British Bechuanaland, within the boundaries thereof as then defined, shall become annexed to and thenceforth be portion of this Colony, and, subject to the provisions of this Act, more especially section sixteen thereof, the law of this Colony shall be of full force and effect in the said Territory, the Governor of this Colony being deemed to be referred to in place of the Governor or Administrator of the said Territory in any law which, after annexation, shall continue to be in force in the said Territory. Annexation provided for.

3. The said Territory shall, for the purposes of election to the Legislative (2) Council of the Cape of Good Hope, be and become from and after annexation a new electoral (2) province of this Colony, which shall be entitled to return to the Legislative Council one member; and the said Council shall consist, from and after the said annexation, of twenty-three elective members instead of twenty-two as heretofore. Additional electoral province formed to return one member.

4. As soon as may be after the taking effect of this Act, there shall be formed out of the said Territory two new electoral divisions to become and be electoral divisions of this Colony for the election of members of the Legislative Assembly of the said Colony in accordance with the provisions of this Act. Two electoral divisions formed.

5. The said electoral divisions shall be respectively called (1) the electoral (3) division of Vryburg, consisting of the fiscal divisions of Vryburg, Taungs, Kuruman and Gordonia, and (2) the electoral division of Mafeking, consisting of the fiscal division of Mafeking. The said electoral division of Vryburg shall be entitled Electoral divisions described and number of members fixed.

[1] See Act 18, 1896 (Crown Lands) (p. 3601); 17, 1897 (Native Reserves) (p. 3734).
[2] Styled the electoral Province of British Bechuanaland. See Schedule 4 to Act 19, 1898 (p 3914).
[3] But see Schedule 3 to Act 19, 1898 (p. 3913).

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to return to the said House of Assembly two members, and the said electoral division of Mafeking shall be entitled to return to the said House of Assembly one member.

Mode of conducting elections.

6. As soon as may be after the completion of the lists of registered voters as hereinafter provided, the member to be returned as aforesaid for the said new electoral province to the said Legislative Council, and the members to be returned as aforesaid for the said two electoral divisions to the said House of Assembly shall be elected; and for the purposes of such respective elections the said electoral province and the said electoral divisions respectively shall be treated and considered as if members had been returned for the same to the said Legislative Council and the said House of Assembly respectively, and their seats had become vacant by death or resignation, and the fact of the occurrence of such vacancies had been duly notified to the Governor; and the like proceedings shall *mutatis mutandis* be taken to fill the said seats as would take place if the said electoral province and the said electoral divisions respectively had been immediately before the taking effect of this Act a province and electoral divisions respectively of this Colony, and the members elected to fill such seats shall be in the same position in all respects as other members of the said respective Houses of Parliament of this Colony: Provided that in case of a dissolution of either House of Parliament before any such election as aforesaid, but after the taking effect of this Act, the said new electoral province and the said two electoral divisions respectively shall in regard to the general election of members be treated in all respects as any other electoral province or electoral division of this Colony entitled to return members to the Parliament thereof.

Provisions as to voters, elections, &c.

7. All and singular the provisions of the law of this Colony for the time being relative to the registration and qualification or disqualification of voters, the making out of lists of voters and the proceedings thereon, the nomination, election and qualification or disqualification of members of the Legislative Council and House of Assembly, the taking of polls and the procedure relating to parliamentary elections generally, as well as the provisions of the law of this Colony relating to election petitions and corrupt practices at elections shall, where not repugnant to or inconsistent with the provisions of this Act, be in force and apply to the new electoral province and divisions respectively of this Colony after such annexation as aforesaid.

Court of Chief Magistrate abolished.

8. From and after the taking effect of this Act, the Court of the Chief Magistrate existing at the time of such annexation, and all laws, rules and regulations regulating or affecting the trial of suits therein, shall cease and determine, and the High Court of Griqualand shall have a jurisdiction concurrent with that of the Supreme Court in and over all causes arising and persons residing and being within all districts comprising the said Territory, and the rights, powers and functions now assigned to and imposed upon or that may at any time be assigned to and imposed

High Court and Crown Prosecutor to have jurisdiction.

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upon, or that may at any time be assigned to and imposed upon the Crown Prosecutor of Griqualand, may be exercised by him in regard to all criminal cases arising within the said districts: provided also that the Governor may by notice in the *Gazette* make provision for the suitable performance by one or more officers in the service of the Colony of the functions committed to the Master of the said Court of the Chief Magistrate by the law and practice in force in the said Territory before annexation in so far as the said law and practice shall be consistent with the law of this Colony.

Juries provided for.

9. From and after the taking effect of this Act, the law of this Colony relating to the qualification, summoning, and functions of persons serving upon petit juries shall be in force in the several districts of the annexed Territory.

Provision for pending suits.

10. Every suit and proceeding, civil or criminal, pending in the Chief Magistrate's Court of the said Territory at the taking effect of this Act, shall by virtue of this Act stand removed into the High Court of Griqualand, and may be carried on, tried, heard and determined in such last mentioned court, in like manner as nearly as may be as if they had been instituted or taken in that court after the annexation aforesaid save that the law to be applied shall be the law in force in the said Territory at the time when the suit or proceeding was first commenced.

Resident Magistrates' Districts and jurisdiction.

11. From and after the taking effect of this Act the districts of Resident Magistrates existing in the said Territory at the date of annexation, and the courts of Resident Magistrates established in such districts, shall become and be districts and courts of Resident Magistrates of this Colony, and such Resident Magistrates as may retain their offices and their respective courts, shall cease to exercise the jurisdiction conferred by the law before that date in force in the said Territory, but shall be in the same situation and condition and shall have and exercise the same jurisdiction as if such Resident Magistrates and their courts were Resident Magistrates and courts of Resident Magistrates within this Colony: Provided that

A c/. 25 of 1934

(*a*) all causes, civil or criminal, pending at the date aforesaid may be continued by the court of the Resident Magistrate to final judgment or sentence as though this Act had not been passed;

(*b*) every appeal from any decision of any such court after such annexation may be made either to the High Court of Griqualand or to the Supreme Court, or to any Circuit Court having jurisdiction;

and (*c*) every criminal cause decided in any such court, which by the law of this Colony must be submitted to a Judge of the Supreme Court for review, shall be so submitted to a Judge assigned to the said High Court.

Fiscal Division.

12. The fiscal divisions into which the said Territory shall be divided at the taking effect of this Act shall thereupon become

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and be fiscal divisions of this Colony: Provided that the Governor may at any time before the commencement of the session of Parliament next after such annexation as aforesaid, by proclamation in the *Gazette*, alter such divisions, or increase or diminish the number thereof in such manner as to him may seem fit without thereby altering the electoral divisions aforesaid.

Divisional Councils.

13. So soon as may be expedient after the taking effect of this Act, Divisional Councils shall be established in manner by the law of this Colony provided for the several fiscal divisions proclaimed as entitled thereto, and elections of Divisional Councillors shall take place on a day or days to be fixed by a proclamation or proclamations in and for such of the said fiscal divisions as may be named in any such proclamation, so that the said fiscal divisions in that respect may be in the same position as the other fiscal divisions of this Colony, and all and singular the laws of this Colony relating to Divisional Councils shall, from and after the taking effect of this Act, as far as may be, apply to the said fiscal divisions and to elections of Divisional Councillors therein as aforesaid, and where in any law any dates or times are fixed for the performance of any matter or thing relating to the nomination or election of Divisional Councillors or otherwise, the Governor may, in regard to the first election of Councillors for such fiscal divisions which shall take place under this Act, fix such dates and times as to him may seem fit.

Act. 25 | 1934

Existing Divisional Councils and first elected Councils, tenure of office.

14. Notwithstanding anything to the contrary contained in the last preceding section of this Act, any Divisional Council existing in the said Territory at the taking effect of this Act and as to which the Governor shall not direct a fresh election, and every Divisional Council which may be elected pursuant to the last preceding section shall, from and after the taking effect of this Act, or from and after its election, as the case may be, be in the same position in all respects as any other Divisional Council in this Colony, and the members thereof shall be in the same position in all respects as if they had been elected at the last general election of Divisional Councillors in this Colony.

Law to govern first election of Divisional Councillors.

15. Until after the first election of Divisional Councillors under the provisions of this Act for any such fiscal division the law in force in the said Territory at the taking effect of this Act shall continue to govern, and to be in force with regard to such election and to the qualification of voters or of members of Divisional Councils.

Laws in force.

16. All laws in force in the said Territory at the taking effect of this Act, in so far as the same shall be repugnant to or inconsistent with any of the provisions of this Act shall from and after such annexation stand repealed; but all other laws shall remain in force within that portion of this Colony formed by the said Territory until the same shall be altered or repealed by law: Provided that

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(*a*) nothing in this Act contained shall affect the decision of any question which may at the time of taking effect of this Act be pending in any court of the said Territory;

(*b*) no alteration in the existing law of the said Territory in regard to the sale or supply of intoxicating liquor to natives shall be deemed to be affected by the passing of this Act;

and (*c*) the native jurisdiction provided by sections thirty-one and thirty-two of the Schedule to Proclamation 2 B.B. of 1885 shall not be deemed to be abolished by the passing of this Act.

Native lands to be inalienable.

17. No lands at present reserved by any law for the use of natives in the said Territory shall be alienated or in any way diverted from the purposes for which they are at the date of the taking effect of this Act set apart, otherwise than in accordance with such law or with the authority of an Act of Parliament of this Colony, nor shall any lands or natives in the said Territory be brought under the operation of the "Glen Grey Act, 1894," without the like authority.

Double duties, &c., not to be paid.

18. When by any law which at the taking effect of this Act may be in force in the said Territory, any duty, licence, charge or payment may be leviable or payable within the said Territory, which is the same as shall then be leviable or payable in this Colony, no double duty, licence, charge or payment shall be levied or payable: but the duty, licence, charge or payment which is leviable or payable in this Colony alone shall be after the taking effect of this Act levied and paid; and all licences shall be granted in accordance with the requirements of the law of this Colony, notwithstanding anything to the contrary in the law theretofore in force in the said Territory.

Deeds registry.

19. Nothing in this or any other law which shall be in force in this Colony at the taking effect of this Act shall be construed so as to introduce forthwith into that part of this Colony which is formed by such annexation the operation of the deeds registry of this Colony, but the deeds [1] registry of the said Territory shall, in regard to that part of this Colony formed by such annexation, continue for a period of five years from the taking effect of this Act to be the proper and sufficient registry for that part of the Colony, and shall continue to exercise the functions imposed upon it by Proclamation No. [1] 182 B.B. of 1893.

Repealed by Act 13/1918, Sect. 62

Power of Governor to make other provision.

20. It shall be lawful for the Governor to make by Proclamation such other suitable provision in regard to the registration of such transfers and hypothecations as may be conformable to the law at that time in force with regard to the deeds registry of this Colony, and as may be approved by resolutions of the Legislative Council and House of Assembly, which other provision shall take effect at

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[1] But see Act 21. 1898 (p 3915), which repeals Proclamation 182 B.B. and so much of this Section as continues the functions imposed on the Deeds Registry by that Proclamation.

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the expiration of the said period of five years; provided that with the like approval the said period of five years may be extended for a like further period.

Taxes and rents to become payable to Cape Colony.

21. All quitrents, taxes, duties, dues, and revenue of every kind and nature whatsoever, payable to or claimable by the local executive Government of the said Territory at the time of the annexation thereof as aforesaid, shall become, be, and continue claimable by and payable to the executive Government of this Colony, and shall be collected and accounted for in the like manner as the quitrents, taxes, dues, and revenue, according to the nature and kind thereof respectively, are or ought to be collected in the several divisions of this Colony; and all liabilities of the Governor of the said Territory at the time of such annexation as aforesaid, including all obligations under the Customs Union Convention or any other Convention, shall thenceforth be deemed to be liabilities and obligations of the Governor of this Colony, provided that the Governor of this Colony shall not be liable to make good any payment or obligation that may exist in respect of the extension of the railway from Mafeking to the North.

Officers included in Civil Service of Colony.

22. From and after the taking effect of this Act the officers appointed by the Governor of the said Territory for the administration of affairs therein, and whose services may be retained by the Governor of this Colony, shall, notwithstanding anything contained in any law theretofore in force regulating the Civil Service of this Colony, including laws regarding the pensioning of civil servants or their widows, or in any regulations under any such law, be taken and deemed to have been duly appointed to the offices in which their services have been retained, but every officer who shall not at the date of the taking effect of this Act have completed at the least five years' service shall be subject to every law and regulation framed thereunder requiring the passing of the Civil Service Law Examination, and save as above excepted all the officers retained as aforesaid shall in all other respects other than appointment be subject to and entitled to the benefits of all such laws and regulations as aforesaid.

23. The law of the said Territory relating to the establishment and regulation of the force commonly known as the Bechuanaland Border Police shall, on the taking effect of this Act, cease to be in force in the said Territory, but the Governor may arrange for the retention of the services of such officers, non-commissioned officers and men of the said force as may in his opinion be necessary for duty within the said Territory, and those officers, non-commissioned officers and men whose services may be so retained shall be enrolled as members of the Cape Police Force, under the provisions of the law relating to the establishment and regulation of that force in this Colony: Provided that on their ultimate retirement from the said Cape Police Force the period during which such officers, non-commissioned officers and men respectively served in the Bechuanaland Border Police shall be counted in calculating the retiring allowances to be granted to them.

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Exemptions.

24. Notwithstanding the repeal of the laws mentioned in the last preceding section, the said laws shall be deemed to continue in force with regard to any member of the force aforesaid, while within the Territory annexed by this Act and during his service as a member of a Police force established for the Bechuanaland Protectorate.

Compensation for loss of office.

25. It shall be lawful for the Governor to pay to all persons holding offices of profit under Her Majesty the Queen in the said Territory at the taking effect of this Act, whose offices it shall by reason of such annexation be deemed necessary or expedient to abolish, or whose services the Governor of this Colony may not require to retain, such compensation for loss of office as shall be awarded by the Governor, in conformity with the law in force in the said Territory at the taking effect of this Act and with the established regulations of Her Majesty's service, and as shall be approved of by one of Her Majesty's Principal Secretaries of State.

Act. 25 of 1934

Payments due to Native Chiefs.

26. The existing engagements entered into by Her Majesty the Queen with certain Native Chiefs in the said Territory, shall from and after the annexation of the said Territory be undertaken and observed by the said Governor of this Colony, who shall in discharge thereof pay yearly and every year such sums of money not exceeding in all in any one year the sum of £650 as shall be required for the purpose of meeting the said engagements: Provided always that a full and particular account, showing the manner in which the sums drawn out for the Native Chiefs aforesaid have been expended, shall from time to time be laid before Parliament.

Payments after annexation.

27. From and after the taking effect of this Act, and until the session of Parliament next thereafter, the Governor may pay to persons holding office in the said Territory at the time of annexation, whose services are retained, salaries at and after the same rate as those which shall be payable to them next before such annexation, and also to make such necessary payments as may be required for carrying on the affairs of this Colony in regard to such annexed portion thereof.

Act. 25 of 1934

No additional professional fees or licences required for applying for admission, enrolment, or registration.

28. No additional fees or licences shall be exacted for admission, enrolment or registration of any advocate, attorney, notary, conveyancer, medical practitioner, chemist and druggist, apothecary or dentist to practise in this Colony, from any person who before then has been duly admitted, enrolled or registered in the said Territory, and entitled to practise in any of the said capacities, every such person duly admitted, enrolled or registered, and entitled to practise in any such capacity in this Colony, shall be deemed to be entitled to practise in the like capacity in that portion thereof which is formed by the said Territory when annexed, and service of articles or apprenticeship in the said Territory before the taking effect of this Act, shall for all legal purposes be regarded as though such service had taken place in this Colony.

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Date of taking effect.

29. This Act shall take effect on a date to be fixed by the Governor by proclamation which proclamation shall be published as soon as conveniently may be after the Governor shall be satisfied that all matters and things necessary to be done and to happen in order to enable the said annexation to be carried into effect have been done and happened.

Jurisdiction of British Bechuanaland Concessions Court.

30. Nothing in this Act contained shall be deemed to repeal or abrogate the provisions of Proclamation No. 169, B.B., 1893, dated February 1st, 1893, and establishing the British Bechuanaland Concessions Court, which court shall continue to have and exercise jurisdiction under the said Proclamation in respect of all cases now pending before it.

Act 25/1895

Short title.

31. This Act may be cited as the "British Bechuanaland Annexation Act, 1895."

No. 42—1895.] [August 6, 1895.

ACT (1)

For Regulating the Employment of Electricity for the purposes of Electric Lighting and Power Generally.

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.

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.

"Local Authority" shall mean:—

(1) The Council or Board of any Divisional Council as constituted under the "Divisional Councils Act, 1889."

(2) The Council or Board of Commissioners of any Municipality, Borough, or Corporate Town.

(3) The Board of Management of any locality in which the "Village Management Act, 1881," is in operation.

"Company" shall mean any company registered under the "Companies Act, 1892."

"Undertakers" shall mean any Local Authority, Company or person who may be authorised by any Act of Parliament or by the consent of any Local Authority with the approval of the Governor to supply electricity for public purposes.

"Public purposes" shall mean lighting any street or any place belonging to or subject to the control of the Local Authority, or any church or place of worship, or any hall or building belonging to or subject to the control of Government or of any Local Authority, or any public theatre, or the supply of an electric current for lighting

[1] Applied to Cape Town tramway (Southern Suburbs). It applies also to other Cape Town tramways. See § 47. Acts 21 and 22, 1895, § 31, Act 23, 1895. See § § 8 and 25, sub. sec. (d), Act 29. 1896 (p. 3619). To Port Elizabeth, § 5. Act 11, 1905 (p. 4821). with saving clauses. To Beaconsfield. § 4, Act 25, 1905 (p. 4853). Extended to the Transkei, Tembuland, East Griqualand and Port St. John's by Proclamation 183, 1896.

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purposes to consumers generally, and shall also mean the application of electricity as a motive power for tramways or any other like purpose.

Power for Governor to frame, rescind, alter or repeal regulations.

2. The Governor may from time to time make such regulations in accordance with the regulations for the time being of the Board of Trade of the United Kingdom, subject to such modifications as he may think expedient, but in no case more stringent, for securing the safety of the public from personal injury, or from fire or otherwise, and for minimising, as far as may be reasonable, any interference with the electric wires, lines and apparatus of the Government or any other authority, company or person, and may from time to time rescind, alter or repeal such regulations. Such regulations shall, *inter alia*, deal with the following matters:—

(1) The height, dimensions and the distances from one another of any poles or pillars which may be used for the suspension of any wires, cords or lines for the purpose of transmitting electric currents, the material of such poles or pillars, the efficient connection to earth of such supports, and the height above the surface of the earth of such wires, cords or lines:

(2) The precautions to be observed to prevent the falling of any wires, cords or lines used to convey electric currents, or their coming into contact with any other wires, cords or lines used for a similar purpose:

(3) Regulating the employment of insulated returns or of uninsulated metallic or other returns in connection with electric tramways:

(4) The prevention of injurious electrolytic action on, or the fusion of gas, water or other metallic pipes, structures or substances:

(5) The use of underground conduits for the purpose of enclosing therein conductors or other wires required in connection with the supply of electric currents:

(6) The use of overhead wires for conveying currents of high and low pressure:

(7) The keeping of such records, and the provision of such apparatus as may be necessary for the detection of any failure to comply with these regulations:

(8) The authorising of inspection and enquiry from time to time by the Government and the Local Authority.

Any regulations so made or amended by the Governor in pursuance of this section shall have the like effect in every respect as if they had been included in this Act, and shall apply to every undertaker or undertaking coming within the provisions of this Act, whether or not completed before the passing of this Act. Any such undertaking, however, which is already completed, or in course of completion, shall be exempted from compliance with the provisions of this Act, except in connection with alterations of, additions to, or work to complete such undertaking effected after

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the passing of this Act: Provided always that any Regulations framed by the Governor under the provisions of this Section shall not take effect until a period of two months has elapsed subsequent to their promulgation in the *Gazette*.

Power for local authority to make, rescind, alter or repeal bye-laws.

3. Any Local Authority within any part of whose district electricity is authorised to be supplied by any special Act of Parliament or by the consent of such Local Authority with the approval of the Governor may, in addition to any regulations which may be made under the authority of the last preceding Section for securing the safety of the public, from time to time make, rescind, alter or repeal Bye-laws for further securing such safety, and there may be annexed to any breach of such Bye-laws such penalties as such Local Authority may think necessary: provided always, that no such Bye-laws shall have any force or effect unless and until they have been confirmed by the Governor and published in the *Gazette*.

Application of Act.

4. The provisions of this Act shall apply to every Local Authority, Company, or person supplying or employing electricity for any public purpose within any area who may be authorised by any Act of Parliament, or to any Company or person who may with the consent of any Local Authority and the approval of the Governor be empowered to supply or employ electricity for any public purpose within any area, and shall apply to every undertaking so to supply or employ electricity.

Provision for the protection of Government and owners of electric lines generally.

5. Undertakers shall take all reasonable precautions in constructing, laying down and placing their electric lines and other works of all descriptions, and in working their undertaking so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line from time to time used for the purpose of telegraphic, telephonic, or electric signalling communication, or any other purpose, or the currents in such wire or line, and before commencing to lay down any line, or do any other work for the supply of electricity whereby any electric or other line of the Government, or any authority, company, or person, may be injuriously affected shall give such reasonable written notice to the Postmaster-General, or such authority, company, or person, as the case may be, as may be prescribed by regulations framed under the provisions of section two of this Act, and such notice shall specify the course and nature of the work and be accompanied by such maps and plans as may be necessary.

The undertakers and their agents shall also conform with such reasonable requirements, either general or special, as may from time to time be made by the Minister for the purpose of preventing any electric lines of the Postmaster-General being injuriously affected by the said work, and if the undertakers or their agents fail to give the appointed notice, or to comply with the reasonable requirements, either general or special, of the Minister they shall be liable to a fine not exceeding twenty-five pounds if telegraphic communication is interrupted, and not exceeding five pounds for every day such failure continues.

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Alteration of electric lines of the Postmaster-General.

6. In the event of its being necessary in connection with the construction of any line or the execution of any work by the undertakers to make an alteration in any telegraph or other electric line of the Postmaster-General, it shall be lawful for the Postmaster-General by himself or his agents, with the consent of the Minister, to make such alteration or to consent to the work being performed by the undertakers, under the supervision and to the satisfaction of himself or his agents, and the undertakers shall, at the discretion of the Minister, be called upon to pay the whole or any portion of the expenses incurred in connection therewith or incidental thereto.

Restrictions as to above-ground works.

7. Notwithstanding anything in this Act, or in any regulation framed by the Governor under the provisions of the second section, the undertaker shall not place any electric line above ground, along, over or across any street, without the express consent of the Local Authority, and the Local Authority may require the undertakers to forthwith remove any electric line placed by them contrary to the provisions of this section, if such Local Authority is of opinion that such electric line is, or is likely to become, dangerous to the public safety.

Application for powers to supply or use electricity.

8. Any Local Authority, duly authorised thereto and any Company or person having received the necessary consents as provided in this Act, intending to apply for statutory powers to enable them to supply electricity for any public purpose or use it as a motive power in connection with Tramways shall give three months' notice of such intention to the Government, and shall cause an advertisement describing the proposed undertaking to be inserted once at least in each of two successive weeks in one and the same newspaper published and circulating in the district or districts affected by the undertakers' operations, or in such other newspaper as the Governor may direct, and once at least in the *Gazette*. The procedure to be followed in notifying to the Government the intention of the undertakers to apply for powers to supply electricity, the manner in which notice of such applications shall be given to all Local Authorities, Companies or persons concerned, and the period during which advertisements relating thereto shall appear, shall be in accordance with regulations framed from time to time for such purpose by the Governor.

Compensation for damage.

9. The undertakers shall be answerable for all accidents, damages and injuries happening through the act or default of the undertakers or of any person in their employment by reason of, or in consequence of any of the undertakers' works.

Injuring works with intent to cut off supply of electricity.

10. Any person who unlawfully and maliciously cuts or injures any electric line or work with intent to cut off any supply of electricity shall, upon conviction, be liable to a fine not exceeding fifty pounds or be imprisoned with or without hard labour for any term not exceeding six calendar months, or to both such fine and imprisonment.

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Saving clause for privileges of Postmaster-General.

11. Nothing in this Act shall affect or abridge any right or remedy of the Minister or Postmaster-General under the Telegraph Act, 1861, and all provisions contained in this Act in favour of the Postmaster-General shall be construed to be in addition to and not in modification of or substitution for any of the provisions of that Act.

Arbitration.

12. Any difference which may arise between the Minister or Postmaster-General and the undertakers with respect to any requirement of Sections 2, 5 and 6 of this Act shall be dealt with under the provisions of Act No. 6 of 1882, entitled "The Lands and Arbitration Clauses Act, 1882."

Penalty.

13. For each breach of any provision of this Act, or of any regulation framed thereunder for which no special or other penalty is provided, the penalty shall be a fine not exceeding five pounds sterling, or in default of payment, imprisonment with or without hard labour for any term not exceeding one month.

Short title.

14. This Act may be cited for all purposes as the "Electric Lighting and Power Act, 1895."

No. 43—1895.] [August 6, 1895.

ACT

To Provide for the Creation and Registration of Preferential Debentures in certain cases by Registered Companies acting under the authority of Acts of Parliament.

Repealed by Act 46 of 1912

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 thereof, as follows:—

Definition of terms for purposes of Act.

1. For the purposes of this Act

"Company" shall mean any Joint Stock Company which before or after the passing of this Act shall be in accordance with law registered in this Colony;

"The Registrar" shall mean the Registrar of Deeds of this Colony;

"Registration" shall mean registration in the Deeds Registry of this Colony;

"Regulations" shall mean regulations which may be made in manner provided by section four of the "Deeds Registry Act, 1891," for carrying out the provisions of this Act relating to registration;

"Bond" shall mean a mortgage bond or deed of hypothecation executed in conformity with the regulations and practice of the Deeds Registry of this Colony;

"Debenture" shall mean a deed or document acknowledging indebtedness in a certain sum of money, and duly executed in accordance with law and with the provisions

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of the Memorandum and Articles of Assuciation or Trust Deed, if any, of the Company granting or issuing the same.

Company may issue preferential debentures which shall be duly registered.

2. Any Company acting in accordance with the provisions of any law specially relating to such Company, and with its Memorandum and Articles of Association, or Trust Deed, if any, may from time to time grant and issue debentures and cause the same to be registered under this Act, and such debentures when duly registered shall as from the date of such registration operate, subject to prior registered rights under and by virtue of any bond or debenture theretofore duly registered, as a first or preferential charge in respect of so much of the property of the Company as shall be mentioned and described in such debenture, in accordance with regulations, if any, in that behalf, as bound by way of security for the fulfilment of the obligation undertaken by the Company under such debenture.

Method of record and registration.

3. The debentures may be executed in duplicate and when so executed shall be produced for registration to the Registrar in accordance with regulations and practice, and the Registrar shall in this case retain for record in his office one copy of each debenture, and shall effect registration in accordance with such regulations and practice, and each such debenture shall bear a stamp as a bond.

Repealed by act 30 of 1911 in so far as they impose a stamp duty.

Debentures may be executed singly, but specially described in a bond—how to be recorded and registered.

4. The debentures may be executed singly, but specially enumerated, mentioned and described in a bond executed in duplicate in favour of one or more persons in trust for the holders of such debentures, and in this case the bond and each debenture shall contain the same description of the property, assets, or undertaking bound as aforesaid, and the Registrar shall retain one copy of the bond, but not the debentures, for record in his office, and shall effect registration in accordance with regulations and practice: Provided that in lieu of the duty required by Schedule 8 of Act No. 13 of 1870 in respect of mortgage bonds, the debentures, but not the bond, shall be stamped before issue, in accordance with Tariff 16 in Schedule 2 of Act No. 20 of 1884, and the bond shall bear a stamp of one pound sterling.

Provision in bond for issue of debentures secured thereby from time to time.

5. By any such bond provision may be made that the debentures thereby secured may be issued from time to time and at different dates, as the Company may determine, yet shall all when issued rank concurrently in preference as from the time of registration of the bond; provided that

(*a*) Every debenture referred to in any such bond shall at the time of registration be stamped by the Registrar with his official stamp;

(*b*) That so many debentures as shall not be issued shall remain in the custody of the Registrar until such time as the Company shall desire to issue the same or any number thereof, when the debentures to be issued shall, after

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the stamps required by law have been duly affixed and cancelled, be delivered by the Registrar to the bondholder or his duly authorised representative, and he shall note on the bond and in the Debt Registry the fact of every such issue and the amount thereof.

Title of holders to enforce rights.

6. Every holder of a debenture covered by any such bond shall be entitled to enforce his rights under such debenture so soon as it shall be issued to him precisely as though such debenture had been issued under section three, nor shall any notice of cession of any such debenture be required to be given to any person in order to entitle the cessionary to all the rights of the cedent.

Cancellation to be effected by Registrar.

7. Cancellation of the registration of any debenture or of the entire or any part of the obligation under any such registered bond shall be effected by the Registrar in accordance with regulations and practice upon proof of payment or discharge.

Power to make regulations.

8. Regulations may be made, repealed, or altered from time to time in manner provided by section four of Act No. 19 of 1891, for more effectually carrying out the purposes of this Act.

Powers conferred by Section 11 of Act No. 23 of 1889 not affected by this Act.

9. Nothing herein contained shall be deemed to interfere with or abridge the powers conferred upon the directors of the Metropolitan and Suburban Railway Company, Limited, under and by virtue of section eleven of Act No. 23 of 1889, so as to affect the validity of the debentures, if any, which may have been or may be granted or issued under the said section, but the said Company shall in respect of any future issue of debentures conform to the provisions of this Act.

Short title.

10. This Act may be cited as "The Company Debenture Act, 1895."

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No. 1—1896.] [May 29, 1896.

ACT

To Provide for the Appointment of an Agent-General of the 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, as follows:— Preamble.

1. It shall be lawful for the Governor to appoint an officer to reside in the United Kingdom and to be styled the Agent-General for the Colony: provided that (*a*) the appointment may be during pleasure or for a period not exceeding five years; (*b*) if any future appointment shall be made for a period, it shall be terminable by a notice of not less than six months on either side, or by payment of six months' salary in lieu of notice; and (*c*) any holder of the office may be re-appointed. Appointment of Agent-General.

2. The Agent-General shall perform such duties as may be assigned to him from time to time by the Governor. Duties.

3. The salary and emoluments of the Agent-General shall amount in all to two thousand pounds sterling per annum payable monthly out of the public revenue of the Colony. Should the person appointed be in the enjoyment of a pension from the Colony, he shall not receive such pension so long as he draws salary as Agent-General. No pension shall be payable for the service rendered as Agent-General unless Parliament shall otherwise direct. Salary.

4. This Act may be cited for all purposes as "The Agent-General's Act, 1896." Short title.

No. 2—1896.] [May 29, 1896.

ACT

To Authorise the Government to Grant Annually to the Municipality of Simon's Town, out of the Colonial Revenue, a certain Sum of Money for certain purposes and under certain conditions.

WHEREAS it is necessary that the Municipal Council of Simon's Town should be in a position to provide a better supply of water to the inhabitants of the said town and to the shipping in Simon's Bay; and whereas, owing to the large amount of property in the said municipality unrateable for municipal purposes, the said Municipal Council are not in a position so to do; and whereas the Commissioners of Her Majesty's Imperial Treasury have agreed to grant a sum of three hundred and fifty pounds Preamble.

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No. 3—1896.

sterling (£350) per annum to the said Municipal Council for the said purpose out of the Imperial Revenue conditionally, on a similar amount being annually granted out of the Colonial Revenue; and whereas it is desirable in order to meet the above condition that a sum of three hundred and fifty pounds sterling (£350) per annum for a period not exceeding thirty-two years, should be granted out of the Colonial Revenue, when and so long as a similar sum is granted out of the Imperial Revenue:

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:—

Grant of £350 per annum to Simon's Town Municipality.

1. So soon after the taking effect of this Act as the Minister shall be satisfied that provision has been made by Her Majesty's Imperial Government for the payment, out of the Imperial Treasury, to the Municipal Council of Simon's Town, of the sum of three hundred and fifty pounds sterling for the purposes in the preamble in this Act mentioned, there shall be paid out of the public revenue of this Colony a like sum of three hundred and fifty pounds sterling to the said Council for the said purposes, and in each and every year after such first payment, upon the Minister being similarly satisfied there shall similarly be paid to the said Council the sum aforesaid: provided that the total amount so paid out of the public revenue under this Act shall not exceed £11,000.

Upon such payment in every year no rate to be levied on Crown property.

2. Upon the due payment in any year out of the Colonial Revenue of the said sum, under the provisions of this Act, no rate in respect of immovable property within the limits of the Municipality of Simon's Town, vested in Her Majesty in Her Colonial Government or occupied by the Colonial Government for public purposes, shall, anything in the "Crown Property Rating Act, (1) 1891," or any other law to the contrary notwithstanding, be levied by the said Council for such year; and any such rate already levied for such year by the said Council, shall upon such payment be refunded to the Colonial Government.

Short title.

3. This Act may be cited as "The Simon's Town Rates Supply Grant Act, 1896."

No. 3—1896.] [May 29, 1896.

ACT

To Provide for the continuance of Payments for Expenditure in Bechuanaland until the 30th June, 1896.

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:—

Payments for expenditure in Bechuanaland authorised.

1. From and after the opening of the Third Session of the Ninth Parliament and until the 30th June, 1896, it shall be lawful

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(1) No. 36 (p. 2941).

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for the Governor to pay persons holding office in the Territory of Bechuanaland, whose services after annexation have been retained, salaries at and after the same rate as those payable to them before such opening, and also to make such necessary payments as may be required for carrying on the affairs of this Colony in regard to such annexed portion thereaf.

No. 4—1896.

2. This Act may be cited for all purposes as the "Bechuanaland Expenditure Act, 1896."

Short title.

Repealed

No. 4—1896.] [June 12, 1896.

ACT

To Confer Exceptional Powers upon the Jameson Raid Select Committee.

by

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, the Select Committee, appointed by orders of the House of Assembly, of date the 28th and 29th days of May, for inquiring into the circumstances as affecting this Colony, in connection with the preparations for and carrying out of the recent armed inroad into the Territory of the South African Republic, shall have and possess and may exercise all the powers by law conferred upon a Court of Justice with respect to the disclosure and production in evidence of telegraphic messages.

Certain powers conferred on Jameson Raid Select Committee.

2. No person shall be liable to any penalty under any law in respect of any answer which, in obedience to the provisions of this Act, he may give or any document which he may disclose or produce in reply to or compliance with any question or order put or addressed to him by the said committee or any member thereof acting under the aforesaid orders of the House.

Protection against liability for answering questions or disclosing documents.

3. This Act may be cited as "The Jameson Raid Select Committee Powers Act, 1896."

Short title.

No. 5—1896.] [June 19, 1896.

ACT

To Secure by Law a certain allowance or Annual Pension to the Honourable Sir DAVID TENNANT, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, lately Speaker of the House of Assembly of the Cape of Good Hope.

[Lapsed.]

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No. 6—1896.] [June 19, 1896.

ACT (1)

To Amend the "University Incorporation Act, 1873."

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. The eighth and twenty-third sections of the "University Incorporation Act, 1873," and so much of any other law as is repugnant to or inconsistent with the provisions of this Act are hereby repealed.

Election and number of Council.

2. From and after the passing of this Act the second section of Act No. 16 of 1873 shall be read and construed as though the word "thirty" were inserted in place and stead of the word "twenty," and the fourth section of the said Act shall be read and construed as though the word "fifteen" were inserted in place and stead of the word "ten" wherever the same occurs in the said section, and at any future election the Governor shall appoint and Convocation shall elect fifteen members respectively of the University Council, and the said members so appointed or elected shall hold office until the expiration, by effluxion of time, of the term of office of that Council, subject always to the provisions of the fifth section of the said Act.

Convocation to elect 15 members before 15 are appointed by Governor.

3. The fourth section of the Act No. 16 of 1873 shall be amended by the omission of the proviso requiring that the appointed members of the University Council shall be so appointed before the meeting of Convocation for the election of the members to be elected, and in future the election of fifteen members by Convocation shall always precede the appointment of fifteen members by the Governor.

Council may suggest names to Governor.

4. It shall be competent to the University Council not later than six months before the expiration of its office by effluxion of time to make suggestions to the Governor as to the educational interests or studies which should be represented on the new Council, but no such suggestions shall in any way bind the Governor to act in accordance therewith.

See act 20 of 1913.

[1] Amended by Act 3, 1899 (p. 4026).

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Repl. by Act 12 of 1916

No. 6—1896.

Power to confer degrees.

5. The Council of the University of the Cape of Good Hope shall have the power to confer, after examination, and according to the bye-laws and regulations of the University, the several degrees of Bachelor of Arts, Master of Arts, Doctor of Literature, Bachelor of Laws, Doctor of Laws, Bachelor of Medicine, Doctor of Medicine, Bachelor of Science, Master of Science, Doctor of Science Bachelor of Music, Master of Music and Doctor of Music: provided that it shall be lawful for the said Council to frame such bye-laws and regulations as it may deem fit for the admission without examination to any such degree of persons who have obtained a higher, like, or equivalent degree in any University, recognised for this purpose by the University of the Cape of Good Hope and for the admission, *honoris causa*, without examination, to any of the aforesaid degrees of master or doctor, of such persons as the Council may deem worthy of such distinction: provided, further, that the degree of Bachelor of Laws shall not be conferred on any person who shall not have obtained, or been admitted to, the degree of Bachelor or Master of Arts in the said University, or is not a holder either of the first or of the second class certificate in literature and science, and that no holder of an honorary degree in Law shall, unless otherwise qualified, be eligible to be enrolled as a barrister or (1) advocate of the Supreme Court, and that admission to a degree, *honoris causa*, shall not entitle the holder of such degree to the practice of any profession by virtue of such degree.

Admission to certain degrees without further examination.

6. It shall be lawful for the said Council by such bye-laws and regulations to provide for the admission without further examination, of holders of the first class certificate in literature and science to the degree of Master of Arts, of holders of the second class certificate in literature and science to the degree of Bachelor of Arts, and of holders of the first class certificate in law and jurisprudence to the degree of Bachelor of Laws: provided that it shall be lawful for the holders of such second class certificates in literature and science, and such first class certificates in law and jurisprudence to proceed to the examination for the degree of Master of Arts and Doctor of Laws respectively, without being subjected to the examination for the degree of Bachelor of Arts or Bachelor of Laws as the case may be.

Amendments in "The University Incorporation Act, 1873."

7. The said Act is hereby amended as follows, and from and after the taking effect of this Act shall be read and construed as so amended:

(*a*) The word "Colony" where it appears in the fifth and seventh sections respectively shall be omitted, and in lieu thereof shall be inserted the words "ordinary meetings of the Council, without special leave of the Council."

(1) See Act 3. 1899 (p. 4026). Supreme Court may admit as advocate person who before 14th August. 1896, was admitted to *ad eundem* degree of Bachelor of Laws, having taken his B.A. degree.

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× Rep. by Act 12 of 1916

No. 6—1896.

(b) The proviso to the sixth section shall be omitted and the following words inserted in its stead: "Provided that it shall be competent for the Council to elect from time to time from amongst its own members a Pro Vice-Chancellor, who shall in the absence of the Vice-Chancellor exercise the powers and be subject to the duties pertaining to the office of Vice-Chancellor: provided further that any meeting of such Council, at which neither the Vice-Chancellor nor the Pro Vice-Chancellor is present may elect its own chairman."

(c) The words "resident at a greater distance from Cape Town than ten miles," in the second proviso to the thirteenth section, shall be omitted.

(d) The words "by reason of absence from the Colony," in the eighteenth section, shall be omitted.

(e) After the word "University," where it occurs a second time in the nineteenth section, shall be inserted the words "or shall not have passed ~~in any other University~~ such an examination as in the opinion of the Council is equivalent to the said Matriculation Examination."

(f) In the twenty-second section the word "civil" before "engineering" shall be expunged.

Nomination of members of Council by Natal, the Orange Free State, and the South African Republic.

8. If the Governor shall at any time be satisfied that a suitable undertaking has been entered into for annual contribution to the funds of the University Council by one or more of the Governments of Natal, the Orange Free State, and the South African Republic, the Governor may by notice appoint to be additional members of the University Council any persons not exceeding three in number who shall be nominated for the purpose by any one of the aforesaid Governments entering into such undertaking, and every member so appointed shall hold office until the expiration, by effluxion of time, of the term of office of the then existing Council, subject always to the provisions of the fifth section of the Act No. 16 of 1873; provided that

(a) No such notice shall be published until the University Council shall have been consulted and its views ascertained; and

(b) So long as such suitable undertaking by any of the aforesaid Governments shall continue, the Governor may from time to time by further notices, and upon the nomination of such Government appoint members to fill the place of any members appointed under this section, whose office shall terminate by effusion of time, or in manner contemplated by the fifth section aforesaid.

Short title.

9. This Act may be cited for all purposes as "The University Incorporation Amendment Act, 1896."

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No. 7—1896.] [June 19, 1896.

ACT

To Amend and Extend the Operation of "The Cattle Removal Acts, 1870 to 1891."

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 in "The Cattle Removal Act, (1) 1870," or any other Law, it shall be lawful for the Governor, when it shall seem to him expedient so to do, to proclaim the provisions of "The Cattle Removal Acts, 1870 to (2) 1891," in force in any Division in and for which no Divisional Council is established, and in like manner to suspend the operation of the said Acts in such Division for such time as he may deem necessary. Extension of operation of Cattle Removal Acts.

2. (*a*) The second and fourth sections of "The Cattle Removal Act, 1870," are hereby amended by the omission of the word "or" wherever it occurs in the said sections between the words "Field-cornet" and "Landholder," and the insertion of the words "or such other person as may be authorised by the Governor to grant such certificate as aforesaid" after the word "Landholder" wherever it occurs in the said sections; Sections 2 and 4 of Act 14 of 1870 amended.

(*b*) The fourteenth section of the said Act is hereby amended by the omission of the word "or" between the words "Field-cornets" and "Landholders," and the insertion of the words "or such other persons as may be authorised by the Governor to grant such certificates as aforesaid," after the word "Landholders"; Section 14 of Act 14 of 1870 amended

and from and after the taking effect of this Act the said Act shall be read and construed as so amended.

3. This Act shall be read as one with the said Acts and may be cited for all purposes as "The Cattle Removal Acts Extension Act, 1896." Effect and Short title.

No. 8—1896.] [June 19, 1896.

ACT

To Apply a further Sum not exceeding Four Hundred and Ninety-six Thousand Nine Hundred and Seventy-four Pounds Sterling for the Service of the Year ending the 30th June, 1896.

[Spent.] [Page 3592.]

Repealed Act 25 of 1934

[1] No. 14 (p. 1172).
[2] No. 12 (p. 2452).

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No. 9—1896.] [June 19, 1896.

ACT

To Apply a Sum not exceeding Six Hundred Thousand Pounds Sterling towards the Service of the Year ending the 30th day of June, 1897.

[Spent.]

No. 10—1896.] (2) [June 19, 1896.

ACT

To Provide for the Reduction of Transfer Duty.

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 in any law, "The Transfer Duty Consolidated and Amendment Act, (1) 1884," shall in respect of any property sold or otherwise alienated or transferred after the taking effect of this Act, be read and construed as if the words "four pounds" in the second section were omitted therefrom, and the words "two pounds" inserted in their stead. Transfer duty reduced.

2. This Act shall be read as one with the said Act, and may be cited for all purposes as "The Transfer Duty Reduction Act, 1896." Effect and short title.

No. 11—1896.] (2) [June 19, 1896.

ACT

To Abolish the Payment of Auction Dues.

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] No. 5 (p. 2159).
[2] In force in Native Territories.—See Proc. No. 228, 1896; 9th July, 1896.

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No. 12—1896.

Repeal of laws.

1. The Act No. 5 of 1858, being an "Act to Amend the Ordinance for Regulating Sales by Auction," together with so much of the said Ordinance or of any other Law as is repugnant to or inconsistent with the provisions of this Act, is hereby repealed, save as to any duty due or incurred before the taking effect of this Act.

Auction duty abolished.

2. No auction duty shall be payable or paid in respect of any property sold after the taking effect of this Act.

Short title.

3. This Act may be cited as "The Auction Dues Repeal Act, 1896."

No. 12—1896.] [June 19, 1896.

ACT

To Authorise the Municipality of the City of Graham's Town to borrow Funds wherewith to increase the Water Supply of the said Municipality.

[Repealed by Act 18, 1902.] [Page 3,595.]

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No. 13—1896.] [July 3, 1896.

ACT

To Amend the Law relating to the appointment of the Sheriff of the Colony.

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:—

Repugnant laws repealed. 1. Sections twenty-five, twenty-six and twenty-eight of the Charter of Justice, and so much of Section 1 of Ordinance 37 of 1828, and of any other law as is repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Governor to appoint Sheriff. 2. The Governor for the time being of the Colony of the Cape of Good Hope, shall by warrant under his hand and seal nominate and appoint the Sheriff for the said Colony of the Cape of Good Hope and its Dependencies: and the said Sheriff shall thereupon be subject to such conditions and entitled to such privileges as apply to officers mentioned in Schedule A to the "Civil Service and Pensions Fund Act, (1) 1895."

Short title. 3. This Act may be cited for all purposes as "The Sheriff's Appointment Act, 1896."

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[1] No. 32, (p. 3532.)

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No. 14—1896.] [July 3, 1896.

Repealed by Act 19 of 1926 see 17 in so far as this Act (14 of 96) refers to loans made by or to the Treasury

ACT

To Amend the "Local Works Loan Act, 1882."

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 passing of this Act every loan already granted, or that may hereafter be granted under the provisions of Act No. 11 of 1882, commonly called "The Local Works Loan Act, 1882," as amended by "The Local Works Loan Amendment Act, (2) 1895," shall be further liquidated or be liquidated by the payment by the Local Authority on the first day of January and the first day of July in every year of one moiety of the annual payment required to redeem such loan in accordance with the Schedule hereto, in lieu and in stead of the scale prescribed in the Schedule to the before recited Act No. 11 of 1882, and such sum shall continue to be payable until all the moneys advanced from time to time, together with the interest accruing thereon shall be paid: Provided that the term of such loan shall be deemed to begin on such date, not more than five years after the authorisation of the same, as the Governor shall prescribe, but interest calculated at four per centum per annum shall be payable on any sum advanced by the Treasurer from the date on which it is advanced, anything in the tenth section of the said recited Act No. 11 of 1882, to the contrary notwithstanding.

How loans to be redeemed.

Wholly repealed by Act No 25 of 1934.

Interest at four per cent.

2. It shall be lawful for the Governor to apply out of the Revenue of the Colony for the financial year ending the 30th June, 1896, the amount of One (2) Hundred Thousand Pounds for the purposes of the said recited Act No. 11 of 1882 and of this Act.

Provision as to applying the sum of £100,000.

3. This Act may be cited as "The Local Works Loan Amendment Act, 1896."

Short title.

[1] No. 14.
[2] See Act 38, 1898, § 2 (p. 4002).

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No. 15—1896.

Schedule.

SCHEDULE.

Table for the Redemption of Loans, showing the annual sum, payable by half-yearly moieties required to repay a Loan of £100, and interest within the following periods:—

Years in which Loan repayable.	Annual Sum.			Years in which Loan repayable.	Annual Sum.		
	£	s.	d.		£	s.	d.
2	52	10	6	22	6	17	7
3	35	14	2	23	6	13	10
4	27	6	1	24	6	10	5
5	22	5	4	25	6	7	4
6	18	18	3	26	6	4	6
7	16	10	5	27	6	1	10
8	14	14	8	28	5	19	5
9	13	6	10	29	5	17	2
10	12	4	8	30	5	15	1
11	11	6	7	31	5	13	2
12	10	11	6	32	5	11	5
13	9	18	10	33	5	9	9
14	9	8	0	34	5	8	2
15	8	18	8	35	5	6	9
16	8	10	6	36	5	5	4
17	8	3	4	37	5	4	1
18	7	17	0	38	5	2	10
19	7	11	4	39	5	1	9
20	7	6	3	40	5	0	8
21	7	1	9				

Repealed by Act 1 of 1925

No. 15—1896.] [July 10, 1896.

ACT

To Repeal Ordinance No. 3 of 1852, being "An Ordinance for regulating in certain respects the Appropriation of the Revenue of the Colony of the Cape of Good Hope by the Parliament thereof," and to make other provision in lieu thereof.

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 Ordinance 3 of 1852.

1. The Ordinance No. 3 of 1852, being "An Ordinance for regulating in certain respects the appropriation of the Revenue

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of the Colony of the Cape of Good Hope by the Parliament thereof," and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act are hereby repealed.

No. 16—1896.

Reserved Schedule.

2. From and after the 1st July, 1896, there shall be paid annually out of the Public Revenue, to the persons holding the several offices in the Schedule to this Act set forth the salaries in the said Schedule assigned to the said persons respectively until Parliament shall otherwise direct.

Short title.

3. This Act may be cited as "The Reserved Schedule Act, 1896."

Repealed

Schedule.

SCHEDULE.

The Governor	£5,000
The High Commissioner	3,000
The Chief Justice of the Colony	2,500
The Puisne Judges of the Supreme Court sitting in the said Court, each	2,000
The Judge President of the Court of the Eastern Districts	2,000
The Judge President of the High Court of Griqualand...	2,000
The Puisne Judges of the Supreme Court assigned to the Court of the Eastern Districts or the High Court of Griqualand respectively, each	1,750
The Colonial Secretary	1,500
The Treasurer	1,500
The Attorney-General	1,500
The Commissioner of Public Works	1,500
The Secretary for Agriculture	1,500
The Prime Minister, if holding any one of the preceding Ministerial Offices, in addition to the salary of the said Office	250
The Agent-General for the Colony	2,000
The Controller and Auditor-General	1,200
The Assistant Controller and Auditor-General	800

Act 25 of 1934

No. 16—1896.] Repealed by Act 16 of 1915 [July 10, 1896.

ACT

To Amend the South African Mutual Life Assurance Society Incorporation Act, No. 6 of 1888.

Preamble.

WHEREAS doubts have arisen as to the power of the directors of the South African Mutual Life Assurance Society to invest the funds of the society in certain securities: and whereas it is desirable that such doubts should be removed, and that section eight of the said Act No. 6 of 1888 should be amended:

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No. 16—1896.

And whereas it is desirable that the powers of the directors as regards the investment of the society's funds should be enlarged and that the said Act should be amended in certain other respects:

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:—

Investment of funds.

1. Sub-sections two and six of section eight of Act No. 6 of 1888, intituled "The South African Mutual Life Assurance Society Incorporation Act, 1888," shall be and are hereby repealed, and the following sub-sections shall be taken to be inserted in their place:—

(2) Upon debentures or mortgages of any divisional council or municipality or body or company incorporated by law in South Africa and authorised to borrow money, or in debentures of any company secured by a registered bond on either movable or immovable property.

(6) In the purchase of immovable property and building thereupon in South Africa provided such purchase be sanctioned by two-thirds of the full Board.

Nomination and election of auditors.

2. The following clauses shall be added to section fifty:—

(1) No person shall be deemed to be a candidate for election of auditor unless he shall be nominated in writing by at least five members within the time appointed for receiving nominations.

(2) Not less than forty-two days before the date of every annual general meeting, notice shall be given in the *Gazette*, and in such newspapers as the directors think fit, inviting nominations of candidates to supply the vacancies existing or to arise.

(3) Such notice shall specify a day, not being less than fourteen days from the first publication in the *Gazette*, as the last day on which nominations will be received.

(4) If no greater number of candidates be duly nominated than the number of auditors to be elected, the candidates nominated shall be deemed to be elected auditors.

(5) If at the expiration of the time appointed for the receipt of nominations, none be sent in, or if the number of candidates duly nominated shall be less than the number of auditors to be elected, the candidate nominated shall be deemed to be elected, and the directors shall thereupon fill up any vacancy for which no nomination has been made.

Annual general meeting.

3. In section fifty-five the words "on the first Monday" are struck out, and the words "day and" are inserted between the words "such" and "hour."

Short title.

4. This Act may be cited as the "South African Mutual Life Assurance Society Incorporation Amendment Act, 1896."

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No. 17—1896.] [July 28, 1896.

ACT

To Vest certain Lands in the Municipal Council of Wynberg.

Preamble. WHEREAS it is expedient for the better management of the Municipality of Wynberg that all vacant Crown Land situate within the said Municipality should be vested in the Municipal Council thereof:

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:

All vacant Crown Land in Municipality to be vested in Council thereof. 1. From and after the passing of this Act all vacant Crown Land situate within the limits of the Municipality of Wynberg, and all right, title and interest in and to the said lands shall be, and the same are hereby vested in the Council of the Municipality of Wynberg.

But not to be alienated except under provisions of Municipal Act, 1882. 2. The provisions of sections one hundred and sixty to one hundred and sixty-three, inclusive, of the Municipal Act, (1) 1882, shall apply to the sale, alienation or lease of any of the said lands, and the said Council shall not be authorised or permitted to sell, lease or otherwise alienate the said lands, or any portion thereof without having first complied with the provisions of the said sections.

Governor to have right of resumption. 3. 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 the parties concerned, or failing such agreement shall be determined by arbitration.

Rights of access reserved. 4. Nothing in this Act contained shall be deemed, construed or taken to deprive the owner of any property, situate within or without the said 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.

Short Title. 5. This Act may be cited as "The Wynberg Municipal Council Vacant Lands Act."

No. 18—1896.] [July 28, 1896.

ACT

To Apply the Laws relating to the Disposal of Crown Lands to the Annexed Territory of Bechuanaland.

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) No. 45.

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No. 19—1896.

Repeal of repugnant laws.

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

Law of Colony relating to disposal of Crown lands extended to Bechuanaland.

2. The provisions of "The Crown Lands Disposal Act, (1) 1887," "The Transfer Facilitation Act, (2) 1890," "The Crown Lands Leasing Act, (3) 1891," "The Partition Transfer Facilitation Act, 1892," (4) "The Transfer Facilitation Amendment Act, (5) 1893," and "The Crown Lands Disposal Act and Leasing Acts Amendment Act, (6) 1895," together with all and singular the provisions of the law of the Colony relative to the Disposal of Crown Lands shall, when not repugnant to the provisions of "The British Bechuanaland Annexation Act, (7) 1895," be in force in and apply to all Crown Lands in the Annexed Territory of Bechuanaland not being lands at present reserved by any law for the use of the natives in the said territory; provided, however, that nothing in this Act contained shall affect the provisions of "The Northern Railway Land Disposal Act, (8) 1893."

Short Title.

3. This Act may be cited for all purposes as "The Crown Lands Disposal (Bechuanaland) Act, 1896."

No. 19—1896.] [July 28, 1896.

ACT

To Limit the operation of the "Public Markets Act, 1895."

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:—

Public Markets Act may be suspended by proclamation.

1. Upon the application of the governing body of any municipality, borough or corporate town, or any place in which the "Villages Management Act, (9) 1881," is in force, it shall be lawful for the Governor by proclamation to suspend the operation of "The Public Markets Act, (10) 1895," in such municipality, borough or town, or such place as the case may be.

Repeal of proclamation.

2. Upon a similar application for the repeal of any proclamation issued under the provisions of the preceding section in respect of any such municipality, borough, town or place, the Governor may repeal the same accordingly, and thereupon all the provisions of the said Act shall again come into force in the municipality, borough, town or place in respect of which such application is made as if no proclamation suspending the same had ever been issued.

Short Title.

3. This Act may be cited as "The Public Markets Act Amendment Act, 1896."

[1] No. 15. [2] No. 16. [3] No. 26. [4] No. 23. [5] No. 30. [6] No. 40. [7] No. 41. [8] No. 23. [9] No. 29. [10] No. 33.

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No. 20—1896.] [July 28, 1896.]

(1)ACT

To Amend the Municipal Law.

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:—

Council or Commissioners may cause drains, sewers, &c., to be made.

1. It shall be lawful for the Council or Commissioners of any Municipality to cause such sewers, drains and pipes, &c., 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 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 Commissioners, or any persons duly authorised by them, shall have right of access for maintenance of such sewers and drains.

May purchase and acquire land and buildings for purpose of town improvement.

2. It shall be lawful for the Council or Commissioners of any Municipality, for the purpose of town improvement to 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 or Commissioners of the Municipality may from time to time sell, let, lease or otherwise deal with any property so acquired, with 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 upon by a majority of said 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 a notice in one or more newspapers published or circulating in the respective Municipalities of the intended expropriation, and setting forth a place where the said plan shall be open for inspection at all reasonable hours, and until 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

[1] Extended to Butterworth by Proclamation 69, 1905.

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No. 20—1896.

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 the application of the Council, proceed and make such order as to him shall seem just and reasonable.

Compensation clause.

3. In case the Council or Commissioners of any Municipality shall require to take or use any land within the limits of the Municipality, with or without the buildings, if any, erected thereon, or any frontage or stoep belonging to any premises, for the purpose of doing any act or of executing any work or undertaking authorised by this Act, or for the purpose of making or improving streets, roads, sidewalks, thoroughfares, causeways or pavements, or any other municipal purpose, or shall require to dig out and to carry away any materials, or to appropriate or to make use of any springs, streams or other supplies of water belonging respectively to any person or persons upon any lands within the limits of the Municipality, 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 Council, and they are hereby authorised and empowered to treat and agree with every such person or persons for the purchase, hire, or use, as the case may be, of any such land, buildings, frontage, stoep, materials, springs, streams or supplies of water as aforesaid; or for the payment of consequential damages, and generally to enter into any such contract or contracts relative to the obtaining or using of any such land, buildings, frontage, stoep, materials, springs, streams, or any other supplies of water as aforesaid, on such terms and conditions as they shall deem expedient. And if any such person or persons and the Council shall not agree upon the purchase money or hire or recompense for consequential damages to be respectively given by one party and received by the other, then the amount of compensation, hire or recompense shall be settled by arbitration: Provided always that arbitrators, in deciding upon any amount to be paid, shall take into consideration the benefit and advantage derived or to be derived by the person claiming recompense or compensation, by reason of any work or improvement done or contemplated by the Council.

Council or Commissioners may make rules and regulations.

4. Every Municipality may, acting in accordance with the law under which it is constituted, from time to time, make, alter, revoke or amend rules and regulations for all or any of the following purposes:—

(*a*) For regulating the level, width, direction and construction of new streets made by the Council, and the sewerage or drainage thereof.

(*b*) 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

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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 safely.

(*e*) For regulating the sufficiency of space about buildings, to secure a free circulation of air, and with respect to the ventilation of buildings.

(*d*) For regulating the drainage and sewerage of buildings, and for compelling the connection at the owner's expense or otherwise 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.

(*e*) 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.

(*f*) 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.

(*g*) For securing the regularity of lines and levels of buildings, the class of architecture of new buildings and the removal, alteration and prevention of projections or obstruction 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.

(*h*) 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 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 or otherwise, any work begun or done in contravention of its regulations.

(*i*) 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 or otherwise.

(*j*) For regulating the inspection of buildings and structures by the Council and its officers.

How Act to be applied.

5. This Act shall not extend to any Municipality or Corporate Town, unless or until the Governor shall, at the request of the council or commissioners, issue a proclamation, extending to such Municipality or Corporate Town, all or any of the powers conferred by this Act: provided that no such proclamation shall be issued, unless a resolution in favour of the extension of all or any

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of the powers conferred by this Act be passed by a majority at a public meeting of ratepayers or householders, who have the right to vote at such meeting under the law under which such municipality is constituted, such meeting being specially and duly convened for the purpose: Provided that any three ratepayers present at such meeting, and dissatisfied with the decision of the meeting, may there and then demand a poll, and such poll shall be taken in the manner provided for in sections one hundred and forty-eight, one hundred and forty-nine and one hundred and fifty of Act No. 45 of 1882.

Definition of Municipality.

6. For the purposes of this Act "Municipality" shall include "Borough" and "Corporate Town."

Short Title.

7. This Act may be cited as the "Municipal Amendment Act, 1896."

No. 21—1896.] [July 28, 1896.

ACT

To Empower the Municipality of Uitenhage to raise a Loan for the purposes of improving the Water Supply of the Town of Uitenhage, and of Consolidating the existing Water Loans, and to increase the powers of the Town Council of Uitenhage in certain respects.

So much as unrepealed is Repealed by Act. No 15 of 1904

Preamble.

WHEREAS it is expedient that the Municipal Council of Uitenhage should be empowered to borrow a sum not exceeding thirty-six thousand pounds sterling for the purposes of laying down pipes to convey the water supply of the town of Uitenhage, of constructing storage reservoirs and of consolidating the existing water loans of the Municipality; and also to grant to the said Municipal Council certain rights and powers in addition to those now possessed by it:

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

Council may borrow £36,000 for purposes set forth in Schedule A.

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, not exceeding in the whole thirty-six thousand pounds sterling, as may be required for the purposes set forth in Schedule A to this Act, 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.

[1] See Act 15, 1904 (p. 4670), which repeals anything in this Act repugnant thereto.

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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 the Schedule B annexed hereto, to the person or persons who shall have advanced the same.

Money shall be raised upon debentures: form thereof.

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.

Amount, &c., of debentures to be agreed on.

4. The said debentures shall be transferable upon the endorsement of the registered holder thereof made in the form set forth in the said Schedule B to this Act.

Debentures to be transferable.

5. In order to provide for the payment of the interest and charges upon the moneys to be borrowed under this Act, 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, 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.

Sinking Fund to be formed out of Municipal Funds to pay capital and interest.

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.

Place and time of payment of interest

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 in the fifth section of this Act provided.

Debentures to be drawn for payment by lot.

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.

Notice to be given of debentures drawn.

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.

Register of debentures to be kept.

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Council empowered to levy rate on rental or annual value for sanitary purposes and to defray cost of police.

10. For the purpose of providing means for carrying into effect a more efficient sanitary service with regard to the removal and disposal of night soil, sewage, household, stable and other refuse, slops and filth, and for the purpose of defraying the cost of a police force, the Council is hereby authorised and empowered to impose and 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 one shilling in the pound on the rental or annual value of such immovable property.

Tenants' rate to be paid by occupier.

11. The said 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.

Two-thirds of Council must be present when tenants' rate levied.

12. 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.

Tenants' roll to be framed annually. In certain cases rate may be computed at 8 per cent. on assessed value.

13. The Council shall annually in the month of January cause a roll, to be called the "Tenants' Roll," to be framed, which roll shall identify the house, tenement or plot of ground in respect whereof the tenants' rate may be levied, and shall set forth the names of the owner and occupier thereof at that time and the rent paid by such occupier; Provided however that if any such house, tenement or plot of ground shall be unoccupied or vacant, or if no rent shall be payable in respect thereof, or if the Council shall be unable to ascertain the rental thereof, then, and in such case, the annual value or rental thereof shall be computed at a sum equal to eight per centum per annum of the value thereof as the same is assessed for Municipal purposes.

Council to form court to hear objections.

14. The Council shall hold a Court for the purpose of hearing and determining objections to the tenants' roll, and the provisions of Act 30 of 1877, with regard to holding a Court for the purpose of hearing and determining objections to the valuation roll shall apply, *mutatis mutandis*, to the tenants' roll.

Notices of objection under Act 30 of 1877 or under this Act to be given in writing seven days before sitting of Court.

15. Any person intending to object to the tenants' roll to be framed under the provisions of this Act, shall specify his objection in writing, and shall lodge the same with the Town Clerk seven days before the day advertised by the Council for holding the Court to hear and determine such objections, and, in default of doing so, he shall not be entitled to be heard.

Power of Municipality to frame regulations.

16. The Council shall have power to frame and pass bye-laws and regulations for any or all of the following purposes, to wit:—

(*a*) To regulate the subdivision of erven or plots of ground and the laying out of streets and roads.

(*b*) To regulate the size and number of the buildings that may be erected on erven or plots of ground.

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(*c*) To provide that the plans, designs and specifications of new buildings, or of buildings undergoing reconstruction, or repairs, shall be submitted to the Council for approval, and that the Council shall have power to reject the same or to order amendment thereof.

(*d*) To impose licences on vehicles kept within the Municipality, and to regulate the size and weight of loads on vehicles.

(*e*) To provide 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.

(*f*) To regulate the keeping of horses, cattle, dogs, sheep, goats, pigs and other animals within the Municipality.

(*g*) To make regulations with regard to the enclosing of vacant spaces and the erection of proper fences around property.

(*h*) To regulate and abate nuisances to the public from noises caused by livestock, dogs, poultry, noisy trades, street cries, and the like.

(*i*) To regulate the burning of weeds, rubbish and other offensive matter within the Municipality.

Penalty for contravention of regulations.

17. Any person convicted of any contravention of any of the provisions of the last-mentioned section may be sentenced to pay a fine of not exceeding ten pounds sterling, or in default of such payment to imprisonment for any period not exceeding three months, unless such fine be sooner paid.

Regulations to be passed, approved, and published as provided in Act 30 of 1877.

18. The aforesaid regulations, when framed and passed by the Council, approved of by the Governor and published in the *Gazette*, as is provided with regard to regulations framed under Act No. 30 of 1877, as amended by Act No. 12 of 1883, shall have the force and effect of regulations made under the provisions of the last-mentioned Acts.

Property in streets, squares open spaces, &c., vested in Municipal Council.

19. The property of and in all streets, roads, lanes, thoroughfares, foot pavements, foot paths, 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.

Repeal of conflicting laws.

20. So much of Acts No. 3 of 1867, No. 27 of 1874, No. 14 of 1876, No. 30 of 1877, No. 12 of 1883, or of any other Act or Law which may be repugnant to the provisions of this Act is hereby repealed.

Payments of costs of passing Act.

21. The costs and charges of passing this Act shall be paid out of the ordinary revenues of the Council.

Short Title.

22. This Act may be cited for all purposes as "The Uitenhage Loan and Improvement Act, 1896."

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No. 21—1896.

SCHEDULE A.

Schedule A.

	£	s.	d
Cost of laying down pipes to convey water from the springs to the Town of Uitenhage	19,000	0	0
Cost of constructing storage reservoirs near springs	6,000	0	0
For consolidating the existing water service loans of the Municipality	11,000	0	0
Total	£36,000	0	0

SCHEDULE B.

Schedule B.

No. £

Municipality of Uitenhage.

DEBENTURE.

This is to certify that the Mayor, Councillors and Ratepayers of Uitenhage are indebted to of 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 Loan and Improvement Act (No.), 1896," 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. [*Insert any other Conditions that may be agreed upon between the lender and the Municipality.*

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 18 in the presence of

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

L.S.

E. F.
G. H.
Councillors.

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 18

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Repealed by Act 14 of 1911 Sec 1

No. 22—1896.] [July 28, 1896.

ACT (1)

To make further provision for Preventing the Spread of the Contagious or Infectious Disease called Rinderpest amongst Cattle and other Animals.

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 cause cattle to be moved back.

1. Whenever any district or area has been declared under the provisions of the "Animals Diseases (2) Act, 1893," to be an infected district or area, by reason of the existence of Rinderpest, it shall be lawful for the Governor, acting in accordance with a Proclamation made for that purpose, to cause any animal, not affected with Rinderpest, found within such district or area, to be moved away from the place on which it is found, to any other ground situated within such area occupied by its owner, or to any other ground similarly situated which may be provided for the purpose, in accordance with such Proclamation.

Establishment of cordon or belt and removal of cattle therefrom.

2. For the purpose of checking the spread of Rinderpest among animals, it shall be lawful for the Governor by Proclamation to establish a cordon or belt of country of such width and extent as may be set forth in such Proclamation, and thereupon it shall be lawful for the Governor to cause any animal of a class mentioned by Proclamation to be moved out of such belt of country to any other ground occupied by the owner of such animal, or to any other ground provided by the Governor for the purpose, and it shall not be lawful to bring any such animal into any such belt or cordon while it remains proclaimed as aforesaid.

Disposal of and compensation for cattle.

3. It shall be lawful for the Governor, in addition to the powers conferred upon him in section two, to expropriate and destroy or otherwise dispose of all or any animals found within any such cordon or belt as aforesaid, not being portion of any infected area, compensating the owners of such animals for the value thereof; and also compensating the owner or occupier of any land within any belt established under section two, for any loss or damage sustained by him in consequence of the establishment of such belt as aforesaid; provided that in fixing the amount of compensation under this section the risk, if any, of loss by Rinderpest to any owner of cattle or land, or any occupier of land if animals belonging to him were allowed to remain in such land, shall be taken into consideration.

Entry upon lands

4. For the purpose of constructing or maintaining any fence, or doing any work necessary for the more efficient suppression of Rinderpest, it shall be lawful for any person duly appointed by the Minister, and for his agents and servants, to enter at all

[1] See Acts 2, 1897 (p. 3703) and 12, 1897 (p. 3727), giving extended powers to deal with rinderpest. As to Native Territories, see Proclamations 55 and 136 of 1897.
[2] No. 27 (p. 3260).

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No. 23—1896.

reasonable times, any land, and do thereon such acts, matters and things as are necessary or reasonably required, to carry into effect the construction or repairing or maintaining or removing of such fence, and the doing of such work.

Penalties for obstruction.

5. Any person found obstructing any person in the lawful execution of his duty under this Act, or refusing any duly appointed person, his agents, or servants, permission to enter upon his land for the purposes aforesaid, shall be liable to the penalties provided for by section fourteen of the "Animals Diseases Act, (1) 1893."

Compensation.

6. Any person whose animals have been removed under the terms of the first section of this Act, or upon whose land any fence or work has been erected or done under the terms of section four, and who has suffered loss or damage thereby, shall be entitled to be compensated for such loss or damage; the amount of such compensation to be such as the Governor may deem fit.

Regulations.

7. It shall be lawful for the Governor, by Proclamation to make regulations for preventing, restricting or regulating the movements of persons within any district or area infected with Rinderpest, and for preventing, or imposing conditions on any person leaving any such district or area, and to impose penalties for the contravention of any such regulation, not exceeding a fine of £100, or in default of payment to imprisonment with or without hard labour for a period not exceeding six months; and any person contravening any such regulation or any provision of this Act, or of any Proclamation made in accordance with the provisions of the "Animals Diseases Act, (1) 1893," and of this Act, shall be liable to the particular penalty in that behalf imposed and if no special penalty be imposed then to the penalty provided by section fourteen of the "Animal Diseases Act, (1) 1893."

Expenditure to be met from surplus revenue.

8. For the purpose of carrying out the provisions of this Act, it shall be lawful for the Governor to expend from time to time in addition to the amount provided on the Estimates of Expenditure for the financial year 1896-97, such sums as may be required not exceeding in the whole five hundred thousand pounds sterling from out of the accrued surplus revenue of the financial year ending 30th June, 1896.

Effects and Short Title.

9. This Act shall be read as one with the "Animals Disease Act, (1) 1893," and may be cited as the "Animals Diseases (Rinderpest) Act, 1896."

No. 23—1896.] [July 28, 1896.

ACT

Preamble.

To Amend "The Contingencies Account Act, 1892."

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:—

(1) No. 27 (p. 3260).

Repealed by act. 25 1934

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1. Notwithstanding anything to the contrary in any Law, "The Contingencies Account Act, (1) 1892," shall in respect of the aggregate amount of issues advanced on account 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 "Two Hundred Thousand Pounds" inserted in their stead.

No. 24—1896.

Limit of liabilities incurred on emergency without authority of Parliament increased to £200,000.

2. This Act shall be read as one with the said Act, and may be cited for all purposes as "The Contingencies Account Amendment Act, 1896."

Short title.

No. 24—1896.] [July 28, 1896.

ACT

To Provide for the Payment for certain Public Works out of the Revenues of the Colony, instead of out of Sums authorised to be raised by Loan, to provide for certain New and Additional Railway Works, and to cancel certain Borrowing Powers.

Repealed by Act 25 of 1934

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:—

Governor may apply £200,000 out of revenue to meet subsidy under Act No. 28 of 1895.

1. It shall be lawful for the Governor to apply the sum of two hundred thousand pounds sterling (£200,000) out of the revenues of the Colony for the financial year ending the 30th June, 1896, for the purpose of meeting the payment of portion of the subsidy authorised to be paid under the provisions of the "Railways Extension Act No. 28 of 1895," and the Borrowing Power under section thirteen, as detailed in items 1, 2 and 3 in Schedule A to the said "Railways Extension Act of 1895," is hereby reduced by the said sum of £200,000.

Borrowing Power reduced.

Money authorised to be raised under "Temporary Loans Act" made a charge against general revenue.

2. The authority to raise the amount of one hundred and seventy-four thousand pounds sterling (£174,000) under Schedule B to Act No. 35 of (2) 1895, under the provisions of the "Temporary Loans Act No. 20 of 1893," for the undertaking of certain new and additional railway works, is hereby cancelled, and the said amount of £174,000 is made a charge against the general revenue of the Colony for the financial year ending 30th June, 1896, and it shall be lawful for the Governor to apply out of the sum of £136,000 provided for automatic vacuum brakes under Schedule B to the said Act 35 of 1895, the sum of £60,000 towards the cost of additional rolling stock as set forth in the Schedule to this Act.

Provision as to applying the sum of £60,000.

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[1] No. 14 (p. 3004).
[2] Public Works.

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No. 24—1896.

It shall be lawful to borrow under "Temporary Loans Act" for certain purposes.

3. For the purpose of constructing the works set forth in the Schedule to this Act, it shall be lawful for the Governor to apply a sum of four hundred and twenty-eight thousand pounds sterling being the balance of the moneys authorised to be raised under the provisions of the "Temporary Loans Act No. 20 of 1883," and it shall further be lawful for the Governor to raise by temporary loan an amount of five hundred and twenty-two thousand pounds sterling (£522,000) in addition to the sum of one million sterling authorised to be raised by the aforesaid Act such further sum to be raised in the manner and under the conditions therein specified.

Power to raise £650,000 under Act No. 10 of 1892, reduced by £100,000.

4. The authority to raise by Loan the sum of Six Hundred and Fifty Thousand Pounds sterling (£650,000) under Act No. 10 of 1892, entitled the "Transvaal Railways Loan Act, 1892," is hereby reduced by the sum of one hundred thousand pounds sterling (£100,000) being the balance unrequisitioned for.

Short title.

5. This Act may be cited for all purposes as "The Public Works Act, 1896."

SCHEDULE.

Additional Rolling Stock	£765,000
Cape Town Station Extension...	50,000
Locomotive Workshops, steam sheds, pits and coaling arrangements...	20,000
Doubling Line, viz:—	
Maitland to Durban Road £21,500...	43,500
Cape Town to Salt River £22,000...	
Water Supply	20,000
Additional Station Accommodation...	15,000
Additional Siding Accommodation and Crossing Loops	8,000
Additional Accommodation for Railway Employés	15,000
Stores, Warehouses, Maintenance Shops and Offices	7,000
Bridges, Culverts and Waterways	2,000
Signals...	3,500
Postal and Telegraph Accommodation	1,600
Easing Gradients	3,000
Bridge over Harbour Line, East London	8,000
New and Additional Works on Free State Line, viz:—	
Additional Rolling Stock £33,400...	48,400
Works in hand £15,000...	
	£1,010,000

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No. 25—1896.] [July 28, 1896.

ACT

To Authorise the Raising of a Public Loan of Two Hundred Thousand Pounds for the purpose of Prosecuting and Improving the Harbour Works of Table Bay, and Providing Greater Facilities for the Conduct of the Business of the Port.

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:—

Power to raise loan of £200,000 for improvement of Table Bay Harbour Works, &c.

1. It shall be lawful for the Governor to raise by public loan a sum not exceeding two hundred thousand pounds sterling 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.

Application of moneys by Harbour Board.

2. The application of the moneys to be raised as aforesaid for the above purposes shall be entrusted to the Table Bay Harbour Board, and the said Harbour Board shall in respect to such application have and exercise all the powers conferred upon such board by any law.

Capital and interest of loans chargeable upon revenues of Table Bay Harbour Board.

3. Save in cases in which it may be expressly provided by law to the contrary, the capital and interest of all loans raised on the guarantee of the public revenue, for the purpose of prosecuting and improving the Harbour Works of Table Bay, shall in the first instance be chargeable upon the revenues of the Table Bay Harbour Board, and such board 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 of such loans.

Short title.

4. This Act may be cited as "The Table Bay Harbour Loan Act, 1896."

No. 26—1896.] [July 28, 1896.

ACT (1)

To Authorise the Raising of a Public Loan of One Hundred and Fifty-five Thousand Pounds for the purpose of Prosecuting and Improving the Harbour Works of Port Elizabeth, and Providing Greater Facilities for the Conduct of the Business of the Port.

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:—

Power to raise loan of £155,000 for improvement of Port Elizabeth Harbour Works, &c.

1. It shall be lawful for the Governor to raise by public loan a sum not exceeding one hundred and fifty-five thousand pounds

[1] See Act 17, 1900 (p. 4286).

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No. 27—1896.

sterling for the purpose of prosecuting the harbour works of Port Elizabeth, and of effecting improvements at the Port as set forth in the Schedule to this Act.

Application of moneys by Harbour Board.

2. The application of the moneys to be raised as aforesaid for the above purposes shall be entrusted to the Port Elizabeth Harbour Board, and the said Harbour Board shall in respect to such application have and exercise all the powers conferred upon such Board by any law.

Capital and interest of loans chargeable upon revenues of Port Elizabeth Harbour Board.

3. Save in cases in which it may be expressly provided by law to the contrary, the capital and interest of all loans raised on the guarantee of the public revenue, for the purpose of prosecuting and improving the Harbour Works of Port Elizabeth, shall in the first instance be chargeable upon the revenues of the Port Elizabeth Harbour Board, and such Board 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 of such loans.

Short title.

4. This Act may be cited as "The Port Elizabeth Harbour Loan Act, 1896."

Schedule.

SCHEDULE.

New approach to North Jetty	£23,000
South Jetty extension, widening, &c.	52,000
New Jetty at North End, for landing Timber, Railway Material, Coal, &c.	54,500
Extension of North Embankment to Southward and up the Baakens River, and the reclamation of land at back (additional)...	20,500
Patent Slip (additional)	5,000
	£155,000

Released ad. 5/7/1934

No. 27—1896. [July 28, 1896.

ACT

To Authorise the Raising of a Public Loan of Ninety-three Thousand Three Hundred Pounds for the purpose of Prosecuting and Improving the Harbour Works of East London, and Providing Greater Facilities for the Conduct of the Business of the Port.

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:—

Power to raise loan of £93,300 for improvement of East London Harbour Works, &c.

1. It shall be lawful for the Governor to raise by public loan a sum not exceeding ninety-three thousand three hundred pounds sterling for the purpose of prosecuting the harbour works of East London, and of effecting improvements at the Port as set forth in the Schedule to this Act.

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Application of moneys by Harbour Board.

2. The application of the moneys to be raised as aforesaid for the above purposes shall be entrusted to the East London Harbour Board, and the said Harbour Board shall in respect to such application have and exercise all the powers conferred upon such Board by any law.

Capital and interest of loans chargeable upon revenues of East London Harbour Board.

3. Save in cases in which it may be expressly provided by law to the contrary, the capital and interest of all loans raised on the guarantee of the public revenue, for the purpose of prosecuting and improving the Harbour Works of East London, shall in the first instance be chargeable upon the revenues of the East London Harbour Board, and such Board 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 of such loans.

Short title.

4. This Act may be cited as "The East London Harbour Loan Act, 1896."

SCHEDULE.

Schedule.

New Dredger	£30,700	
Less amount recovered from Underwriters Dredger "Lucy"	6,050	
		£24,650
Extension No. 3 *Jetty* 400 feet, in iron ...		16,000
Additional Timber Jetty		1,650
Sorting Sheds for Intransit Traffic		5,000
Additional Paraffin Storage		1,000
New Cranes		5,000
Plant for Landing and Shipping purposes.		
1 Tug	£10,000	
1 Tug	7,000	
16 Lighters	20,000	
Boating Yard Appliances, &c.	3,000	
		40,000
		£93,300

No. 28—1896.] [July 28, 1896.

ACT

To Apply a Sum of money for the Service of the Year ending the 30th day of June, 1897.

[Spent.] [p. 3618.]

Repealed by Act 25 1934

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No. 29—1896.] [July 31, 1896.

ACT [1]

To Incorporate the "Southern Suburbs of Cape Town Tramways Company, Limited."

Preamble.

WHEREAS it is expedient that a Company incorporated for the purpose of constructing, equipping, maintaining and working certain Tramways within the Cape Division, and for other purposes connected therewith, should be granted certain rights and powers as hereinafter provided:

And whereas certain persons have formed themselves into a Joint-Stock Company, styled the "Southern Suburbs of Cape Town Tramways Company, Limited":

And whereas the said Company has been duly registered in terms of Act 25 of 1892, and is willing to undertake the construction, equipment, maintenance and working of certain lines of tramway within the said division:

And whereas it is expedient that power and authority should be granted to the said Company to raise money by means of shares, or debentures:

And whereas plans and sections of the lines of tramway proposed to be constructed by the said Company have been lodged with the Clerk of the House of Assembly:

And whereas it is expedient that the said Company should have power to sell, lease or otherwise dispose of the said lines of tramway when constructed, to purchase or hire, or enter into any working arrangements with any other Tramway Company or Company having similar objects, which now or hereafter may exist within the Cape Division, and that further powers and rights, with reference to the construction, equipment, maintenance and working of the said tramways, should be conferred upon it:

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:—

Company to have power to raise money by shares or debentures.

1. The Company incorporated by the said name of the Southern Suburbs of Cape Town Tramways Company, Limited," shall have power and authority, to be exercised by the directors, to raise by means of shares or debentures, such sums of money as may be necessary; provided that the amount of such debentures shall not exceed the amount of the subscribed capital of the Company, and the said debentures shall be subject to such terms and conditions as to the interest thereon and as to repayment thereof as the directors may determine.

Authority to construct and work tram lines.

2. The Company is hereby authorised to construct, equip, maintain and work by electric or horse power or either of them with all necessary sidings, termini and appurtenances, and with

[1] Amended by Act 19, 1897 (p. 3735).

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all the powers and rights in this Act set forth, the following lines of tramway within the Cape Division, subject to the provisions of this Act, that is to say:

Tramway No. 1.—Commencing at the end of the existing City Tramway in Mowbray, and passing along the main road in a southerly direction through Rondebosch and Claremont, and terminating in the main road at the southern boundary of the Claremont Municipality. The said Tramway No. 1 will be a single line with passing places.

Tramway No. 2.—Commencing at the termination of Tramway No. 1, and passing along the main road in a southerly direction through Wynberg, and terminating near Constantia Road. The said Tramway No. 2 will be a single line with passing places.

Provided, however, that no passing place shall be constructed, except at places approved of by the Road Authority, and by each Municipal Council as respects that section of the tramway within its jurisdiction, and the length of the loop-lines at such passing places shall also be subject to approval.

Interpretation.

3. In this Act the words "Road Authority" shall mean as to any road or portion thereof, footpath, bridge, drain, sewer, pipe, wire, tree, or other property belonging to any public body, the public body in which the said road, footpath, bridge, or other property or portion thereof is vested or which has lawful control of the same. "The Tramway" shall mean the lines of tramway authorised by the second section of this Act or any of them together with such deviations therefrom and extensions thereof as may be constructed in accordance with this Act.

Power of Company.

4. The Company shall, subject to the provisions of this Act, have the right to erect, construct, maintain and work lines of poles (which poles shall be of iron of a design approved of by the Road Authority) and wires for overhead connections or underground conduits together with span wires and appurtenances for electric currents or cables over or under all such roads, streets and public places through which the said lines of tramway shall pass, as may be necessary for the proper and efficient working of the same; provided that in no case shall the trolley wire be less that enghteen feet high above the surface of the road, and provided that the Company shall have no right to build any erection upon any road, street, public place or municipal land unless specially permitted so to do by the Road Authority, and the Company specially undertakes that in the event of any electric leak taking place and any damage being thereby caused at any time by electrolysis, or otherwise, it will reimburse and make good to the Road Authority, or any other public body, company or person, all costs, damages and expenses to which the Road Authority or such public body, company or person may be put by reason thereof: and provided, further, that nothing in this Act contained

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shall entitle the Company 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 without the consent of the Road Authority first had and obtained.

Construction of tram lines not to be proceeded with until 2.9ft. 6in. road secured, with footway.

5. No tram line shall be constructed by the said Company in any portion of the said main road which is less than twenty-nine feet six inches wide from kerb to kerb, and alongside of which there is not in existence a footway of a width reasonable and sufficient to the satisfaction of the Road Authority for the use of foot passengers. At any part of the said main road which is less than twenty-nine feet six inches wide, or where such sufficient footway does not exist, it shall be the duty of the said Company, before proceeding with the construction of any tram line under this Act, to widen the said road at their own expense, and to the satisfaction of the Road Authority, until a width of twenty-nine feet six inches has been secured, and to similarly provide such footway as aforesaid.

Position of tramway.

6. The position of the tram lines in the streets or roads traversed shall be such as may be determined by the Road Authority previous to the construction thereof, and the said lines shall be laid by the said Company in such position as the Road Authority may direct: Provided, however, that the said tram lines shall be placed in such a position as to allow a space of not less than thirteen feet on one side of the road between the side of the road and the rail nearest to such side; provided, further, that in no case shall any rail of the said tram line be laid at a level such that the fall from the said rail to the nearest gutter is greater than three-quarters of an inch to the foot.

Paving and maintenance of road.

7. Wherever the said tramways are laid, a toothing course of good stone or wood shall be laid by the Company on either side of each rail, each toothing course to extend alternately not less than eight and five inches from each line of rails, and the same shall be maintained by the Company in such state and in good and efficient repair. The rest of the space between the rails and to a distance of eighteen inches outside of each rail shall be constructed and maintained in a good and efficient state of repair by the Company with a good hard macadam, all requirements in this section being done to the reasonable satisfaction of the Road Authority: Provided, however, that the Road Authority shall have the right to call on the Tramway Company to put in order, maintain and keep in repair the remainder of the road, of the width at present existing, traversed by the tramway to the satisfaction of the said Road Authority, on its paying to the said Tramway Company two-thirds of the actual cost incurred in so maintaining and keeping in repair the said remainder of the road.

Position of standards and wires.

8. The standards and overhead wires shall, subject to the provisions of section four as to their position and in all other respects, be in accordance with the regulations made under "The

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Electric Lighting and Power Act, (1) 1895," and be subject to the approval of the Road Authority and of each Municipal Council as respects that section of the line which is within the jurisdiction of the said Council as set forth in any resolutions, standing orders, or regulations.

Relaying of streets.

9. If after the construction of any line the Road Authority shall relay the street which it traverses with a material essentially different from that in use at the time of such construction, the Company shall at the time of such relaying, replace that portion of the street which in terms of this Act it is required to construct, maintain and keep in repair with such material and in such manner as to be in accordance with the portion of the street so relaid or replaced unless the Road Authority otherwise direct, and the Company shall maintain the same in such state and in good and efficient repair.

Construction of culverts and drains.

10. Whenever in laying down the lines it may be found necessary to construct any culverts or drains, the same shall be constructed by the Company to the satisfaction and approval of the Road Authority or its duly authorised officer, and all culverts or drains so constructed shall at all times be maintained in good order and repair by the Company to the like satisfaction and approval. And whenever in laying down the said lines it may be found necessary, for the safety or convenience of the public, to alter any of the existing culverts or channelling, such alteration shall be undertaken by the Company and completed to the like satisfaction and approval; provided that after any such alteration of the said road or culverts the cost of maintaining the said road or culvert so altered shall not be borne by the Company except in so far as is provided by section seven of this Act; provided that should any approach to private property have to be removed or altered, notice shall be given to the owner of such property; and the Company shall be bound and obliged to widen the Westerford Bridge over the Liesbeek River at Newlands, so that the said bridge shall be thirty feet in width, and have a footing in addition on one side at least, to the satisfaction of the Road Authority: the said work shall be done at the cost and expense of the Company and under the supervision and to the satisfaction of the Road Authority.

Guage of tramway.

11. The rails of tram lines shall be of the usual and ordinary kind and shall be laid to a gauge of not less than four or more than five feet apart, the surface of the rails and of the paving of stones or wood being kept level with the surface of the street, and the same shall be kept and maintained in a condition of repair to satisfy this requirement by the Company.

Renewal and repair of sewers, &c., by Road Authority.

12. The Road Authority, and the Municipal Councils in cases when they may not be the Road Authority, shall at all times in the future have the right free from any payment or compensation

[1] No. 42.

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and without let or hindrance and by itself or its servants to place and construct, renew, maintain and repair through, across, above or beneath any roads, streets and public places over or in connection with which any rights are by this Act conferred upon the Company, and through, across, above or beneath the tram rails and the tramways, all sewers, drains, pipes, cables or wires and all such property used for the drainage, sewerage or supply of water and the lighting of the municipalities or in connection with public works of any kind: provided, always, that in carrying out any such works as are in this section referred to, the Road Authority and the Municipal Councils, in cases when they may not be the Road Authority, shall take and use every reasonable means not to hinder or delay the traffic on the line.

Cars and rolling stock.

13. The cars and rolling stock of the Company shall not exceed seven feet six inches in width, and shall be approved by the Road Authority and comfortably fittel up for the conveyance of passengers and lighted. Each car shall be supplied with not less than five incandescent lamps each of sixteen candle-power including head and tail lights.

Expense of removal of rails.

14. All expenses incurred by the Road Authority, and the Municipal Councils when they may not be the Road Authority, in the removal and replacement of the rails after the first laying down thereof consequent upon the necessity of repairing, altering or removing such sewers, drains, pipes, wires and cables shall be paid and borne by the Company.

Indemnification of Road Authority from damage by electrolysis or otherwise.

15. The Company undertakes to keep the Road Authority or any other public body, company or person harmless and indemnified from and forthwith to reimburse to it and make good all loss, costs, damages and expenses to which they may be put by reason of electrolysis or any neglect or default on the part of the Company or its servants in the execution of works under the provisions of this Act in the execution of powers granted hereby, in the due performance of the provisions of this Act, and in the safe, proper, and efficient working of the tramways and electric power or from any failure, defect or insufficiency of or in the plant, machinery and works or otherwise.

Rate of speed.

16. The rate of speed at which the cars shall travel shall not, except with the consent of the Road Authority and of the Councils of the Municipalities through which the line is laid, exceed ten miles an hour.

Servants, guards, &c.

17. The drivers, guards and other servants of the Company and the cars, carriages and conveyances of the Company, shall require to be licensed by the Road Authority, and shall be subject to such bye-laws and regulations as now exist or may hereafter be lawfully made by the Road Authority.

Power of Road Authority in case of Company ceasing to run.

18. If the said tramways or any part thereof shall during a period of seven days consecutively cease to run or be worked for the use of the public unless from strike of operatives or some

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other cause beyond the control of the Company, or if any section of the said tramways be not properly or efficiently worked, or if during any one year the tramways shall not run for periods aggregating thirty days, the Council of the Municipality in which such section is situated, or the Road Authority, may give one month's notice, in writing, to the Company, and at the expiration of the said period all powers conferred under this Act upon the Company in so far as the said powers relate to any unused, unworked, or improperly worked portion of the line shall cease and determine, and the Road Authority may as to any such portion exercise the option of purchasing the same upon the terms hereinafter set forth just as if the period of time at which the Road Authority has such option had arrived, or may exercise the right conferred upon it by the next succeeding section, and compel the company to remove the rails and restore the road.

Removal of rails and restoration of road.

19. The Company shall upon such notice, and if the Road Authority shall not purchase, be bound and obliged at its own cost to remove the rails and other plant, and to restore the road or other place to a condition fit for the traffic having regard to the material of which such road or other place is constructed. And should the company fail to do so, the Road Authority may remove the rails and do all things necessary to the restoration of the road or other places as aforesaid, and demand and recover the cost incurred thereby from the company.

Commencement and completion of work.

20. The construction of the tramway shall be commenced by the Company within six months from the date of the promulgation of this Act, and not less than two miles thereof shall be completed and in operation for public use within one year thereafter, and such work shall be continued at the rate of not less than two miles per year until the tramways are completed, to the intent that at the end of each year two miles of additional tramway shall be open for public use and traffic: Provided always that upon the due completion of the tramways according to the routes laid down there shall be no further obligation under the terms of this section: 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.

Penalty.

21. In the event of non-compliance with the preceding section the Company shall be liable to pay to the Road Authority, if demanded, a penalty of two pounds sterling for every day's default: provided that the total of such penalties shall not exceed five hundred pounds sterling, and in case the Company shall fail to commence the said work within the said period of six months aforesaid then all the rights and powers with regard to the construction and working of the tramways authorised by the second section of this Act shall cease and determine.

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Tramways not to endanger public safety.

22. The tramways shall be so constructed and worked as not to hinder the safe passage of the ordinary traffic upon and across the roads, streets and public places, or to endanger the safety of the public.

Rental to be paid to Road Authority.

23. The Company agrees to pay to the Road Authority for the use of the streets, roads and public places upon which the tracks run, and for the rights and privileges granted, an annual rental of twenty pounds sterling per mile of road along which the tramways are laid.

Right of Company to collect tolls.

24. The Company shall have the right and power to charge and collect fares for the carrying of passengers and parcels upon or over all lines so to be constructed; provided, that the tariff of such fares shall be exhibited in a conspicuous place in each car, carriage or conveyance, and shall not be increased at any time until after public notice shall have been given in the *Gazette* and in two or more newspapers to be approved of by the Road Authority circulating in the Cape Division; and provided always, that no fares or charges shall in any case at any time exceed those mentioned in the schedule to this Act.

Manner of carrying out the work.

25. With respect to the construction or reconstruction of any work done or required to be done by the Company under the powers hereby conferred it is provided:

(*a*) That no road, street, bridge, sewer, drain, culvert, pipe, wire, or property belonging to the Road Authority shall in constructing or maintaining the tramways be entered upon, broken up or opened up or otherwise dealt with until the Company shall have given to the Road Authority notice in writing of its intention so to do, not less than three days before beginning or doing any such work or thing, except in case of emergency, after the construction of the tramways have been completed, arising from defects in any of the works, and then so soon as it is possible after the beginning of the work or the necessity for the same shall have arisen, such notice shall set forth clearly and distinctly the work it is intended to perform.

(*b*) The Company shall at all times when required thereto by the Road Authority or its appointed officer, or by the Council of the Municipality in respect of any section of the line laid through such Municipality, furnish such plans, sections and information respecting the construction at any time about to be or being undertaken by it, and respecting the routes, grades or other details as may be required by the Road Authority or such Council, and in the event of non-compliance with such requirement forthwith on demand, shall be barred from proceeding with any work until it has so done to the satisfaction of the Road Authority or such Council.

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(*c*) The Road Authority or such Council may during the progress of any works inspect all material used or proposed to be used thereon, and may require proper material to be used or the work to be done in a proper manner, and in the event of the instruction of the Road Authority or such Council or its authorised official not being carried out, the Road Authority or such Council shall be entitled to prevent the further carrying out of the works hereby authorised until its instructions have been obeyed.

(*d*) No road, street, bridge, sewer, drain, culvert, pipe, wire, or anything as aforesaid shall be entered upon, broken, or opened up, or otherwise dealt with, except under the superintendence of the Road Authority or its appointed officer, and according to such plans and in such manner as shall be approved by the road authority or its appointed officer, or in the case of any pole, wire, pipe or other property of the Postmaster-General otherwise than in accordance with the provisions of "The Electric Lighting and Power Act, (1) 1895," or any regulation which may be framed by the Governor under the authority of such Act. And the works of the Company shall be carried out in sections approved by the Council or its appointed officer to the intent that each section shall be speedily and expeditiously completed and with the least possible inconvenience to the public and traffic, the whole attention and energy of the company being as far as possible devoted to carrying out the works section by section.

(*e*) The Company shall with all convenient speed complete the work undertaken, and carry away forthwith all rubbish occasioned thereby, and shall reinstate and make good and maintain against subsidence any road, street, bridge, sewer, drain, culvert, pipe, wire or other property interfered with, and shall at all times whilst any operations are being carried on, take every precaution to prevent accident, and shall cause sufficient lights and watchmen to be placed and kept up every night during which the surface of any road, street, public place or bridge continues broken up, or during which any danger from any cause may arise to the public.

(*f*) All operations of the Company shall be carried on in such manner as not to injure in any way sewers, drains, pipes, street lamps, electric cables or wires whether above or below the surface of the street or other like works.

(*g*) In carrying out all operations that may be necessary for the due construction and maintenance of the works authorised by this Act, any sewer, drain, pipe, street lamp, electric cable or wire as aforesaid, or other like

[1] No. 42.

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works, may be removed temporarily, obstructed or deviated, but the Road Authority may elect to carry out the removal, temporary obstruction or deviation itself or by its servants, in which case the Company shall forthwith reimburse to the Road Authority the reasonable expenses which may be incurred, and whenever by this Act the Road Authority is authorised to recover expenses from the Company, the fact that any person or persons are in the ordinary employ or pay of the Road Authority shall not debar the Road Authority from making claim for, and recovering any sum or sums paid to such person or persons in respect of the period of time they were so employed.

(*h*) All operations of the Company shall be carried on without causing any damage to any street, road, bridge, sewer, drain, culvert, pipe, wire, tree, underground works or other property of the Road Authority, and should any damage be done at any time in contravention hereof, the Road Authority may by notice in writing require the Company to make good the same forthwith, and should it not do so, the Road Authority may cause to be done what is necessary to repair such damage, and recover the expenses incurred thereby forthwith from the Company.

(*i*) If the Company enters upon, breaks up, opens up or otherwise deals with any road, street, bridge, sewer, drain, culvert, pipe, wire, tree, or other property vested in the Road Authority without giving such notice as aforesaid, or if the Company makes any unnecessary delaying in completing any such work or reinstating or making good any of the property interfered with by it, or in carrying away the rubbish occasioned by its works, or if it neglects to take precautions against accident, or neglects to carry out substantially not only the terms of this section but also every term or condition of this Act, it shall forfeit to the Road Authority a sum not exceeding five pounds for every such offence or breach, and an addition of 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 Road Authority shall not in any way debar the 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.

Power of road authority or Cape Town Council to purchase tramways constructed under this Act.

26. The rights and powers conferred upon the Company with regard to the construction of the tramways in the second section of this Act mentioned, which are put into operation within a period of five years from the date of this Act, shall thereafter continue for a further period of twenty-five years. At the expiration of the said periods, together thirty years, the Road Authority

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or the Town Council of the City of Cape Town shall have, and may exercise, the option of purchasing the whole of the property and plant of the said undertaking situate within the area as to which the said Road Authority exercise control, and if such option be not exercised the rights and power granted under this Act shall continue for a further term of five years, at the expiration of which period the Road Authority or the Town Council of the City of Cape Town shall have the like option, and so on for successive terms of five years, unless or until at the expiration of any such term the Road Authority or Town Council of the City of Cape Town shall exercise the option so reserved to them, provided that in case any difference or dispute shall arise between the respective Road Authorities or with the Town Council of the City of Cape Town as to the exercise of the said right, the Divisional Council shall have the prior right of exercising the said option, but if the said Divisional Council shall fail so to exercise the said option, then the respective Councils of the Municipalities through which the said tramways are laid may exercise the option as to the portion of the said tramways within the limits of such Municipality, but no such Municipality shall, in the exercise of such option, act independently of any other Municipality, but the said option to purchase shall be exercised at one and the same time in respect of the whole of the said tramways; and further, should both the Divisional Council and the Municipalities through which the said tramways are laid, fail to exercise the said option, then the Town Council of the City of Cape Town may exercise the said option with respect to the whole of the said tramways. Provided, further that should the Divisional Council, the various Municipalities through which the said tramways run, or the Town Council of the City of Cape Town, desire to exercise the option given, then, not less than six months' notice of the intention to exercise such option shall be given to the company in writing prior to the expiration of the said period of thirty years, or any successive term of five years, and in the event of more than one of the holders of such option giving due notice, the said right of purchase shall belong to them respectively in the rotation in which they are in this proviso before mentioned. Should no such notice to purchase be given, the rights and powers granted under this Act shall continue for successive terms of five years under the same terms and conditions. In the event of such option being exercised, the price to be paid, if not mutually agreed upon, shall be determined by arbitration, and in the fixing of the purchase price by the arbitrators, no account shall be taken of the goodwill of the business, or of the then market value of the company's Stock.

And of certain tramways constructed under Act 22 of 1895.

27. In the event of the Town Council of the City of Cape Town purchasing the said tramways and plant they shall in addition be entitled and required to purchase the tramways, plant and property, constructed and situate or lying between the present boundary of the Municipality of Cape Town and the end of the

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existing City Tramway in Mowbray; and, notwithstanding anything contained in the thirty-first Section of Act 22 of 1895, the tramway and plant and property of the City Tramways Company as in this section before-mentioned may only be purchased in conjunction with the tramways covered by this Act, and the price to be paid for the same shall be fixed upon the basis of twenty times the average annual net profits upon the said section of the City Tramways taken over a period of ten years preceding such purchase, and failing agreement as to such price the same shall be settled by arbitration upon that basis.

Arbitration.

28. In case of any difference or dispute arising between the Road Authority or any other public body or Company, and the Company, or in case of any difference or dispute arising between the respective Road Authorities or between any of them and any other Road Authority or public body having control of the roads over which any tramways which may be worked in connection with the Company's lines in accordance with the provisions of this Act may pass, as to the exercise of powers conferred by this Act other than those in the preceding section conferred, the said difference or dispute shall be referred to arbitration and thereupon all the provisions of the Lands and Arbitration Clauses Act, 1882, shall apply to the same.

Balance sheets and statements.

29. The company shall annually or so often as any balance sheet, statement of profit and loss and report be prepared by or submitted to the shareholders or members of the said Company forward a duly certified copy thereof and of each of the said documents to the Road Authority.

Power to sell or purchase.

30. The Company shall have full power and authority to sell, lease, or otherwise dispose of the said lines of tramway when constructed to any other Company or public body, having similar objects, to purchase or hire any other tramway or works, property, plant, material, buildings or appliances connected therewith, and to enter into any working arrangements with any other Company having similar objects which now or hereafter may exist within the Cape Division.

Obstructions to be removed.

31. If any person or persons shall drive or lead any wagon, cart, carriage, or other vehicle, or any horse or other animal upon the said tramway lines in such manner as to wilfully obstruct and hinder, or shall in any other way wilfully obstruct or hinder any car or conveyance belonging to the Company, or shall refuse to remove such obstruction, such person shall for every such offence be liable to a penalty not exceeding forty shillings.

Punishment.

Obstruction to traffic.

32. Nothing in this Act contained shall authorise the Company in any manner to obstruct or hinder the safe passage or crossing of the ordinary traffic on any roads or streets in which such tramway shall have been made except for the purposes of constructing

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and maintaining the tramways, posts, wires and works as hereinbefore set forth, but in all cases a sufficient space shall be left at least on one of the sides of the said roads or streets to allow all carriages, wagons, or other vehicles to pass the carriages on the said road or street in a safe and convenient manner; provided, always, that, subject to the provisions of section twenty-two of this Act, rights and facilities shall at all times be enjoyed by the said Company for their carriages to pass without obstruction or hindrance along the several lines of the Company; and upon due and sufficient notice being given by such whistle, bell, gong, or other contrivance, as the Road Authority may approve, by the driver or conductor or other person in charge of the said carriages of the approach thereof, all persons and vehicles upon or near the lines of rails shall, as soon as practicable, remove so as to allow the carriages of the Company to pass along the line freely and without obstruction; not more than two trailers shall be attached to each motor car.

Punishment of persons wilfully obstructing.

33. Any person who shall wilfully obstruct the officers or servants of the said Company, or any contractors with the Company, in the lawful exercise of their powers in setting out or making, laying down, repairing, or working the tramways authorised by this Act, shall for every such offence be liable to a penalty not exceeding forty shillings.

Penalty for interference, &c.

34. Any person who without lawful excuse shall wilfully do any of the following things, namely:—

Interfere with, remove or alter any part of the tramway, or of the works connected therewith;

Place or throw any stones, wood, or other material on any part of the rails, do any damage to any property belonging to the Company or commit any nuisance by loitering in or upon the Company's premises or otherwise;

Do or cause to be done anything in such a manner as to obstruct any carriage using the tramway or the horses drawing the same or to endanger the safety of persons therein or thereon or the public;

Or knowingly aid or assist in the doing of any such thing, shall for every such offence be liable (in addition to any proceedings by way of indictment or otherwise to which such person may be subject) to pay a penalty not exceeding forty shillings, 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.

Tolls to be charged equally.

35. 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

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Mode of charging tolls.

the same rate whether by ton, by mile or otherwise in respect of all goods of the same description; and no reduction or advance in any such tolls, fares or rates shall be made either directly or indirectly in favour of or against any particular Company or person travelling upon or using the said tramway.

Penalty for avoiding or refusing to pay fare.

36. If any person travelling in any carriage on the tramway shall avoid or attempt to avoid payment of the fare, or if any person shall refuse to pay his fare after it has been demanded by the conductor or other duly authorised servant of the Company, or having paid the fare for a certain distance shall knowingly and wilfully proceed in any such carriage beyond such distance, and refuse to pay the additional fare for the additional distance, or attempt to avoid payment thereof, or if any person shall knowingly and wilfully refuse or neglect on arriving at the point to which such person has paid the fare, to quit such carriage, such person shall for every such offence, be liable to a penalty not exceeding forty shillings, and in default of payment to imprisonment with or without hard labour for any term not exceeding three days, unless such fine be sooner paid.

How penalties recoverable.

37. All penalties imposed by this Act shall be recoverable in the Court of Resident Magistrate and if at the suit of the said Company then for the benefit of the said Company.

Tolls to be painted in conspicuous letters on stations.

38. A list of all the tolls authorised by this Act to be taken and which shall be exacted by the said Company shall be published by being exhibited in some conspicuous place on the stations of the Company, or in or upon the cars, and the Company shall have the right to recover by legal process in the Court of the Resident Magistrate all such charges from passengers and from the owners of goods, articles or things conveyed by the Company, and shall moreover have the right of retaining such goods, articles or things until the charges appertaining to the same have been duly paid; provided, always, that such tariff of charges may be altered by the Company in accordance with the provisions of section twenty-four of this Act.

Power to make bye-laws.

39. The Company shall have the power to make bye-laws as to the stopping of the cars for taking up and setting down passengers, the space in the cars to be occupied by passengers, the conditions upon which persons will be allowed to travel upon or use the cars, 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 from time to time to add to and vary such bye-laws. Such bye-laws and any additions thereto or alterations thereof shall be submitted to the Governor for approval, copies of the same being first transmitted to and approved of by the Road Authority and the Council of each Municipality through which the line is laid, at least one month prior to their being so submitted, and upon the Governor's approval being obtained, and

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proclamation made in the *Gazette* shall have the force of law, but at any time may be revoked or altered by the Governor by Proclamation.

Exclusive right to use tramways with flanged wheels.

40. The Company shall have the exclusive right to run upon the tramways, cars or carriages plying for hire, with flanged wheels or wheels specially adapted to run upon the rails: any person contravening the provisions of this section shall incur a penalty of forty shillings for each offence, and in default of payment, imprisonment for any period not exceeding seven days.

Saving rights of Waterworks and Electric Lighting Companies.

41. Nothing in this Act contained shall be taken to prejudice or interfere with the right of any Waterworks or Electric Lighting Company with regard to the laying, constructing or maintaining of pipes, valves, meters, posts, poles, cables, wires or other appurtenances of the said Waterworks or Electric Lighting Company; but any alterations to the said pipes, posts or other property which may be necessary for the carrying out of the objects of this Act shall be made under the supervision and to the reasonable satisfaction of the said Waterworks or Electric Lighting Company, or if such Company should so prefer, may by arrangement be carried out by such Company at the expense of the Tramway Company. Provided that if at any time any such Waterworks Company shall be put to any additional expense in laying or taking up pipes, making connections, or executing any other necessary work or repairs, under the said tramway line, or in consequence of the existence or construction of the same, then and in every such case such additional expense shall be repaid by the Tramway Company; and provided further that in the event of any stoppage of the tramway traffic through an accident to the mains, pipes or conduits of any such Waterworks Company, such last mentioned Company shall not be liable for loss of traffic in consequence thereof, provided the damage be repaired within twenty-four hours, if practicable, otherwise within as short a time as possible, and further that should any damage be caused through the operation of this Act to the cables or wires, or any plant belonging to the Cape Town Suburban Electric Lighting Syndicate, Ltd., or should the works of the Company render it necessary to make any alterations to the poles or wires or other plant of the Syndicate, such damage or alteration is to be made good at the expense of the Company.

No director or employé of Company to be on Divisional or Municipal Council.

42. No director or employé of the Company shall be capable of being elected or of sitting as a member of the Divisional Council for the Cape Division, or of any Municipal Council through whose jurisdiction the tramway runs.

Powers to widen road.

43. For the purpose of widening any road or of providing any footway as required by the terms of section five of this Act, the Company shall 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 40

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of 1889 for the purposes set forth in section one hundred and forty-one of the said Act, and all questions as to compensation in consequence of any exercise of the rights and powers aforesaid shall be determined under the Lands and Arbitration Clauses Act, 1882.

Tramway not exempt from any general Act.

44. Nothing in this Act contained shall exempt the tramway from the provisions of any general Act relating to tramways or the use of electric power, which may hereafter pass during this or any future Session of Parliament.

Short title.

45. This Act may be cited for all purposes as the "Southern Suburbs of Cape Town Tramway Act, 1896."

SCHEDULE.

Schedule.

Maximum Tolls and Rates of Charge.

Passengers. (1)

Maximum charge between former terminus at Mowbray Hill and Constantia Road.

1. The maximum rate of charge to be made by the Company for the conveyance of any passenger for any distance on the said line, that is to say for any distance between the former terminus of the Company at Mowbray Hill and Constantia Road in the Municipality of Wynberg, or either way, shall not exceed sixpence.

Maximum charge between Mowbray Hill and Protea Road and Protea Road and Constantia Road.

The rate of charge to be made by the Company for the conveyance of any passenger between Mowbray Hill in the Municipality of Mowbray and Protea Road in the Municipality of Claremont, and between Protea Road in the Municipality of Claremont and Constantia Road in the Municipality of Wynberg, shall not exceed three pence in either case.

Maximum charge between Rosebank Match Factory and Station Road Kenilworth.

The rate of charge to be made by the Company for the conveyance of any passenger between the Rosebank Match Factory and the Station Road, Kenilworth, shall not exceed threepence. And from and after the passing of this Act the rates of charge in the new clauses above mentioned shall be the maximum rates to be charged by the Company for the distances therein mentioned. The rate of charge payable by each passenger for his conveyance from any point to any other point on the tramway system shall give him the right to take with him his ordinary luggage not exceeding 20 lbs. in weight without any charge being made for the carriage thereof, any excess over such weight, however, being charged for at parcel rates. The conductor or other authorised servant of the Company shall be entitled to decline to allow any passenger to take with him any luggage over 20 lbs. in weight, and he may decline to receive for conveyance by such car any parcel or package which, notwithstanding its weight being less than 20 lbs., is unreasonably bulky, or of an undesirable character. The restriction upon rates of charge for the conveyance of passengers shall not be taken to debar the Company from

[1] Printed as amended by Act 19, 1897 (p. 3736).

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running any special car or carriage for any special purpose upon any special occasion, upon such terms as may be agreed upon 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.

2. The tolls or rates to be charged by the Company in respect of small parcels not included in those allowed under Clause 1 for carriage thereof on the whole or any part of the lines shall not exceed:

For any parcel not exceeding thirty-five pounds in weight, eightpence.

For any parcel exceeding thirty-five pounds in weight and not exceeding seventy-five pounds in weight, one shilling.

Parcels exceeding seventy-five pounds in weight, such reasonable sum as the Company may think fit to charge, after notice given.

3. The Company may demand and take, in addition to the tolls and rates of charge in the last preceding clause authorised, a reasonable sum for the 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 Company elsewhere than on the premises of the tramway, or the property or works of the Company.

4. Nothing herein contained shall be held to bind the Company to carry goods in carriages on the tramway, other than goods which the passengers are allowed to take with them, until they have given notice in one or more newspapers circulating in the Cape Division of their intention to do so.

No. 30—1896.] Rep by Act 22/1916 ACT [July 31, 1896.

To Amend in certain respects "The Railways Extension Act, 1895."

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:—

Extension of time for offers to construct Mossel Bay-Oudtshoorn line.

1. Notwithstanding anything to the contrary contained in "The Railways Extension Act, (1) 1895," offers, in writing, for the construction, upon terms and conditions to be framed in accordance with the provisions of the said Act, of the Mossel Bay *via* George to Oudtshoorn section of the line of railway described in the said Act as No. 1 line, may be sent to the General Manager of Railways, or such other person as the Commissioner may appoint to

[1] No. 28 (p. 3521).

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receive them, on or before a date to be fixed by public advertisement, not being a date later than the 30th day of September, 1896; which advertisement shall be published as soon as conveniently may be after the passing of this Act, and shall call for offers for the construction of the aforesaid section of railway. No. 30—1896.

2. All the provisions of the said Act, with regard to offers sent in and agreements made thereunder, shall apply, *mutatis mutandis*, and as far as not inconsistent, to offers and agreements under this Act. Certain provisions of Railways Extension Act, 1895, to apply.

3. This Act shall be read as one with the said Act, and may be cited for all purposes as "The Railways Extension Act, 1895, Amendment Act, 1896." Effect and Short title of Act.

No. 31—1896.] Rep by Act 22 of 1916 [July 31, 1896.

(1) ACT

To Amend the Law relating to the Regulating of Railways.

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 thirtieth section of the Regulation of Railways Act, 1861, is hereby repealed. Repeal of Section 30 of Act 19 of 1861.

2. The second section of the Regulation of Railways Act Amendment Act of 1889 is hereby repealed, and the following substituted in lieu thereof, viz.:— Repeal of Section 2 of Act 16 of 1889.

Where any railway in the Colony, whether already constructed or to be hereafter constructed, crosses any public thoroughfare, streets or road, the Company owning or working such railway shall comply with and be subject to all such rules and regulations with regard to such crossings and the manner of approaching the same as may from time to time be made by the Governor, and every such Company shall be liable to the penalties provided by the twenty-eighth section of the aforesaid Act of 1861 for every contravention of any such rule or regulation. Provision for rules and regulations with respect to crossing public roads by any railway, and approaching such crossings.

3. This Act may be cited as the Regulation of Railways Amendment Act of 1896. Short title.

No. 32—1896.] [July 31, 1896.

Repealed by Act 13 of 1911

ACT (2)

To Facilitate the Control and Cure of Inebriates.

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

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[1] Extended by Proclamation 379, 1905, to all Native Territories.
[2] Printed as amended by Act 39, 1902 (p. 4509).

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No. 32—1896.

Interpretation clause.

2. In this Act the following terms shall have the meanings assigned to them respectively, that is to say:—

"Retreat" shall mean a house licensed by the licensing authority named by this Act for the reception, control, care and curative treatment of inebriates.

"Inebriate" shall mean a person who, though not by law subject to be declared a lunatic, is notwithstanding, by reason of habitual intemperate drinking of intoxicating liquor, or habitual intemperate use of anaesthetics or narcotics, at times dangerous to himself or others, or incapable of managing himself or his affairs.

RETREATS.

Licence for retreats.

3. The Resident Magistrate of any district may, subject to any conditions which such Resident Magistrate shall deem fit, grant to any person, or to two or more persons jointly, a licence for any period not exceeding two years, to keep a retreat within such district; and may from time to time revoke or renew such licence. The application for such licence shall be in the Form No. 1 in the Schedule to this Act or to the like effect; the licence shall be in the Form No. 2 in the same Schedule or to the like effect. One at least of the persons to whom a licence is granted shall reside in the retreat and be responsible for its management. A duly qualified medical practitioner shall be employed as medical attendant of such retreat; provided that when the licencee or one of the licencees shall himself be a duly qualified medical practitioner he may himself act as such medical attendant.

Appointment of Deputy.

4. Subject to the approval of the Magistrate granting a licence for a retreat, the licencee of any retreat may, from time to time, appoint a deputy to act for him during his temporary absence, and such deputy shall, during the absence of the licencee, have and exercise all powers and be subject to all the duties disabilities, prohibitions and penalties imposed upon the licencee of such retreat under the provisions of this Act: Provided, always, that the appointment of such deputy shall not entitle him to act for such licencee during any period or periods exceeding in all six weeks in any one year.

Transfer of licence.

5. If the licencee of any retreat becomes incapable, from sickness or otherwise, of keeping such retreat, dies, or becomes bankrupt, or assigns his estate, or becomes mentally incapable or otherwise disabled, the Magistrate, by writing under his hand indorsed on the licence, may transfer the licence to another person if the Magistrate shall deem fit.

Removal of inebriate from unfit retreat.

6. If any retreat becomes unfit for the habitation of the persons detained therein under this Act, or otherwise unsuitable for its purpose, the Magistrate or the officer duly appointed under this Act for the purpose shall order their discharge from such retreat on a day to be mentioned in the order. The licencee of the retreat from which such person or persons are to be removed shall with all practicable speed send by post a copy of such order to the

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person by whom the last payment for each person so to be removed from the retreat was made or one at least of the persons who signed the declaration under the next section of this Act.

Voluntary admission.

7. Any inebriate desirous of being admitted into a retreat may make application, in writing, to the licencee of a retreat for admission into such retreat, and such application shall be in the Form No. 3 in the Schedule to this Act, and shall state the time during which such applicant undertakes to remain in such retreat. The signature of the applicant shall be attested by two Justices of the Peace, and such Justices shall not attest the same unless they have satisfied themselves that the applicant is an inebriate within the meaning of this Act, and have explained to him the effect of his application for admission into a retreat, and his reception therein, and such Justices shall state in writing, and as a part of such attestation, that the applicant understood the effect of his application for admission and his reception into the retreat. Such applicant, after his admission and reception into such retreat, unless discharged or authorised by licence as hereinafter provided, shall not be entitled to leave such retreat till the expiration of the term mentioned in his application, and such applicant may be detained therein until the expiration of such term; provided that such term shall not exceed the period of not exceeding two years.

Licencees of retreat to send notice of reception.

8. Every licencee of a retreat under this Act shall, within two clear days after the reception of any person received therein under this Act, send a copy of the application of such person for admission under which such person is so received by any such licencee to the Resident Magistrate of the district in which the retreat is, and to the Minister.

Power of discharge.

9. Any person admitted into any retreat under this Act may, at any time thereafter, be discharged by the order of any Resident Magistrate or Justice of the Peace having jurisdiction in the place where the matter requiring the cognizance of such Magistrate or Justice arises, upon the request, in writing, of the licencee of the retreat, if it shall appear to such Magistrate or Justice of the Peace to be reasonable and proper.

(1) Inspection of Retreats.

Inspector of Retreats.

10. It shall be lawful for the Governor from time to time to appoint such person as he shall think fit to act as Inspector of Retreats, which officer shall hold office during pleasure, and shall have such powers and duties as the Governor may from time to time prescribe.

Fees for licence.

11. There shall be paid in respect of every licence granted in pursuance of this Act a sum of one pound for every patient above

[1] See also § 6 Act 39, 1902.

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ten whom it is intended to admit into the retreat, and for every renewal of a licence there shall be paid the same amount.

Inspection of retreats.

12. Every retreat shall from time to time and at least twice in each year be inspected by the officer appointed to act as Inspector of Retreats. The Minister may at any time on the recommendation of such officer, or in his own discretion, order the discharge of any person detained in a retreat.

Annual report by inspector.

13. Such officer shall in the month of January in each year present to the Minister a report setting forth the situation of each retreat, the names of the licencees, and the number of inebriates who have been admitted and discharged, or who have died during the past year, with such observations as he shall think fit as to the results of treatment and the condition of the retreats. The Minister shall lay such Report, together with the rules hereinafter mentioned, before Parliament.

Rules as to management of retreat.

14. The Governor may from time to time make [1] rules for the management of a retreat, and may from time to time alter or cancel such rules. Such rules shall be published in the *Gazette*, and any person who contravenes or fails to comply with any of such rules so published shall be deemed to be guilty of an offence against this Act.

Judge may make order to inspect.

15. Any Judge of the Supreme Court may at any time by order under his hand authorise and direct any person or persons to visit and examine a person detained in a retreat under this Act, and to enquire into and report on any matters which such Judge may think fit in relation to the person so detained. The Judge on receiving such report may, if he shall think fit, order the discharge of any person so detained, from any such retreat.

Leave of Absence [2] from Retreat.

Permission that person detained may reside outside retreat.

16. A Justice of the Peace, at the request of a licencee of a retreat within his jurisdiction, may, at any time after the admission unto such retreat of an inebriate, by order under his hand permit such inebriate to live with any trustworthy and respectable person named in the order willing to receive and take charge of him for a definite time for the benefit of his health. Such an order shall not be in force for more than two months, but may at any time before the expiration of that period be renewed for a further period not exceeding two months, and so from time to time until the inebriate's period of detention has expired.

Absence to be reckoned in time of detention.

17. The time during which an inebriate is absent from a retreat under such an order shall, except where the order is forfeited or revoked as hereinafter provided, be deemed to be part of the time of his detention in such retreat. Where such order is forfeited or revoked, the time during which such inebriate was so absent from the retreat shall be excluded in computing the time during which he may be detained in the retreat.

[1] See also § 6, Act 39, 1902.

[2] In case of death of person so absent see § 5, Act 39, 1902.

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Inebriate may forfeit leave of absence.

18. An inebriate absent from a retreat under such an order, who escapes from the person in whose charge he is placed as aforesaid, or who refuses to be restrained from drinking intoxicating liquors, shall be considered *ipso facto* to have forfeited the order, and may be taken back to the retreat as hereinafter provided. An unauthorised absence from a retreat of a person ordered to be detained therein shall not be excluded in computing the time during which he may be detained.

Revocation of leave of absence.

19. Any such order may be revoked at any time by the Minister on the recommendation of the officer duly appointed to act as Inspector of Retreats, or by the Justice of the Peace by whom such order was granted, by writing, under his hand, and thereupon the inebriate to whom the order was related shall return to the retreat.

Offences.

Offences by licencees of Retreats.

20. If any licencee of any retreat knowingly and wilfully fails to comply with the provisions of this Act, or neglects or permits to be neglected any inebriate placed in the retreat in respect of which he is licensed, or does anything in contravention of the provisions of this Act, he shall be deemed guilty of an offence against this Act.

Offences by officers, servants and other persons.

21. If any person does any of the following things:

(1) Illtreats, or, being an officer, servant or other person employed in or about a retreat, wilfully neglects any inebriate detained in a retreat,

(2) Induces or knowingly assists an inebriate detained in a retreat, to escape therefrom,

(3) Without the authority of the licencee or the medical officer of the retreat (proof whereof shall lie on him) brings into any retreat, or, without the authority of the said medical officer, except in case of great urgent necessity, gives or supplies to any person detained therein, any intoxicating liquor or sedative, narcotic or stimulant, drug, or preparation, he shall be deemed guilty of an offence against this Act.

Offences by inebriates while retained in retreats.

22. If an inebriate while detained in a retreat, wilfully neglects or wilfully refuses to conform to the rules thereof, he shall be deemed guilty of an offence against this Act, and shall be liable to a penalty not exceeding five pounds or to be imprisoned for any period not exceeding seven days, and at the expiration of his imprisonment (if any) for such offence he shall be brought back to such retreat, there to be detained for curative treatment until the expiration of his prescribed period of detention in the retreat, and in reckoning such period the time during which such person was in prison shall be excluded.

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Apprehension of inebriate escaping from retreat.

23. If an inebriate (1) escapes from a retreat, or from the person in whose charge he has been placed under order as hereinbefore mentioned, it shall be lawful for any Resident Magistrate or Justice of the Peace having jurisdiction in the district or place where he is found or in the district or place wherein the retreat from which he escaped is situated, upon the sworn information of the licencee of such retreat, to issue a warrant for the apprehension of such inebriate at any time before the expiration of his prescribed period of detention; and such inebriate shall, after apprehension, be brought before a Magistrate or Justice of the Peace having jurisdiction as aforesaid, and may by such Magistrate or Justice of the Peace be remitted to the retreat from which he has escaped.

Proceedings on death of person detained.

24. In case of the death of any person detained in any retreat a statement of the cause of the death of such person, with the name of any person present at his death, shall be drawn up and signed by the medical attendant of such retreat, and copies thereof, duly certified in writing by the licencee of such retreat, shall be by him transmitted to the Resident Magistrate of the district and to the person by whom the last payment was made for the deceased, or one at least of the persons who signed the declaration under section seven of this Act.

Every such medical attendant who shall neglect or omit to draw up and sign such statement as aforesaid, and every licencee of a retreat who shall neglect or omit to certify and transmit such statement as aforesaid shall be deemed guilty of an offence against this Act.

Penalty for offence against Act.

25. Any person, not being an inebriate detained in a retreat, who is guilty of an offence against this Act to which no other penalty is affixed, shall be liable, on conviction, to a penalty not exceeding twenty pounds or to be imprisoned for a term not exceeding three months with or without hard labour.

Limitation of actions

26. Any action against any person for anything done in pursuance or execution or intended execution of this Act shall be commenced within two years after the thing done and not otherwise. Notice in writing of every such action and of the cause thereof, shall be given to the intended defendant one month at least before the commencement of the action.

General.

Fees to be prescribed.

27. The Minister may, subject as herein mentioned, prescribe the fees to be paid in carrying out the provisions of this Act.

Effect and short title of Act.

28. This Act shall come into effect from and after the first day of January, 1897, and may be cited for all purposes as the "Inebriates Act, 1896."

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(1) Time between escape and return not to be treated as part of term of detention in such retreat. See § 3 Act 39, 1902.

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(1) SCHEDULE.

No. 32—1896.
Schedule.
Form No. 1.

FORM NO. I.

Application for Licence of Retreat.

"*The Inebriates Act*, 1896."

To the Resident Magistrate for the
District of (..)

I, the undersigned, hereby apply for a licence for the house described below, as a retreat for the reception of male (or female) (or male and female) persons being inebriates within the meaning of the abovementioned Act, to be detained and treated as patients therein. And I, the undersigned, undertake to reside in the house and give my personal attention to the management, care and treatment of the patients.

Witness:	(Signed)
Name.	*Name.*
Address.	*Address.*
Description.	*Description.*

[*House to be described with the following (among other) particulars; and a plan of a scale of not less than one-eighth of an inch to a foot to accompany the description and be referred to therein*:

(*a*) *Dimensions of every room.*
(*b*) *Arrangements for separation of sexes.*
(*c*) *Quantity of land available for exercise and recreation of patients.*
(*d*) *Extent of applicant's interest in the house.*]

RULES.

(1) An application may include two or more houses belonging to the same person or persons, provided that no one of the houses is separated from another or others of them otherwise than by land in the same occupation and by a road, or by either of those modes.
(2) No application is to be made unless at least ten days' previous notice thereof has been given in a newspaper circulating in the district.

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[1] The form herein prescribed may be altered by regulation. § 6, Act 39, 1902.

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Form No. II.

LICENCE.

FORM NO. II.

"*The Inebriates Act*, 1896."

The District
of (.)

This is to certify that in pursuance of the abovementioned Act the Resident Magistrate for the district of upon the application of A.B., a copy of which application is indorsed on this licence, has licensed and does hereby license the said A.B. to use the house described in that application for the reception of persons being inebriates as follows, namely:— male (or female or male and female patients) for calendar months from this date.

Dated this day of 18 .

Signed)
Resident Magistrate.

RULES.

(1) A fee of ten shillings is to be paid for the licence.
(2) The Resident Magistrate shall, within ten days after the granting of a licence, give notice thereof by advertisement in a newspaper circulating in the district, and shall send a copy of the licence to the Minister.

Form No. III.

FORM NO. III.

Request for Reception into Retreat.

"*The Inebriates Act*, 1896."

To

I, the undersigned, hereby request you to receive as a patient in your retreat at , in accordance with the above mentioned Act, and I undertake to remain therein for at least, unless sooner duly discharged, and to conform to the regulations for the time being in force in the retreat.

(Signed)
Applicant's *full name.*
Address.
Description.

Witness to Signature:
Full name.
Address.
Description.

The abovenamed signed this application in our presence, and at the time of his (or her) so doing we satisfied ourselves that he was an inebriate within the meaning of the Inebriates Act, 1896, and stated to him (or her) the effect of this application, and of his (or her) reception into the retreat, and he (or she) appeared perfectly to understand the same.

Dated this day of 18 .

(Signed) A. B., J. P.
C. D., J.P.

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No. 33 -1896.] [July 31, 1896.

ACT

To Provide for the Construction of certain Irrigation Works.

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

Irrigation works authorised. 2. It shall be lawful for the Governor as soon after the taking effect of this Act as may seem to him expedient to cause to be constructed the several works set forth in the Schedules A, B (1) and C to this Act at a cost, to be applied out of the accrued surplus revenue of the financial year ending the 30th June, 1896, not exceeding the amounts set forth in the said Schedules respectively: Provided, however, that no money shall be expended upon the construction of the work mentioned in Schedule B unless and until the execution of that work has been unanimously recommended by a commission of three persons to be appointed for the purpose of inspecting the site of the said work, and reporting upon its construction;—one member of such commission to be a qualified hydraulic engineer, and the report to be presented to Parliament at its next session.

Government may take land, &c., for purposes of works. 3. If at any time the Government shall require or deem it expedient to take or use, for the purposes of the construction of the works specified in the said Schedules, 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 thereupon be entitled to compensation to be settled in case of difference by arbitration.

Arbitration clause 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.

Short title. 5. This Act may be cited for all purposes as "The Irrigation Works Act, 1896."

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(1) See Act 39, 1898 (p. 4002), repealing portion of this section relating to sum for works under Schedule B. As to Schedule C see Act 37, 1899 (p. 4207).

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No. 33—1896.

Schedule A.

SCHEDULE A.

Description of Scheme.	Irrigable area in acres.	Estimated Cost.		
		Land.	Works.	Total Cost.
Kenhardt (Rooiberg): "The construction of "a dam with the neces- "sary distribution fur- "rows and appurtenances "at Rooiberg, on the "Hartebeeste River, in "the Division of Ken- "hardt, in accordance "with the Plans and "Estimates presented to "the House, and printed "in Parliamentary Paper "G. 54—'96."	1,000	Property of Government.	£16,500	£16,500 add 3,500 £20,000

NOTE.—The total cost to be provided for is £20,000, the £3,500 added to original Estimate is to provide for Surveyor-General's expenses in sub-division of ground, legal and other unforeseen expenses apart from Works, which it was thought would be borne by the Agricultural Department.

Schedule B.

SCHEDULE B.

Description of Scheme.	Irrigable area in acres.	Estimated Cost.		
		Land.	Works.	Total Cost.
Steynsburg: "The construction of "a dam, &c., in the "Thebus River, on the "farm Klipheuvel and "the Commonage of the "Town of Steynsburg, "in accordance with the "Plans and Estimates "printed in Parlia- "mentary Paper G.48— "1896."	26,000	£18,000 at £1 per Acre.	£199,306	£217,306 deduct 17,306 £200,000

NOTE.—Total Expenditure to be provided for, £200,000, the £17,306 taken off Total Estimate is for works which can be carried out after the Distribution of Water and Sale of Land.

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SCHEDULE C.

No. 34—1896.
Schedule C.

Description of Scheme.	Irrigable area in acres.	Estimated Cost.		
		Land.	Works.	Total Cost.
Calitzdorp:				
'The construction of "a dam, &c., in the Nels "River, near Calitzdorp, "in the Division of "Oudtshoorn, in accord-"ance with the Plan "attached to, and the "Estimate referred to "upon page 90 of Parlia-"mentary Paper G. 24—"'96, such Estimate "being printed by the "Honourable the Legis-"lative Council in Parlia-"mentary Paper C. 3—"'95."	Low Level, 766 High Level, 624 1,390	£1,184	£36,948	£38,132 add 11,868 £50,000

NOTE.—Total Expenditure to be provided for, £50,000, the £11,868 added to original Estimate is for extension of Irrigable area, if found to be warranted by the quality of water available: for Surveyor-General's legal and other expenses apart from actual works.

No. 34—1896.] [July 31, 1896.

ACT

To Apply a Sum not exceeding Two Thousand and Fifty-one Pounds Seventeen Shillings and Fourpence Sterling for the purpose of meeting and covering certain Unauthorised Expenditure.

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:—

Revenue charged with £2,051 17s. 4d.

1. The public revenue of this Colony is hereby charged with a sum not exceeding two thousand and fifty-one pounds seventeen shillings and fourpence sterling, which sum shall be paid for unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended the 30th June, 1895, as described at page 262 of the "Report of the Controller and

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No. 35—1896.

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 1894-'95" [G. No. 1—'96], presented to both Houses of Parliament by command of the Governor.

Short title.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1896."

No. 35—1896.] [July 31, 1896.

(1) ACT

To Consolidate and Amend the Law for the Better Administration of Justice.

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:—

Repugnant laws repealed.

1. The laws mentioned in the Schedule of this Act, to the extent to which the same are therein expressed to be repealed, save as to causes pending and things done, offices created and existing, and appointments made by virtue of any law at present in force, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, shall be and are hereby repealed.

THE SUPREME COURT.

Powers of Supreme Court.

2. Nothing contained in this Act shall be construed so as to deprive the Supreme Court of any jurisdiction, power, or authority which it does or shall, by law, possess throughout every part and portion of the Colony, and of its Dependencies.

Number of Judges.

3. The Supreme Court shall continue to consist of one Chief Justice and eight Puisne Judges, who shall be appointed and hold office in the same manner as the Judges already constituting such Court.

Puisne Judges assigned to Supreme Court to remain so.

4. Every Puisne Judge who shall be specially and permanently assigned by the Governor in Council to the Supreme Court sitting in Cape Town shall be entiled to remain so assigned until he shall cease to be a Judge of the Supreme Court.

Quorum of Supreme Court.

5. The number of Judges of the Supreme Court sitting in Cape Town necessary to form a (2) quorum thereof shall continue to be two as in the thirty-third section of the Charter of Justice is provided, and in case of a difference of opinion between such two Judges, the decision of the said Court shall be suspended until three or more Judges shall be able conveniently to consider the case but not longer; and the decision of such two Judges, when unanimous, or of the majority of such three or more Judges in case of any difference of opinion, shall in all cases be deemed and taken to be the decision of the whole Court.

[1] See Acts 35, 1904 (p. 4762), and 9, 1905 (p. 4817).

[2] Additional Judges may be assigned for purposes of forming part of Appeal Court, Act 35, 1904, § 2.

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6. So long as the number of Judges of the Supreme Court, sitting in Cape Town for the time being, shall not be less than such quorum as aforesaid, the said Court shall be competent to execute all and every the powers, jurisdiction, and authorities belonging to or vested in the said Court.

Powers vested in quorum.

7. It shall be lawful for the Supreme Court in any cause which shall be heard before such Court, and which such Court shall deem to be of sufficient importance to be heard before a larger number of Judges than are then present to order a re-hearing of such cause before five or more Judges who may be available for the purpose.

Supreme Court may order a re-hearing before five or more Judges.

8. During any period which shall by any Act of Parliament or Rule of Court be fixed as a vacation of the said Supreme Court, during which the ordinary business of the said Court shall be suspended, the Chief Justice and each of the Puisne Judges, specially and permanently assigned to the Supreme Court as aforesaid of the said Court shall be competent to execute all and every the powers, jurisdictions, and authorities vested in the said Supreme Court, anything in the said thirty-third section of the said Charter of Justice, or in any other law or Act to the contrary notwithstanding.

One Judge competent in vacation to exercise powers of Supreme Court.

9. Any person having served the office of Judge of the Supreme Court for the full period of ten years shall be entitled to retire from the said office and to receive a pension to be ascertained as follows: that is to say, if he shall have served such office for a period of ten years or upwards, he shall be entitled to a pension equal to one-half of the salary which shall have been paid to him for the three years immediately preceding his retirement; and if he shall have served for the period of fifteen years or upwards, then to a pension equal to two-thirds of such salary as aforesaid: Provided, always, that no such pension shall be paid to any Judge retiring before he shall have attained the age of sixty years, unless he shall be afflicted with some permanent infirmity disabling him from the due execution of his office; and provided, further, that in case any person serving the office of Judge shall, before he shall have served for such full period of ten years, happen to be afflicted with any permanent infirmity disabling him from the due execution of his office he shall be entitled to receive such pension as the Governor for the time being shall in the circumstances consider to be reasonable, such pension not exceeding one-half of the salary which shall have been payable to him at the time at which he shall have ceased to be able to discharge the duties of his office.

Pension after service of ten years and upwards.

No pension claimable before the age of 60, unless disabled.

The Court of the Eastern Districts.

10. The Court of the Eastern Districts shall consist of, and be holden by and before, three of the Puisne Judges of the Supreme Court, who shall be thereto duly assigned and appointed by the Governor, of whom one shall be by the Governor appointed to

Eastern Districts Court to consist of three Judges.

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preside in the said Court and shall be called the Judge President: Provided that the law relating to the number of Judges necessary to constitute a quorum in the Supreme Court and to the powers vested in certain cases in a single Judge, shall apply equally to the said Court of the Eastern District

Term of office of Judge President.

11. Every Judge who shall be assigned and appointed to the office of Judge President of the Court of the Eastern Districts shall be entitled to hold the said office so long as he shall continue to be a Judge of the said Supreme Court.

In case of difference of opinion between two Judges.

12. Whenever any suit, action or cause, or any questions, matters or things arising in any suit, action, or cause, shall be heard before any two of the Judges of the Court of the Eastern Districts, and any difference of opinion shall arise between such two Judges, the decision of the said Court shall in any such case be suspended until three Judges shall be present, and the decision of the majority of such three Judges shall be deemed and taken to be the decision of the whole Court.

Jurisdiction of the Eastern Districts Court.

13. The Court of the Eastern Districts shall have a jurisdiction concurrent with that of the Supreme Court in and over all causes arising, and persons residing and being within all districts of the Colony to the eastward of and including the districts of Humansdorp, Uitenhage, Jansenville, Aberdeen, Murraysburg, Richmond, and Hope Town, and within the territories known as the Transkei, Tembuland Proper, Emigrant Tembuland, Gcalekaland, Bomvanaland, Griqualand East, Pondoland and Port St. John's.

Jurisdiction of Eastern Districts Court as regards certain existing laws.

14. In regard to the Ordinance No. 6, 1843, entitled "Ordinance for regulating the due Collection, Administration, and Distribution of Insolvent Estates within this Colony," and to the Ordinance No. 97, entitled "Ordinance for enabling certain Persons having respectively the just, lawful, and undisputed Right to certain Lands and Houses to procure the same to be enregistered as their Property on the Land Register," and to the Ordinance No. 104, entitled "Ordinance for regulating the Registration of Wills and the Administration of the Estates and Property of Persons dying, either testate or intestate, in so far as the same are situated within this Colony," and to the Ordinance No. 105, entitled "Ordinance for the due Administration and Management of Estates and Property of Minors, Lunatics, and Persons absent from the Colony, and for the proper Care of the Persons of Minors and Lunatics," and to the Ordinance No. 9, 1844, entitled "Ordinance for facilitating the Recovery of Land Rents in this Colony," and to the Ordinance No. 15, 1844, entitled "Ordinance for the Enregisterment in the Land Registers of the Colony of certain Subdivisions of the Locations and Extensions of the Settlers of 1820," and to the Ordinance No. 5, 1848, entitled "Ordinance for enabling Resident Magistrates to exercise in regard to disputed Rights of Water certain Powers formerly exercised by Landdrost and Heemraden," and to the Act No. 1, 1854, entitled "An Act to

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secure Freedom of Speech and Debates on Proceedings in Parliament, and to give summary Protection to Persons employed in the Publication of Parliamentary Papers," the Court of the Eastern Districts shall have the same jurisdiction and authority, and none other, which would belong to it under and by virtue of the said Ordinances and the said Act, respectively, in case the Court of the Eastern Districts were a Circuit Court, having jurisdiction over an area comprising the territory referred to in the last section.

The [1] High Court.

Constitution of High Court.

15. The High Court shall continue to consist of and be holden before three of the Puisne Judges of the Supreme Court, who shall be thereto duly assigned and appointed by the Governor, of whom one shall be by the Governor appointed to preside in the said Court and shall be called the Judge President: Provided that the law relating to the number of Judges necessary to constitute a quorum in the Supreme Court, and to the powers vested in certain cases in a single Judge, shall apply equally to the said High Court.

Quorum.

Term of office of Judge President.

16. Every Judge who shall be assigned and appointed to the office of Judge President of the High Court shall be entitled to hold the said office so long as he shall continue to be a Judge of the Supreme Court.

In case of difference of opinion between two Judges.

17. Whenever any suit, action or cause, or any questions, matters or things, arising in any suit, action or cause, shall be heard before any two of the Judges of the High Court and any difference of opinion shall arise between such two Judges, the decision of the said Court shall in any such case be suspended until three Judges shall be present, and the decision of the majority of such three Judges shall be deemed and taken to be the decision of the whole Court.

Jurisdiction of High Court.

18. The High Court shall continue to have and exercise the jurisdiction hitherto possessed by such Court, concurrent with that of the Supreme Court in and over all causes arising, and persons residing and being within the Province of Griqualand West and the Territory of British Bechuanaland.

The Court of Appeal.

Constitution of the Court of Appeal.

19. The Court of Appeal of the Cape of Good Hope shall be the Supreme Court of the Colony, as constituted of Judges [3] assigned to that Court sitting in Cape Town.

Quorum of Judges.

20. Every appeal to the Supreme Court against any judgment of the Court of Eastern Districts, High Court of Griqualand, or any Circuit Court, shall be heard before not less than three Judges, one of whom shall be the Chief Justice of the Colony, and two of them shall be Puisne [2] Judges specially assigned to the Supreme

[1] See Acts 59, 1877 (p. 1530): § § 8 *et seq.* Act 41, 1895 (p. 3572).
[2] As to disqualificaiion of Judge of Divisional Court, see § 3, Act 9, 1905 (p. 4817).
[3] And additional Judges temporarily assigned. See § 2, Act 35, 1905 (p. 4763).

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Court: Provided that it shall be lawful for the Judge President of the Eastern Districts Court or any other Judge assigned to that Court, and for the Judge President of the High Court of Griqualand, or any other Judge assigned to that Court, to take part in the determination of any cause, civil or criminal, which shall be brought in appeal before the Supreme Court.

Appeals from unanimous judgment of Eastern Districts Court and High Court.

21. In case any appeal shall be heard before the Supreme Court against the unanimous judgment of the full Court of the Eastern Districts or High Court of Griqualand, such judgment shall be affirmed unless three or more of the Judges sitting in appeal shall concur in reversing or varying the same.

Appeal to the Queen.

22. An appeal to Her Majesty the Queen shall be allowed by the Supreme Court sitting as such Court of Appeal against any final judgment, decree, or order thereof in any civil suit or action in which an appeal is now allowed from the Supreme Court by the Charter of Justice.

Repealed by Act 23 of 1934

Judges may sit in Chambers to hear motions relating to pending appeals.

23. For the purpose of hearing and determining any application for extending the time within which an appellant shall prosecute his appeal, or any application or motion relating to any appeal prior to the hearing thereof, any one or more of the Judges of such Court of Appeal may sit in Chambers, and may make such order in the premises as may be deemed necessary; and every order so made in Chambers may be appealed from to the Court of Appeal, hereby constituted, and may by such Court be confirmed, altered, or rescinded.

Appeal from Eastern Districts Court, High Court and Circuit Courts.

24. It shall be lawful for any person being a party to any civil suit in the Court of the Eastern Districts, High Court or in any Circuit Court, to appeal to the said Court of Appeal against any judgment, decree, or order of such Court of the Eastern Districts, High Court, or Circuit Court; provided that the party appellant shall, within twenty-one days next after such judgment, decree, or order shall have been pronounced, give notice of appeal to the party respondent, and to the Registrar of the Court from which the appeal takes place, and shall, within three months after judgment, duly prosecute such appeal in the said Court of Appeal, in case there shall be a sitting of the said Court within that period, or if there shall not be any such sitting, then at the next sitting of the said Court of Appeal: Provided that it shall be lawful for the said Court of Appeal, for good and sufficient cause shown, to extend the time within which the appellant shall prosecute his appeal.

Mode of hearing cases.

25. In every civil suit heard or tried before the Supreme Court, Court of the Eastern Districts, High Court, or any Circuit Court, the presiding Judge shall cause the evidence, if oral, to be fully and clearly taken down in writing, and the evidence so taken shall be entered upon the proceedings of the said Courts, and be of record. In every case in which notice of appeal shall be given to the Registrar of the Court of the Eastern Districts, High Court, or

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any Circuit Court, as the case may be, such Registrar shall forthwith transmit a copy of the record, certified by him as authentic, to the Registrar of the Court of Appeal. Such record shall include all oral evidence taken down in writing, in manner aforesaid, and all other evidence, whether taken by commission or by affidavit, and all documents and papers which shall have been produced and given in evidence. Copies of any documents and papers which shall have been produced and tendered in evidence and rejected, shall, if required by the party producing the same, be authenticated and marked by the Registrar as rejected.

Registrar to transmit records if appealed against.

26. It shall be lawful for the Court of the Eastern Districts, High Court, or any Circuit Court, as the case may be, to direct that the judgment, decree, or order appealed against shall be carried into execution, or that execution thereof shall be suspended pending the said appeal, as to such Court may in each case appear to be most consistent with real and substantial justice. And in case such judgment, decree, or order, shall be carried into execution, the party respondent shall, before the execution of such judgment, decree, or order, enter into good and sufficient security, to be approved by the Registrar of the Court of the Eastern Districts, or of the High Court, or in case of an appeal from any Circuit Court, by the Resident Magistrate of the district in which such Circuit Court was held, for the due performance of such judgment, decree or order, as the Court of Appeal hereinbefore referred to shall think fit to make thereon; or in case the execution of any judgment, decree, or order shall be suspended pending the said appeal, the party appellant shall enter into good and sufficient security, to be approved in the manner aforesaid, for the due performance of such judgment, decree, or order, as the said Court of Appeal shall see fit to make thereupon: Provided that it shall be lawful for the Court of Appeal, for good and sufficient cause shown, to dispense with the security by this section required from the appellant or respondent, as the case may be.

How judgment appealed against to be dealt with pending appeal.

Security.

Security may be dispensed with.

27. No judgment, decree, or order, made by the Court of the Eastern Districts, High Court, or any Circuit Court, by the consent of parties, or as to costs only, which by law are left to the discretion of the Court, and no interlocutory order shall be subject to any appeal, except by leave of the Court or Judge pronouncing such judgment, decree, or order.

Judgments by consent or questions of costs not to be appealed against except by leave.

28. Nothing in this Act contained shall prevent the parties to any suit which may from time to time be pending in any Circuit Court held for any of the Eastern Districts, or for Griqualand West or British Bechuanaland, from referring such suit by mutual consent, with the permission of the then presiding Judge to the said Court of the Eastern Districts, or to the High Court respectively, for argument and decision, or shall prevent any Judge of any such Circuit Court from referring any suit pending therein, to the said Court of the Eastern Districts, or to the said High Court, if he shall so see fit.

Cause may be referred from Circuit to Eastern Districts or High Court by consent of parties.

Or such reference may be made by presiding Judge.

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Appeal in Criminal Cases.

Appeal in criminal cases.

29. The Supreme Court shall likewise constitute a Court, as constituted in manner provided by the nineteenth section, of Appeal in Criminal Cases, and appeals shall be allowed to the said Court of Appeal in Criminal Cases in the cases hereinafter provided for, and in no others.

Questions of law in cases under "review" of Eastern Districts or High Court may be reserved for Court of Appeal.

30. If any question of law shall arise upon review of the judgment or sentence of any inferior Court in any criminal action or suit by or before the Court of the Eastern Districts, or the High Court of Griqualand, respectively, it shall be lawful for the reviewing Court, if it shall see fit to do so, to reserve such question for the consideration and determination of the Court of Appeal in Criminal Cases.

Appeals in criminal cases reviewed.

31. It shall be lawful for the prosecutor or defendant in any criminal suit, which shall be brought in appeal or review before the Court of the Eastern Districts, High Court or any Circuit Court, from any inferior Court, to appeal to the Court of Appeal in Criminal Cases against the judgment of the said Court of the Eastern Districts, High Court or Circuit Court, as the case may be.

When appeal in criminal cases to be applied for.

32. If any defendant who shall be tried upon any indictment in the Supreme Court, Court of the Eastern Districts, High Court, or any Circuit Court, shall think that any of the proceedings of the Court before which the trial takes place are irregular or not according to law, it shall be lawful for him either during his trial or after his conviction, to apply to such Court to direct a special entry to be made on the record, showing the nature of the proceedings alleged to be irregular or illegal. If such a special entry be directed to be made, it shall be drawn up by the Registrar of the Court, and the defendant and the prosecutor, or their Counsel and Attorneys, shall be permitted to see it and to copy it, and if either of them shall object to its terms, it shall be settled by the Judge of the Court before which the case is tried

Special entry.

Leave to be applied for.

33. If any defendant who shall be convicted of any indictable crime or offence shall obtain leave to make, and shall cause to be made, such a special entry on the record as is hereinafter provided for, it shall be lawful for him, by leave of the Judge of the Court before which the case shall have been tried, to appeal against his conviction on the ground of the irregularity or illegality of such proceedings as aforesaid as stated in such special entry aforesaid: Provided that within fourteen days after verdict notice of such appeal shall be given to the Registrar of the Court appealed from; and such Registrar shall forthwith, after receiving such notice, give notice of such appeal to the Attorney-General and transmit to the Registrar of the Court of Appeal an authenticated copy of the record, including copies of the evidence, whether oral or in writing, taken or admitted at the trial, and of the special entry made on the record in manner aforesaid.

Notice to Registrar.

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Questions of law reserved.

34. If any question of law shall arise on the trial of any person for an indictable crime or offence in the Supreme Court, Court of the Eastern Districts, High Court or any Circuit Court, it shall be lawful for any such Court to reserve such question for the consideration of the Court of Appeal in Criminal Cases. If the Court shall determine to reserve any such question, and the defendant shall be convicted, the Court shall state the question or questions reserved, and shall direct such case to be specially entered in the record, and a copy thereof to be transmitted to the Court of Appeal in Criminal Cases

Cases in which execution of sentence may be suspended.

35. The execution of the sentence of a Court shall not be suspended by reason of any appeal against a conviction, or by reason of a question having been reserved for consideration of the Court of Appeal in Criminal Cases.

(*a*) Unless the sentence shall be that the defendant suffer death, or be flogged or whipped, in either of which cases the sentence shall not be executed until the appeal or question reserved for the Court shall have been heard and decided.

(*b*) Unless the Court from which the appeal is made, or by which the question is reserved, shall think fit to order either that the defendant be admitted to bail, or if he is sentenced to any punishment other than simple imprisonment, that he be treated as an unconvicted prisoner till the appeal or the question reserved for the Court shall have been heard and decided.

What appeal court may do in cases where question of law reserved.

36. In case of any appeal against a conviction, or of any question being reserved as aforesaid, it shall be lawful for the Court of Appeal in Criminal Cases—

(*a*) To confirm the judgment of the Court below, in which case, if the defendant having been admitted to bail, is in Court, the Court may forthwith commit him to custody for the purpose of undergoing any term of imprisonment to which he may have been sentenced;

(*b*) or direct that the judgment shall be set aside, notwithstanding the verdict, which order shall have for all purposes the same effect, as if the defendant had been acquitted;

(*c*) or direct that the judgment of the Court shall be set aside, and that instead thereof such judgment shall be given by the Court before which the trial took place as ought to have been given at the trial;

(*d*) or if such Court has not delivered judgment, remit the case to it in order that it may deliver judgment;

(*e*) or give such judgment as ought to have been given at the trial;

(*f*) or make such other order as justice may require:

Provided that no conviction shall be set aside, by reason only of

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some irregularity or illegality, whereby the defendant was not prejudiced in his defence, or because evidence was improperly admitted or rejected, by which no substantial wrong was in the opinion of the Court of Appeal in Criminal Cases done to the defendant.

How order of appeal court to be certified.

37. The order or direction of the Court of Appeal in Criminal Cases shall be certified under the hand of the presiding Judge to the Registrar of the Court before which the case was tried, and such order or direction shall be carried into effect, and shall authorise every person affected by it to do whatever is necessary to carry it into effect.

Court of Review or appeal in criminal cases from inferior Courts.

38. Nothing herein contained shall in any way affect or limit the powers and jurisdiction of the Supreme Court as a Court either of review or appeal in criminal cases in relation to Courts of Resident Magistrate or Special Justices of the Peace.

APPEAL UNDER "AFRICA ORDER IN COUNCIL, 1889."

[Repealed by Act 22, 1898.]

APPEAL UNDER THE "MATABELELAND ORDER IN COUNCIL, 1894."

[Repealed by Act 22, 1898.]

[p. 3655.]

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MISCELLANEOUS.

Removal of suits or actions.

50. As often as any suit or action shall be brought or depending in the Supreme Court, or in the Court of the Eastern Districts, or in the High Court respectively, and it shall be made to appear to the Court before which such suit or action may be pending that the same may be more conveniently or more fitly heard or determined in another of the said Courts, it shall be lawful for the Court before which such suit or action is pending, to order the same to be removed to such other Court, and such order shall be certified by the Court granting the same to the Court into which this suit or action shall be intended to be removed; and thereupon it shall be lawful for such last-mentioned Court to proceed in such suit or action, in like manner as if the same had been originally commenced and prosecuted in such last-mentioned Court.

Supreme Court may order seizure of property found beyond jurisdiction of Eastern Districts Court or High Court.

51. When and as often as any judgment, decree, or order for the payment of money shall be made by the Court of the Eastern Districts or the High Court in respect of, or in relation to, any civil suit, action, or proceeding in which the party defendant shall have been duly served with the process of any such Court, or shall have appeared in pursuance of any process thereof, it shall be lawful for the Supreme Court, and it is hereby required, upon inspection of such judgment, decree, or order, and upon proof to be made by the return of the officer proper to make such return to the process of execution that the said judgment, decree, or order remains, either wholly or in part unsatisfied, to issue process of execution upon such judgment, decree, or order, against any property, movable or immovable, belonging to the party against whom such judgment, decree, or order shall have been obtained and situated elsewhere in this Colony than in the Eastern Districts or the Province of Griqualand West or British Bechuanaland, as the case may be and to cause such process to be executed in such manner as process could or might have been issued and executed upon any original judgment, decree, or order of the like nature of the said last-mentioned Court: Provided that it shall not be necessary to prove the handwriting of such officer as aforesaid to any such return as aforesaid.

Copy of record duly certified to be admitted as evidence.

52. In every case in which any judgment, decree, order, or other record of the Supreme Court, or of any Circuit Court, or of the Court of the Eastern Districts, or of the High Court, shall require to be proved, inspected, or in any manner referred to in any other Court, a copy of such record, certified under the seals of the Supreme Court, of the Court of the Eastern Districts, and of the High Court respectively, or as to any such record of any Circuit Court, under the signature of the Registrar of such Court, shall be taken and received as *primâ facie* evidence of such record: Provided that it shall not be necessary, in regard to any certified copy, to prove the handwriting of any such Registrar to any such copy.

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53. In all cases depending in the Courts of the Eastern Districts, or in the High Court, the process of the said Courts for summoning, whether as a party or a witness, any person residing or being within the jurisdiction of such Courts, to appear in such Courts, shall be of the same force and effect as if such Courts were the Supreme Court, and such process that of the Supreme Court, and in regard to the summoning of witnesses residing or being elsewhere in this Colony, the process of the said Eastern Districts and High Courts shall be of the same force and effect as if the said last-mentioned Courts were Circuit Courts.

Powers of Eastern Districts and High Courts as regards summoning persons within their jurisdictions.

Where parties summoned are non-residents.

54. Nothing in this Act contained shall be construed so as to prevent any Judge of the Supreme Court of the Colony from holding any Circuit Court anywhere within the Colony, or prevent any number of such Judges from holding separate Circuit Courts at the same time, in case the Governor of the Colony shall so direct and appoint.

Holding of Circuit Courts not prevented.

55. The powers conferred by the seventeenth section of the Marriage Order in Council of the 7th September, 1838, upon the Chief Civil Judge or person officiating as such for the time being of the Colony, may, within the several jurisdictions of the Court of the Eastern Districts, and of the High Court, also be exercised by the respective Judges President of the said Courts ; and in the absence from the stated or ordinary places fixed for the holding of the Supreme Court, Court of the Eastern Districts, or High Court, of the Chief Justice or of either of the said Judges President, as the case may be, the like powers may be exercised by the Senior Puisne Judge of such Court then present at each of such places aforesaid.

Marriage of minors by consent of Judge.

56. It shall be lawful for the Judges for the time being of the Supreme Court, or the major part of them, to alter or amend, in any respect in which the Court was authorised by the forty-sixth section of the Charter of Justice to make general rules or orders, any general rule or order for the time being in force, or to make any new rule or order which by the same section of the said Charter such Court was authorised to make for regulating the practice of the Supreme Court, and in the like respects to alter or amend any rule now in force in the Court of the Eastern Districts, or in the High Court, or to make any new rule in like respect for regulating the practice of the said last-mentioned Courts; and every such amendment or alteration, and every such new rule, respectively shall be submitted to the Governor for his approval, and on being so approved shall be published in the *Gazette*, and shall take effect from and after such publication, unless some other subsequent time shall be named therein from which the same is to take effect, in which case it shall take effect from such time, and shall from such times forward, respectively, be of full force and effect until altered or repealed by competent authority.

Supreme Court may frame or amend rules and orders mentioned in section 46 of Charter of Justice.

Rules to be submitted to Governor, and, if approved, published.

57. Every such alteration, amendment, or new general rule or order, respectively, shall, if Parliament be in session at the date of

Amended or new rules to be laid before Parliament.

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its publication as aforesaid, be laid on the table of both Houses as soon as conveniently may be after the publication thereof, and if Parliament be not in session at the date of such publication, then so soon as conveniently may be after the opening of the then next ensuing session of Parliament.

How prosecutions are to be conducted.

58. In regard to all criminal cases pending in the Superior Courts of the Colony, the Attorney-General shall exercise the right of prosecution now by law vested in him in person, or by any person appointed by the said Attorney-General under his hand to conduct such cases; and in the Eastern Districts by the Solicitor-General or by any person appointed by him under his hand to conduct the same; and in Griqualand West and Bechuanaland by the Crown Prosecutor or by any person appointed by him under his hand to conduct the same: Provided that nothing herein contained shall prevent the said Attorney-General from specially appointing any person to appear and act for him in any particular case, as by the seventh section of Ordinance No. 40 is provided.

Schedule.

SCHEDULE.

LAWS REPEALED.

Number and Year.	Title.
Act No. 13, 1861	For securing by law the Salary of a Third Puisne Judge of the Supreme Court. (The whole).
Act No. 21, 1864	For adding to the number of the Judges of the Supreme Court. (The whole).
Act No. 2, 1867	To amend Act No. 14, 1861, to regulate the pensions of the Judges of the Supreme Court. (The whole).
Act No. 15, 1867	For confirming certain General Rules and Orders, and amending the law relating to General Rules and Orders of the Supreme Court. (The whole).
Act No. 23, 1875	To enable one Judge of the Supreme Court to exercise at certain times the jurisdiction of the said Court. (The whole).
Act No. 39, 1877	To make provision for the Annexation of the Province of Griqualand West, sections 9, 10, 11, 12, 14, 15, 16, 17 and 18 inclusive.
Act No. 5, 1879	To increase the efficiency of the Court of the Eastern Districts, &c. (The whole).
Act No. 12, 1880	To amend in certain respects Act No. 39, 1877, and Act No. 5, 1879. (The whole).
Act No. 40, 1882	For the Better Administration of Justice. (The whole), except sections 22 and 23.
Act No. 17, 1886	To amend the law relating to appeals, &c. (sections 1 to 5, inclusive).

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No. 36—1896.] Repl. by Act 22 of 1916 [August 1, 1896.

ACT

To Assimilate and Amend the Law relating to the Control and Management of the Harbours of Table Bay, Port Elizabeth, and East London, and to amend in certain respects the Law relating to the Ports and Harbours of this Colony.

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:—

PART I.

CONSTITUTION OF HARBOUR BOARDS OF TABLE BAY, PORT ELIZABETH, AND EAST LONDON.

Powers, &c., vested in and liabilities imposed on Boards to remain so until first meeting of Board under this Act.

1. The powers now vested in the Harbour Boards of Table Bay, Port Elizabeth, and East London and the property, movable and immovable, and the rights vested in or pertaining to the said Boards shall remain so vested, and the liabilities shall remain unaffected in each case until the first meeting of the Board for Table Bay, Port Elizabeth, or East London, as the case may be, to be constituted under the provisions of this Act.

Repeal of laws.

2. The following Ordinances and Acts, or so much thereof in each case as has not already been repealed, shall from and after the dates herein set forth be repealed except as to acts done, rights acquired, or liabilities incurred before such dates:—

Ordinance 100 of 1833; Act 14 of 1855, in so far as it applies to Table Bay, Act 4 of 1857, Act 20 of 1858, save and except sections four and five Act 22 of 1872, Act 4 of 1873, Act 26 of 1881, Act 37 of 1887, Act 39 of 1889, Act 11 of 1890, Act 9 of 1893, from and after the first meeting of the Harbour Board for Table Bay to be constituted under the provisions of this Act.

Act 10 of 1858, Act 16 of 1859, Act 26 of 1864, in so far as it applies to Algoa Bay, Act 20 of 1872, Act 5 of 1873, Act 25 of 1875, Act 21 of 1882, Act 23 of 1883, Act 24 of 1889, Act 16 of 1894, from and after the first meeting of the Harbour Board for Port Elizabeth to be constituted under the provisions of this Act.

Act 18 of 1869, Act 7 of 1871, Act 11 of 1874, in so far as it applies to the Harbour of East London, Act 26 of 1875, Act 22 of 1878, Act 18 of 1893, Act 11 of 1894, from and after the first meeting of the Harbour Board of East London to be constituted under the provisions of this Act.

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Harbour Boards exempt from certain Ordinance and Acts.

3. The Harbours of Table Bay, Port Elizabeth, and East London shall be exempt from the provisions of Ordinance 21 of 1847, Act 15 of 1861, Act 2 of 1877, Act 46 of 1885, and Act 5 of 1887, and so much of sections 19 to 37 inclusive of Act 16 of 1857 as have not already been repealed, and the said Ordinance and the said Acts or the said sections thereof shall be read as not applying to the said harbours.

Repeal of repugnant Laws.

4. Any other law repugnant to or inconsistent with the provisions of this Act is hereby repealed.

Management of Harbour and Works vested in Harbour Board.

5. The control and management of the harbour together with the docks and breakwater of Table Bay, and the harbours of Port Elizabeth and East London together with all works of construction and maintenance connected therewith, shall be vested in Harbour Boards to be constituted under the provisions of this Act, and the date of such vesting shall be in each case the date of the first meeting of such Board.

Constitution of Board.

6. The said Boards shall in each case consist of seven persons of whom two shall be elected in manner hereinafter set forth, and three shall be nominated by the Governor: provided that of those so nominated not more than two shall hold offices of profit under Her Majesty the Queen; and provided further that of the members so nominated those holding such offices of profit shall remain members of the said Boards during the pleasure of the Governor, but any such nominated member not holding such office of profit shall be nominated for a period of three years and at the expiry of such period shall not be eligible to be re-nominated until a period of one year shall have elapsed.

Resignations, &c., of persons nominated, how vacancies filled up.

7. If any such nominated member not holding such office of profit shall be absent from the ordinary meetings of the Board for a period of three months without leave of the Board, and six months with leave, or if he shall be sentenced to imprisonment for any offence without the option of a fine, or if his estate shall be finally sequestrated as insolvent or assigned for the benefit of all or any of his creditors, his seat shall become *ipso facto* vacant, and in every such case or in case any such nominated member not holding such office shall die or resign, the Governor shall nominate in his place some other person, not holding such office of profit, and such other person so nominated shall hold office for a period of three years from the date of such nomination.

Mayors of Cape Town, Port Elizabeth, and East London to be members of Board.

8. The Mayors or in their absence the deputy or acting Mayors for the time being of Cape Town, Port Elizabeth, and East London shall respectively be members of the Harbour Boards of Table Bay, Port Elizabeth and East London, but each of the local Harbour Board only.

Chamber of Commerce to nominate a member.

9. The Incorporated Chamber of Commerce for Cape Town, the Incorporated Chamber of Commerce for Port Elizabeth, and the Incorporated Chamber of Commerce for East London shall respectively each nominate one person to be a member for one

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year of the local Harbour Board of Table Bay, Port Elizabeth, or East London, as the case may be.

Persons entitled to vote for members of Board.

10. All persons resident or having places of business within the Colony who shall have paid, during the twelve months ending on the 30th June in each year, to the amount of not less than ten pounds sterling, wharfage, or landing, shipping or transhipping dues payable to the Harbour Board at the Port of Table Bay, Port Elizabeth, or East London, shall be entitled to vote at the next election of commissioners for the Board for such port at which such wharfage dues have been paid; and such persons shall be entitled to vote either personally or by some person duly authorised in writing, addressed to the Collector or Sub-Collector of Customs at the port, as the case may be, and the voting power of such persons shall be reckoned according to "Schedule A" of this Act.

List of persons qualified to vote to be made by Board.

11. Each existing Board shall as soon as possible after the coming into effect of this Act, and each Board to be constituted under this Act shall as soon as possible after the 30th of June in each year, frame a correct list of the persons entitled in accordance with the preceding section to vote at the election of members of the Board. And such list shall set forth the christian name and surname of each person so entitled, or the name of the firm (in case the said wharfage or landing, shipping or transhipping dues shall have been paid by a firm and not by a single person), the place of his or their business, and the number of votes he is entitled to in accordance with the amount of such wharfage dues which such person or firm shall have paid during the period aforesaid.

Customs Department to post lists.

12. As soon as the list in the last preceding section shall be complete the Board shall cause the same to be transmitted to the Collector of Customs in Cape Town, or the Sub-Collector of Customs at Port Elizabeth or East London as the case may be, who shall cause copies thereof to be posted in some convenient place, heading such list with the words "List of persons and firms entitled to vote at the election of members of the Harbour Board of Table Bay," or "Port Elizabeth," or "East London," as the case may be.

How lists may be corrected.

13. In case within one month after the posting of such list as in the last preceding section mentioned, any complaint shall be made to such Collector or Sub-Collector of Customs of the omission therefrom of the name of any person or firm whose name ought to have appeared upon such list, or of the insertion therein of the name of any person or firm, which name ought to be expunged from such list, it shall be the duty of the said Collector or Sub-Collector of Customs to investigate such complaint, and to add, or remove, any such name to or from such list, as to him shall seem just.

When lists complete persons named therein to be voters.

14. The persons and firms named in such list, after the additions to or alterations of the same (if any) have been made by the

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said Collector or Sub-Collector of Customs as aforesaid, shall be the voters entitled to vote at the election of members as hereinafter provided, and as often as a firm shall be named in such list of voters, such firm shall be entitled to vote only either by that member thereof who shall be nominated by the firm in writing, addressed to the said Collector or Sub-Collector of Customs, or by some person similarly nominated to appear and vote for such firm.

Qualification of a member of Board.

15. Every person being a voter as in the last preceding section provided, and whether he be so individually or as a member of a firm, shall be qualified to be elected a member of the Harbour Board, for members of which he is entitled to vote : Provided, however, that no such voter shall be competent to be a candidate for the said office unless he shall have received and accepted a requisition to become such candidate signed by not less than five duly qualified voters, and shall have transmitted such requisition, with his acceptance thereof, to the Collector or Sub-Collector of Customs at least ten days before any election is appointed to take place, and shall be resident in or have a place of business at Port Elizabeth, Cape Town, or East London, as the case may be.

List of candidates and of requisitionists to be published.

16. The Collector or Sub-Collector of Customs shall, at least seven days before the day appointed for the election, cause the names of the candidates for election thereat, together with the names of the persons who have signed such requisitions, to be published in the *Gazette* and one or more newspapers published in the town at which the said election shall take place.

Collector or Sub-Collector of Customs to be returning officer.

17. Every election under this Act shall take place either before the Collector or Sub-Collector of Customs, or before some person appointed by the Governor for that purpose, who shall be the returning officer for that purpose, on such day and at such place as he shall appoint, and the poll shall be kept open from nine o'clock a.m. until one o'clock p.m.

How poll to be taken.

18. The poll shall be taken either by the returning officer or by some officer to be appointed for that purpose by him, and the voting at such poll shall be by voting papers.

Scrutineers.

19. Every candidate may, if he thinks fit, appoint a scrutineer to see that the votes are fairly taken and recorded.

Who to be declared elected.

20. At the close of the lection the returning officer shall ascertain the number of votes given for each candidate; and so many candidates, being equal to the number to be chosen, as shall have the greatest number of votes shall be declared by the returning officer to be duly elected.

How and when elected members to enter on office.

21. At the first election under this Act, the voters shall elect, in manner by this Act provided, two members of the Board, who shall be deemed to enter upon their office on the first Monday following, in conjunction with the members appointed by the Governor, the member nominated by the Chamber of Commerce, and the Mayor, for the time being of Cape Town, Port Elizabeth or East London as the case may be.

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How seats vacated by lapse of time.

22. Of the persons so elected as in the last preceding section mentioned the member who shall have been elected by the smallest number of votes shall vacate his seat at the expiration of one year from the date of entering upon his office; and in case from any cause it shall be uncertain which of them shall vacate his seat, the returning officer shall cause such question to be determined by lot; and the remaining elected member shall vacate his seat in like manner at the expiration of two years, and upon the retirement from office of each member, he shall be succeeded by a member who shall be elected as hereinbefore provided, so that at every annual election after the first there shall be elected one member who shall enter upon his office on the first Monday after his election, and continue therein for two years, and every retiring member shall be eligible for re-election.

Vacation of office by elected or nominated members of Board.

23. The office of an elected member or a member nominated by the Chamber of Commerce shall become vacant on any of the grounds set forth in section seven and thereupon a member shall be elected or nominated as the case may be in his place and stead, in manner hereinbefore provided, who shall hold office for the remainder of the term for which the member who has vacated office and whom he shall succeed would otherwise have remained in office, such vacancy to be reported by the chairman.

In case of equality of votes at election.

24. In case of an equality of votes at any election, the returning officer shall determine by lot which of the persons for whom an equal number of votes shall have been given shall be elected, in case such persons cannot be both elected.

Chairman.

25. The commissioners present at the first meeting of the Board, constituted under the provisions of this Act, and at the first meeting held after every annual election, respectively, shall elect from amongst themselves a chairman, who shall hold such office for the space of one year, and who shall, when present, preside at all the meetings of the Board; provided that if at any meeting such chairman shall not be present, the members attending such meeting shall elect from among themselves a chairman to preside at such meeting; and, provided also that in case at any election of a chairman under the provisions of this section any two or more commissioners shall have an equal number of votes, it shall be decided by lot which of such commissioners shall be the chairman.

Quorum.

26. At every meeting of the Board three members shall form a quorum; and in case the votes upon any question before them shall be equally divided, the presiding member shall, in addition to his original or deliberative vote, have a casting vote: Provided, however, that no member shall vote on any question in which he shall have any direct personal or pecuniary interest, under a penalty not exceeding one hundred pounds sterling, to be sued for by the Attorney-General. Provided, further, that nothing in this section contained shall prevent any member from voting

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upon any question affecting any incorporated company by reason merely of the fact that such member is a director or shareholder in such company.

Payment to members.

27. Every member appointed or elected under the provisions of this Act shall be entitled to receive the sum of twenty shillings for each attendance at the meetings of the Board: Provided, however, that no member shall receive more than one hundred pounds sterling in any one year in respect of such attendances.

Members to receive no other payment from Board.

28. Save as in the preceding section enacted, no member shall have or receive any salary or allowance or shall exact, accept, or take any fee or reward whatsoever on any account whatsoever relative to carrying this Act into execution; nor shall any such member be eligible to become a contractor with the Board of which he is a member for the doing of any work or the supplying of any materials, articles, or things contemplated by this Act; nor shall any such member be interested or concerned directly or indirectly, in any such contract, under a penalty not exceeding one hundred pounds.

Members not eligible to become Contractors with Board.

PART II.

General provisions as to Property, rights, and powers of the three Harbour Boards.

Legal rights of Board.

29. From and after the first meetings of the respective Harbour Boards to be constituted by this Act, all property, movable and immovable, and all rights not inconsistent with the provisions of this Act, which shall at the date of such first meeting be vested in the existing Harbour Boards for Table Bay, Port Elizabeth, and East London, respectively, and also all land which at the date of such first meeting may be vested in Her Majesty the Queen, but which may hereafter be transferred to or vested in the Table Bay Harbour Board, shall become the property of and vest in the respective Boards to be constituted by this Act; and the said Board constituted by this Act shall, except as may be by this Act specially enacted, be and become liable, respectively, for all debts and liabilities of contract or otherwise for which the Boards at present existing shall at such date be liable: provided that all such property shall now and hereafter be exempted from divisional council rates.

Legal names and powers of Board.

30. The Boards by this Act constituted shall be known for all legal purposes as "The Table Bay Harbour Board," "The Port Elizabeth Harbour Board," and 'The East London Harbour Board," respectively, and shall be corporations having in each case power:—

(*a*) For the purposes of this Act to acquire, take, hire, purchase and hold and to (1) sell, lease, deliver, transfer, or otherwise lawfully dispose of all property, movable or immovable, subject always to the provisions of this Act and of any other law and to any engagements or obliga-

[1] See, however, § 10, Act 39, 1905 (p. 4948), requiring certain formalities prior to transfer.

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tions lawfully imposed, or at any time in evidence affecting such property.

(*b*) To sue or prosecute and be sued or prosecuted in any legal proceedings under its corporate name.

(*c*) To make powers of attorney, contracts, deeds and other written documents or instruments for the purposes of this Act, signed on behalf of the Board by its Secretary or any commissioner duly authorised thereto by the said Board.

(*d*) To regulate its meetings and the procedure thereat in any manner not inconsistent with or repugnant to any provisions of this Act.

(*e*) To employ for the construction, maintenance and management of the harbour under its jurisdiction, and other works in connection therewith, and for the conduct of the business thereof such officers, and to pay them such salaries and impose upon them such condiditions 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 said Board without the previous sanction of the said Board and the approval of the Governor.

(*f*) To pay and discharge all costs, charges and expenses lawfully incurred in carrying out the provisions of this Act.

(*g*) To collect all revenues due to the Board under the provisions of this Act.

(*h*) To land, warehouse and deliver or ship goods and merchandize by themselves or their duly constituted agents, and if necessary to limit the right of so to land, warehouse, deliver and ship at any pier or wharf vested in the said Board to such agents only; and for such purpose to construct or hire or purchase such railways, tramways, sheds or warehouses and plant as they may deem necessary; and subject to the approval of the Governor to enter into contracts or make arrangements with any public company or private individual or with the Government railway department for any purpose contemplated by this sub-section, and to make regulations for that purpose.

Board may frame certain bye-laws.

31. The said Board shall have power from time to time, subject always to the provisions of this Act, to make all such reasonable regulations as they may deem necessary for any of the following purposes:—

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(1) To prevent obstructions and preserve good order on the beach and banks of rivers, and on the wharves, jetties, landing places, breakwaters and other like erections, or the approaches to the same, within the limits of the jurisdiction assigned to such Board by this Act.

(2) To regulate the traffic within any docks or along any wharves, jetties or quays within such jurisdiction.

(3) For the proper management of the navigation of any tidal river, or any harbour, and the entrance to any such harbour, and for the preservation from injury of any works, buoys, dredgers, tugs or other property connected therewith.

(4) To regulate the landing, shipping, transhipping and warehousing of goods at the port.

(5) 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.

(6) For the proper control of all vessels entering any docks coming alongside any jetties or wharves, or anchoring within the limits of any harbour as defined by this Act.

(7) To provide for the examination and registration of pilots and the charges to be made by such pilots.

(8) To provide for the registration, inspection and control of tugs, steam launches, hulks or ferry boats, and to provide for the number of passengers to be carried on tugs, steam launches or ferry boats.

(9) Generally for giving effect to the powers conferred by this Act.

And the said Boards shall further have power, subject to the approval of the Governor, to impose reasonable penalties for the contravention of any regulation framed under the provisions of this section, and any person contravening any regulation so framed and approved of by the Governor, shall be liable to the penalty in that behalf prescribed, in no case exceeding a fine of one hundred pounds, or imprisonment in lieu of, or in addition to, such fine for any term not exceeding six months, or if no such penalty be specially prescribed then to a fine of not exceeding twenty pounds, or in default of payment of such fine to imprisonment with or without hard labour for any term not exceeding one month, and all fines under this Act may be recovered in the court of the resident magistrate of Cape Town, Port Elizabeth, or East London, as the case may be, and shall be paid over and become the property of the respective Boards for the purposes of this Act: Provided however

(*a*) That as often as the breach of any such regulation shall cause damage to any property of any of the said Boards or to property under the management or control of any

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of the said Boards, the person causing such damage shall be liable to make good such damage to such Board in addition to any penalty which may be imposed under such regulation.

(*b*) 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.

Regulations framed to be published in *Gazette*.

32. No regulation made by any Harbour Board 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 the port to which such regulation is intended to apply, and no resolution of any Board constituted under this Act 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 over others shall be of effect unless and until such resolution has received the sanction of the Governor.

Existing Regulations to remain in force until new Regulations are passed.

33. 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 harbours of Table Bay, Port Elizabeth and East London, and for the landing, shipping and transhipping of goods, or for the management and control of such harbours, shall remain in force, and the Boards constituted by this Act shall have power to enforce the same until new regulations shall have been made by the said Boards in accordance with the provisions of this Act.

Dock, Harbour and Wharfage Dues &c., chargeable.

34. Every Board shall and may demand and receive such dock, harbour ~~or wharfage dues~~, charges and duties calculated upon tonnage or *ad valorem*, and such pilot dues as may from time to time be fixed, in respect of each port, by regulations to be promulgated by the Governor after consultation with such Board, and such dues, charges or duties may from time to time be increased or reduced by the Governor after consultation with such Board: Provided

Repealed by Act 23 of 1914. See 3. so far as sec 34 of act 36 of 1896 relates to wharfage dues

(*a*) That the dues, charges or duties in force at present at any of the said ports shall remain in force, and the Boards to be constituted by this Act shall collect the same until a fresh scale of charges shall be promulgated under the provisions of this section, and

(*b*) That notwithstanding the repeal of the Act No. 18 of 1893 the scale of harbour dues, charges and duties enacted by section twenty-four of the said Act, in respect of the harbour of East London shall at all times be maintained, unless or until by resolutions of the Legislative Council and House of Assembly, the restriction imposed by this proviso shall at any time be altered or removed in whole or in part.

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Exemptions.

Repealed by Act 23 of 1901 sec 3

35. The following goods shall be exempt from all wharfage dues demandable under the preceding section: All Government stores, all bullion and coin, all passengers' baggage not liable to Customs dues, all ship's stores outwards or coastwise, and all goods shipped on which wharfage dues have already been paid.

PART III.

HARBOUR MASTER OR PORT CAPTAIN.

Harbour Master or Port Captain to be appointed subject to the approval of the Governor by and to be generally under control of Board.

36. The Harbour Masters or Port Captains of the Harbours of Table Bay, Port Elizabeth and East London shall, subject to the approval of the Governor, be appointed by and shall, when appointed, be under the control of the Harbour Boards for Table Bay, Port Elizabeth and East London respectively: Provided that in all matters relating to quarantine laws and regulations and the carrying out of the same they shall as heretofore be under the control of and responsible to the Governor.

Ship's papers, &c., to be produced.

37. The master of every merchant vessel arriving in Table Bay, Port Elizabeth, or East London shall, upon demand, produce and show the ship's register and ship's papers to the Harbour Master or Port Captain, 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.

Penalty.

Vessels arriving to be boarded and have berths assigned to them.

38. Each Harbour Master or Port Captain shall, between sunrise and sunset, board any 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.

Harbour Master or Port Captain to offer his services to Her Majesty's ships and national vessels of foreign states.

39. Upon the arrival in port of any of Her Majesty's ships or of any vessel in the employment of Her Majesty, or of any national vessel belonging to any foreign state, the Harbour Master or Port Captain 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.

Commander of such vessels to be supplied with a copy of this Act and port instructions.

40. Upon the Harbour Master or Port Captain 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

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this Act and of such port and quarantine regulations as may be in force in such port.

Port Captain to transmit report of arrival to certain authorities.

41. The Harbour Master or Port Captain 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 Treasurer, and the Collector or Sub-Collector of Customs in the port of arrival.

Bond with security to be given by master.

42. The master of every merchant vessel arriving in the ports of Port Elizabeth and East London 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 Harbour Master or Port Captain: 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.

No ballast, &c. to be cast into the harbour below high water mark.

43. If any stones, gravel or ballast be cast into the water or on the foreshore within any harbour defined by this Act, from any merchant vessel, or from any boat hired or employed by or on behalf of the owner or master of such vessel, unless with the permission of the Board, then the master of such vessel shall, for every such offence, forfeit a sum not exceeding fifty pounds.

No vessel to shift her berth without permission.

44. The commander or master of any vessel shifting or changing the berth for his vessel appointed for her by direction of the Harbour Master or Port Captain, without obtaining his previous sanction shall, excepting in case of emergency, when he shall report his action as early as possible to the Harbour Master or Port Captain, be liable to a penalty not exceeding ten pounds.

Harbour Masters or Port Captains shall not sell anchors or cables or supply ships with anything for profit.

45. It shall not be lawful for any Harbour Master or Port Captain, 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 Harbour Board for that purpose, or to own or 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 whatever: 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

Except in cases of distress.

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in accordance with the regulations of the port or with the approval of the Governor.

PART IV.

Protection of Harbours and Provisions as to Salvage.

Powers of harbour authority in respect of vessel sunk, &c., and dangerous to navigation.

46. When any vessel is sunk, stranded or abandoned in any harbour, or in or near any approach thereto, in such manner as in the opinion of the Board to be or likely to become an obstruction or danger to navigation in that harbour or in any approach thereto, such Board may take possession of and raise, remove, or destroy or cause to be taken possession of, raised, removed or destroyed, the whole or any part of the said vessel and may light or buoy, or cause to be lighted or buoyed, any such vessel or part until the raising, removal, or destruction thereof, and may sell, or cause to be sold, in such manner as may be thought fit any vessel or part so raised or removed, and also any other property recovered in the exercise of the powers conferred by this section, and out of the proceeds may reimburse such Board for the expenses lawfully incurred under this section including the expenses of sale, and shall hold the surplus, if any, of such proceeds in trust for the persons entitled thereto: Provided as follows:

Power of sale.

Notice of sale.

(1) Except in the case of property which is of a perishable nature, or which would deteriorate in value by delay, a sale shall not be made under this section, until at least seven days' notice of the intended sale has been given by advertisement in some local newspaper circulating in or near the district.

Owner may claim delivery in payment of expenses.

(2) At any time before any property is sold under this section, the owner thereof shall be entitled to have the same delivered to him on making payment of the expenditure incurred by the said Board

Interested person may give notice of intention to raise, &c., sunk vessel.

47. At any time after any Board shall have taken possession of any vessel in accordance with the last preceding section, the owner, master, or agent of, or other person interested in the said vessel may give notice to such Board of his intention forthwith to raise or remove, or to complete the raising or removal of the said vessel, and meanwhile to light or buoy her until so completely raised or removed, and thereupon if such owner, master, agent or other person shall forthwith pay to such Board the amount of expenses incurred by such Board and give security to such Board in such amount and with such surety or sureties as the said Board shall deem sufficient, conditioned upon the proper lighting, buoying, and raising, or removal of the sunk, stranded, or abandoned vessel within such time as shall be appointed and determined by the Board, the powers hereinbefore conferred upon such Board shall cease, unless the said owner, master, agent or other person shall fail to effect the proper lighting, buoying, raising, or removal of the said vessel within the time so appointed

Security to be given.

Power of harbour authority stayed penuing due and proper raising, &c., of vessel by interested person.

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and determined by such Board, but in the event of such failure the powers conferred by this Act shall revive and the amount of such security shall immediately become payable.

Scope of Sections 46 and 47.

48. The provisions of the two last preceding sections shall apply to every article or thing, or collection of things, being or forming part of the tackle, equipment, stores, or ballast of a vessel in the same manner as if it were included in the term "vessel."

Deficiency of proceeds to meet reasonable expenses to be paid out of Colonial Treasury.

49. Whenever the proceeds of sale of any vessel as aforesaid shall fail to meet the expenses lawfully incurred, the Treasurer shall make payment of the amount of such deficiency out of the Colonial Treasury upon satisfactory proof that the deficiency arises upon reasonable expenses incurred in and about the lighting, buoying, raising or removal of such vessel, or in and about the sale thereof.

Powers of harbour authorities as to anchors, &c., lost in harbours, &c.

50. Every Board is empowered and required to use the best endeavours to recover as speedily as possible all anchors, chains or cables which may have been parted with by merchant vessels riding at anchor in the harbour under its jurisdiction, and to retain possession of the same until the party rightfully claiming the same pay to the Board, or give security for the immediate payment of the amount of salvage due for the recovery thereof, in conformity with a scale of rates to be from time to time fixed or appointed by the Governor; and no person, except such Board, or the master of any such vessel as aforesaid, or any person duly authorised by either of them, or acting in performance of any contract entered into with the Board, may attempt to perform such service, under a penalty not exceeding ten pounds for each offence: Provided, always, that the master of any vessel which has parted from an anchor or chain or cable may recover the same by his own boats or any other means; and every such master shall be allowed five working days for the recovery thereof, and the Board shall not, before the expiration of such period, proceed to recover any such anchor or chains or cable, except at the request of the master or his agent.

Salvage how calculated.

Penalty on unauthorised persons for attempting to recover anchors, &c.

Master of vessel may remove anchor, &c., within five days.

If salvage not paid notice of sale in *Gazette* of articles recovered.

51. If the salvage due in respect of any such anchors or chains or cables be not paid to the Board by or on behalf of the party claiming or owning the same, within seven days after the recovery thereof, the Board shall cause a notice to be published in the *Gazette*, notifying the recovery of such article or articles, and stating that if the salvage due on account thereof be not paid within twenty-one days from the date of the publication thereof the same will be sold.

Sale of articles recovered to meet expenses of harbour authority.

52. If the salvage, together with all necessary expenses incurred be not paid within the time prescribed in such notice the Board may either cause such article or articles to be sold by public auction to the highest bidder, or by private sale or tender dispose of the same upon such terms as they may deem to be most advantageous and profitable, and the proceeds of every such sale shall be applied in the following order, that is to say, to the payment of

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customs dues, if any, of charges of sale and other necesary expenses, and of salvage. The surplus, if any, shall be paid into the Colonial Treasury for the use of the proprietors of the articles or their agents, duly authorised; provided such surplus be claimed within one year after the date of sale, after which time any such surplus shall no longer be recoverable from the Colonial Treasury.

Surplus recoverable from Treasury within one year.

Payment of reasonable deficiency after sale by Colonial Treasury subject to certain restrictions.

53. If the proceeds of any sale effected under the provisions of the last preceding section be not sufficient after payment of the necessary charges and expenses to defray the salvage due in respect thereof, the Treasurer shall pay out of the Colonial Treasury to the Board the amount of salvage due, or such portion thereof as such proceeds as aforesaid may not be adequate to cover, and in all cases where proper search has been made by any Board for anchors, chains or cables or other articles or things whatsoever which might obstruct the anchorage ground, the said Treasurer may pay out of the Colonial Treasury such sum as may to him seem reasonable payment for the cost and expense of such search: Provided, however, that no portion shall be claimable from the Colonial Treasury of any charges or expenses incurred in and about recovering or searching for any of the abovementioned articles or things over and above the charges or expenses incident to three days' search in any particular case, unless the sanction of the Governor shall first have been obtained to the extension of the said search for such period as he shall deem fit.

No search for more than 3 days without Governor's sanction obtained.

Power to delegate by contract powers under this Act.

54. The exercise of any of the powers by this Act conferred in and about the lighting, buoying, raising, removal and destruction of vessels sunk, stranded or abandoned, and in or about the recovery of and searching for anchors, chains, cables, or other articles or things, may be by any Board lawfully delegated by contract by public tender to any person upon such terms as shall seem reasonable, and upon the execution of any such contract the contractor shall be and is hereby authorised, in place and stead of the Board, to exercise the said powers, and any sum of money paid to or consideration received by such contractor under such contract shall be deemed for all the purposes of this Act to be an expense incurred in and about lighting, buoying, raising, removal or destruction of such vessels, or the recovery of such anchors or cables: Provided, however, that no such contractor shall be entitled to claim from the Treasurer any sum out of the Colonial Treasury over and above the amount which such Board would be entitled to claim in respect of the matter contracted for by such contractor.

PART V.

Special Provisions as to Control and disposal of Land by the three Harbour Boards.

Control by Table Bay Harbour Board of lands vested in the Crown for Table Bay Harbour purposes.

55. All land vested in Her Majesty the Queen in Her Colonial Government under sections four and five of the Act No. 20 of 1858, shall be deemed and taken to be under the management of

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the Table Bay Harbour Board, subject to the provisions of this Act, and all land reclaimed from the sea by the Harbour Boards of Table Bay and Port Elizabeth, and all land purchased with funds belonging to the said Boards shall from and after the passing of this Act be vested in the said Boards, as fully in all respects as if a grant had been issued and transfer had been passed of such land to the said Boards.

As to land acquired for harbour purposes at Table Bay, Port Elizabeth and East London.

56. All land which has been or may be acquired for the purposes of the Harbour of Table Bay, Port Elizabeth or East London, or which is or may be vested by law, title or contract in the existing Harbour Boards at the said ports shall subject to the provisions of this Act be deemed and taken to be under the control and management of the Table Bay, Port Elizabeth and East London Harbour Boards respectively hereby constituted.

Provisions as to reclaimed land, East London.

57. All land which may have been heretofore reclaimed or may be hereafter reclaimed from the sea at East London or from the Buffalo River within such limits as the Governor may define by proclamation, and all drift sands within the said limits and all foreshore of the sea and Buffalo River within the said limits shall be vested in the East London Harbour Board: Provided that the Governor may reserve, or at any time without compensation, save for improvements, resume so much of the land hereby vested in such Board as is or may be required for public purposes. Notice of intention to sell or lease any such land shall be advertised for three months in the *Gazette* and at least one local newspaper.

Sale, &c., of land by Governor at request of Board upon approved terms and conditions. Statement to be rendered to Parliament.

58. Notwithstanding anything to the contrary contained in the Crown Lands Disposal Act, (1) 1887, or any other law, the Governor may, at the request of any of the aforesaid Boards and upon such terms and conditions as such Board may recommend and the Governor approve, sell, let, exchange or otherwise dispose of any of the aforesaid land for the purposes of this Act: Provided that no such land shall be sold, leased, exchanged or otherwise disposed of until the Legislative Council and House of Assembly shall have communicated to the Governor their concurrence, and provided that a statement shall be laid before both Houses of Parliament during each Session, setting forth all dealings with land under the provisions of this Act since the previous Session of Parliament: And provided further that the power of letting special portions of the aforesaid land, with or without buildings thereon, for a period not exceeding one year, may be exercised by each Board.

Leases how entered into and enforced.

59. Any lease of land heretofore entered into by the Secretary of any Board, with the authority of the said Board, shall be deemed to be a valid lease for the purposes of this Act, and the Secretary shall, *ex officio*, be the proper person to sue, or be sued, in any action arising out of any lease of land entered into under the provisions of this Act.

[1] No. 15.

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Revenue to be correctlyaccounted for, disposal of revenue for harbour purposes.

60. All revenue derived from any sale, lease, exchange, or other disposition of land under this Act shall be correctly accounted for in manner provided by section sixty-seven of this Act; and all such revenue shall be devoted to purposes connected with the management and improvement of the harbour at the port where such land is situated.

Buildings, &c., to be included in "land."

61. The term "land" in the six last preceding sections shall include all plantations, buildings, erections, and structures which now are or hereafter may be upon any of the land hereinbefore referred to.

PART VI.

Improvement of the three Harbours.

Powers to improve Port or Harbour.

62. The Boards constituted by this Act shall have power, subject to the provisions of this Act, to take measures for improving the port or harbour under their control by adding to or altering existing breakwaters, docks, piers, wharves, landing places, or other works constructed for the facilitation of the shipping trade of the port or by the construction of new works: Provided that no new works or any additions to existing works shall be undertaken by any such Board when the cost thereof shall be estimated to exceed one thousand pounds, without the previous sanction of the Governor had and obtained.

Expenditure not to exceed £1,000 without sanction of Governor.

Vesting in Boards of rights of Government in regard to private property.

63. For the purpose of executing any of the objects of this Act each of the Boards constituted by this Act shall have power 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 such Board shall and 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 or harbours, 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 of any grant of freehold property, or shall exist in any other way or manner whatsoever.

Proceedings where materials are required from lands on which no such rights exist.

64. In case any Board 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 said Board 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 said Board, and which person shall think proper to require compensation from the said Board, the amount of

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purchase, hire or compensation shall be determined in accordance with the provisions of "The Lands and Arbitrations Clauses Act, (1) 1882."

Vesting of property in Boards.

65. All works constructed, altered, repaired, or improved by any Board shall vest in such Board, subject to the provisions of this Act, together with all lands reclaimed by any such Board from the sea.

Harbour Boards debt and interest.

66. Save in so far as it may be expressly provided by law to the contrary, the capital and interest of all loans raised on the guarantee of the general revenue for the purpose of prosecuting and improving the Harbours of Table Bay, Port Elizabeth or East London shall continue to be chargeable upon the revenues of the respective Harbour Boards, and such 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 of such loans: Provided however that the Harbour Board of Table Bay shall continue to be relieved of the payment of interest on a loan of three hundred thousand pounds already raised under the authority of the "Table Bay Harbour Loan Act, (2) 1889": Provided further that the Harbour Board of Port Elizabeth shall continue to be relieved of the payment of interest on an amount of £248,938 0s. 7d. of Cape of Good Hope Consolidated Stock, issued under the provisions of Act 16 of 1886, by way of conversion of and in exchange for portions of theretofore existing loans raised for the development and improvement of the harbour of Port Elizabeth, and of the interest on an amount of £25,000 of 4 per cent. Consolidated Stock, being a part of £33,133 of such Stock into which a portion of the loan of £50,000 raised under the authority of the "Port Elizabeth Harbour Loan Act, (3) 1883," has been duly converted: Provided lastly that the Harbour Board of East London shall be relieved of the payment of the capital and interest of all loans raised previous to the passing of the "East London Harbour Board Act, (4) 1893," for improving the harbour of East London, with the exception of £150,000 of such loans, which shall remain a debt due by the said Board, and interest on which at the rate of 4 per cent. per annum shall continue to be chargeable to the revenues of the said Board.

PART VII.

Debt, Accounts, Audit, Report to Parliament.

Accounts of receipts and payments to be kept by Board.

67. The Board shall, and is hereby required to cause true, exact and particular accounts to be kept of all its receipts and payments, and such accounts shall be audited by the Controller and Auditor-General under the provisions of the "Audit Act, (5) 1875," and of the "Audit Act Amendment Act, (6) 1888."

Annual report to be submitted by Boards.

68. The Board is also required to render an annual report, made up to the 31st of December in each year, regarding the work which shall have been commenced, carried on or completed

[1] No. 6. [2] No. 22. [3] No. 26. [4] No. 18. [5] No. 30. [6] No. 32.

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during the year then ended: and such report shall be laid before Parliament, together with an abstract for the year, of the accounts rendered to the Controller and Auditor-General under the preceding section.

PART VIII.

POSITION OF CIVIL SERVANT TRANSFERRED TO SERVICE OF BOARDS OR RE-TRANSFERRED; REGULATION OF HARBOUR BOARD EMPLOYES.

Effect of transfer to Harbour Board on contributors to Civil Service Pension Fund.

69. Every contributor to the Civil Service Pension Fund who has been or may be without breach of continuity of service transferred to the service of any of the Harbour Boards constituted by this Act shall on such transference become a contributor to the revenues of such Board on the same scale and according to the same rules which govern contributions to the Civil Service Pension Fund, and every such contributor may at any time be re-transferred to the Civil Service on such terms and conditions as may be agreed upon between himself and the Government, and may be sanctioned by regulations framed by the Governor under this Act or any law for the time being regulating the Civil Service of this Colony, and when so re-transferred he shall be eligible to fill any office for which he would have been eligible if he had never been transferred, and subject to the provisions of the seventieth section hereof shall otherwise be treated as if his whole service had been in the said Civil Service.

Transfers from one service to the other.

70. Should any such officer or employé be again transferred from the one service to the other, every such transfer shall be governed by the provisions of this Act, precisely as if it were a first transfer or re-transfer as the case may be.

Provisions for pensions.

71. At the ultimate retirement of any such contributor, it shall be lawful to grant him a pension or gratuity based on his whole period of continuous service under the Government and such Harbour Board, on the same scale and subject to the same conditions which govern Civil Service Pensions, provided that such pension or gratuity shall be apportioned between and be chargeable to the Civil Service Pension Fund and the revenues of such Harbour Board, in accordance with regulations framed or approved by the Governor under the provisions of the law for the time being regulating the calculation of pensions or gratuities payable to persons who have served partly in the Civil Service of this Colony and partly in the Imperial Service, or the service of another British Colony.

Provisions as to Civil Service Pension Fund Contributions.

72. Every person who now is or who may hereafter be in the permanent joint service in any civil capacity of the Government and of any Harbour Board, and who was not on the fixed establishment of the Civil Service on the 10th day of August, 1885, shall be required to contribute on the terms and conditions in force in the case of contributors to the Civil Service Pension Fund:—

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(*a*) To the said Fund on that portion of his salary and emoluments, capable of being counted for Pension purposes, received or enjoyed by him in respect of his services to the Government,

(*b*) and to the revenues of the Board on that portion of such salary and emoluments received or enjoyed by him in respect of his services to the said Board.

Pension or gratuity upon retirement.

And on the retirement of any such person from such joint service it shall be lawful to grant him a pension or gratuity in accordance with the rules which govern retiring allowances to persons employed in the Civil Service of the Colony: Provided that such pension or gratuity shall be apportioned between and become chargeable to the Civil Service Pension Fund, and the revenues of such Board in proportion to the average during the three years preceding such retirement of such salary and emoluments derived from either source.

In case of joint service.

73. Should any person in the Civil Service of the Colony, or in the service of any Harbour Board, have been or be appointed without breach of continuity of service to the joint service in any civil capacity of both the Government and such Harbour Board, or should any person in such joint service cease to be so employed, but remain in the service either of the Government or of such Harbour Board, any pension or gratuity which may lawfully be granted to him at his ultimate retirement shall be determined and apportioned in accordance with the rules in force at the time, framed under the provisions of the thirtieth Section of Act 32 of 1895, precisely as if the joint service of the Government and such Harbour Board constituted one service, and service under either the Government or such Harbour Board constituted another service, and the share of such pension or gratuity payable in respect of such joint service shall be further apportioned between the two services in accordance with the provisions of the preceding section hereof.

Provisions as to Widows' Pension Fund Contributions

74. Every person who is now or who may hereafter be in the permanent joint service in any civil capacity of the Government and of any Harbour Board, whose total salary amounts to £100 per annum or upwards, and every contributor to the Widows' Pension Fund who may be transferred to the service of such Harbour Board shall become a contributor to the Widows' Pension Fund or shall continue to contribute to that fund as the case may be, on his whole salary and emoluments from whichever source derived, capable of being counted for pension purposes, and his widow shall be entitled to participate in the benefits of such fund precisely as if he had been in the sole service of the Government.

PART IX.

Miscellaneous Provisions.

Regulation of Harbour Board Employés.

75. It shall be lawful for the Governor to approve of regulations not inconsistent with the provisions of this Act, specifying the

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duties of officers and employés of the several Harbour Boards, their hours of attendance, the conditions on which leave of absence may be granted, and regulating the maintenance of discipline and other matters connected with the discharge of the public duties of such officers and employés, and from time to time to approve of alterations and amendments of such regulations as circumstances may require, and such regulations may provide by way of reprimand, fine, loss of salary or emoluments, in whole or in part, disrating, suspension or dismissal, or the imposition of reasonable penalties for any contravention.

Limit of Jurisdiction of Boards.

76. The local limits of the Harbours of Table Bay, Port Elizabeth, and East London, for the purposes of this Act and within which the Boards to be constituted by this Act shall respectively have jurisdiction and control, shall in each case be defined by the Governor by Proclamation, and the Governor may by similar Proclamation from time to time alter the definitions of the said local limits as occasion may require.

Where goods may be landed or shipped.

77. Save as hereinafter excepted, all goods of whatever kind or nature that may be brought into the port of Table Bay, and which may be required to be landed from any part within or beyond the limits of the Colony, and all goods intended for exportation from the port of Cape Town to any part within or beyond such limits shall be landed or shipped, as the case may be, at the dock known as the Alfred Dock, and at no other place in the said bay; but it shall be lawful for the Harbour Board, with the sanction of the Collector or other principal officer of Customs of the port to grant permission, on such terms as he may think fit, for the landing and shipping of any such goods at some other place in the said port.

Penalty on contravention.

78. All goods which may be landed or shipped otherwise than in conformity with the preceding section shall be taken to have been illegally landed or shipped, and may be seized by any officer of the Customs, and shall be forfeited; and all such goods shall be dealt with in like manner as by any Act for the time being in force for the regulation and management of the Customs of the Cape of Good Hope, it is or shall be directed that goods forfeited thereunder shall be dealt with.

Who may land or ship goods.

79. No goods brought to Table Bay on importation or for exportation shall be landed or shipped or delivered except by persons authorised by the Table Bay Harbour Board.

Commissioners empowered to enter into contracts for better supply of water to shipping and works.

80. For the purpose of securing a better supply of water to the shipping frequenting any port, and for the purposes of the construction and maintenance of any Harbour or Breakwater Works, and also for the use of persons employed thereon, it shall be lawful for the Harbour Board with the consent of the Governor to enter into any reasonable contract with any private parties, public companies, municipalities, or others who may be willing to give such supply.

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Power to remit dock dues on submarine cable and its appurtenances.

81. It shall be lawful for any Board, with the previous sanction of the Governor, to remit, in certain special cases in which it may from time to time be deemed expedient to do so, the dock dues leviable under any regulation of the Board in terms of this Act, upon any submarine telegraph cable and the appurtenances thereof, under such regulations and restrictions as may, with the like previous sanction, and after due notice in the *Gazette*, be imposed.

"Dock" or "docks," definition of.

82. The words "dock" or "docks" in this or any other Act relating to any harbour shall be taken to mean the docks, rivers, basins, and other works or area connected therewith, which the Governor has heretofore proclaimed or shall from time to time proclaim to be a dock or docks for the purposes of this Act.

Warehouse rent chargeable.

83. It shall be lawful for any Board to charge for and in respect of any goods that may be warehoused by the owners thereof in any warehouse under the management of the said Board, warehouse rent at such rates as may from time to time be fixed by the said Board and approved by the Governor and published in the *Gazette*.

Clearance outwards may be refused until regulations have been complied with and dock dues paid.

84. It shall be lawful for the Collector or Sub-Collector or other principal officer of Customs at any of the three ports to refuse to any master of any vessel in port clearance outward until he shall have paid the dock or harbour dues, duties or charges of all kinds which may be due from him or his ship, and shall have received from the Post Office a certificate setting forth that he has complied with the requirements of the said Post Office and in other matters complied with the regulations of the port, and such vessel shall be subject to a lien in respect of the amount so due.

Control of Harbour Board for purposes of Section 19 Act No. 4 of 1887, and byelaws thereunder over parts of port or harbour outside Docks, Basins, &c.

85. For the purposes of the nineteenth section of the Act No. 4 of 1887, commonly called the "Explosives Act, 1887," and of any bye-laws already or hereafter made thereunder for regulating the conveyance, loading and unloading of explosives in any port or harbour, the Harbour Board shall be deemed and taken to be the harbour authority having jurisdiction, power, and authority in respect not only of the docks, basins, or other works connected therewith in the said port or harbour, but also of all parts of the said port or harbour not included in the said docks, basins or other works.

Harbour Master, Port Captain or other Officer, or his representative to be deemed the agent or representative of Harbour Board for certain purposes.

86. Whenever in the aforesaid section or any such bye-laws as aforesaid any report or notice is or may hereafter be prescribed to be given to, or any certificate be required to be granted, or any act, matter or thing to be done or approved by the Harbour Master, Port Captain, or other duly appointed officer or his representative in the aforesaid port or harbour, such report or notice shall be deemed to be given and shall by the said Harbour Master, Port Captain, or other officer or his representative be forthwith communicated to the Harbour Board, and such certificate, act, matter or thing shall be deemed to be required from such Harbour Master, Port Captain, or other officer or his representative, as the

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duly authorised agent or representative of the Board, who shall for the purposes of this Act conform to and abide by all lawful orders, directions or instructions given to him by the Board.

Compulsory pilotage at East London, but Harbour Board not responsible for loss, &c.

87. The Harbour of East London within the Buffalo River and entrance thereto is hereby declared to be a compulsory pilotage Harbour; but the East London Harbour Board shall not be responsible for any loss, damage or accident that may occur through the act, omission or default of any pilot, though such pilot may be for the sake of convenience a servant of the East London Harbour Board.

(1) PART X.

CERTAIN PROVISIONS AS TO LICENSING OF BOATS, &C., TO BE APPLICABLE TO ALL PORTS AND HARBOURS.

Operation of different parts of Act.

88. Save where any preceding provision of this Act is expressly limited in its operation to one port or harbour, the foregoing Parts of this Act shall apply only to the ports or harbours, and Harbour Boards of Table Bay, Port Elizabeth and East London, but the provisions of sections eighty-nine to ninety-four inclusive shall apply to all ports and harbours in the Colony.

Repugnant Laws, repeal of,

89. The several laws mentioned in Schedule B, and so much of any other law as may be repugnant to or inconsistent with the provisions of the following sections shall be and the same are hereby repealed except as to things done, offences committed, penalties incurred or proceedinags instituted, or licences granted previously to the date mentioned in the following section.

Duties and Licences in Schedule C.

90. From and after the first day of January, 1897, the tariff of licences specified in Schedule C shall be in force; and all and singular the several exemptions, directions and provisions contained in the said Schedule shall be of the same force and effect as if the same had been contained herein.

All duties to be paid acording to regulations.

91. In every port or harbour in and for which there shall be a lawfully constituted Harbour Board, the duties chargeable under Schedule C of this Act shall be paid over to and be under the control and management of such Harbour Board, who may with the sanction of the Governor, from time to time make regulations for the collection, appropriation and administration of such duties, and in every port or harbour in and for which there shall be no such Harbour Board, the said duties shall be under the control and management of the Minister, under such regulations as to the collection, appropriation and administration of the same as the Governor may from time to time prescribe in that behalf, and all such duties shall be applied by such Harbour Board or by the Minister as the case may be, to the maintenance and improvement of the respective ports or harbours at which they are levied.

Owner of boat to give security bond.

92. No licence shall be granted for any boat other that a wharf-dingy, or for any steam launch or steam tug in any port or harbour until the owner thereof has given a bond to the officer

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[1] Extended to Port St. Johns by Proclamation 537, 1897.

duly authorised by the Board or the Minister as the case may be in that behalf in the sum of twenty pounds sterling for his good conduct and for the due observance of such regulations as may be prescribed under the provisions of this Act, and has produced a certificate of tonnage of the said boat, launch, or tug, signed by a master shipwright or other competent person.

Illegal sales or removal of intoxicating liquors.

93. No owner of any wharf-dingy, boat, steam launch or steam tug in any port or 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 any port or harbour, except such liquors as are purchased, with the consent of the master of the vessel, from a person duly licensed to sell the same, and such liquors as may be removed, under the Customs Laws and Regulations, from a bonded or bonding warehouse for exportation beyond the Colony or for ship's stores: Provided that whenever any such owner shall be convicted of a contravention of this section, the licence, if any, for any wharf-dingy, boat, steam launch, or steam tug, used in connection with the commission of such offence may be cancelled and shall thereupon become null and void in addition to any other penalty provided by this Act; and provided further that nothing herein contained shall be held to interfere with the operation of Act No. 42 of 1887, prohibiting the supply of intoxicating liquors to Her Majesty's ships and vessels.

Penalty.

94. The proprietor or any other person who shall in contravention of the directions or provisions of Schedule C to this Act ply for hire or passengers or use any wharf-dingy, boat, steam launch, steam tug, hulk or condemned vessel without the licence required by the said Schedule, and every person who shall contravene any of the provisions of sections ninety-one to ninety-four inclusive of this Act, or of any regulation made under the said sections, shall, upon conviction before the Court of the Resident Magistrate of the district in which the offence was committed, be liable to a penalty not exceeding ten pounds, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding one month, unless such penalty be sooner paid.

Existing pontoon and ferries exempt.

95. Notwithstanding anything contained in this Act the ferries and pontoon at present existing on the Buffalo River at East London shall remain the property of the Municipality of East London and the provisions of the preceding sections of this Act shall not apply to such ferries and pontoon.

Short title.

96. This Act may be cited as "The Harbour Boards Act, 1896."

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Schedule A.

SCHEDULE A.

Votes according to dues paid in respect of every Commissioner to be elected:—

Not less than	£10,	and not exceeding	£100,	one vote.
Exceeding	£100,	„ „	£300,	two votes.
„	£300,	„ „	£500,	three votes.
„	£500,	„ „	£700,	four votes.
„	£700,	and upwards		five votes.

Schedule B.

SCHEDULE B.

Laws Repealed.

No. and Year.	Title.	Extent of Repeal.
Act No. 16 of 1857 ...	"An Act to consolidate the Laws relating to Quarantine and Port Regulations."	Sections 45, 46, 47, 48, 49 and 50, and so much of section 51 as relates to any fine for an unlicensed boat.
Act No. 20 of 1884 ...	"The Stamp and Office Fees Act, 1884."	Tariff 15, Schedule 2, the items "For every wharf dingy plying for hire, 10s." "Every other boat used in the transport of goods or materials, or plying for passengers. Of ten tons and under, £1." "Above ten tons, £1 10s." "Every steam launch plying for passengers, £2." "Every Steam Tug, including passengers, £10." "Every Steam Tug fitted and used only for supplying water to shipping, £10." "Every Hulk used for storing Coal, £20." "Every hulk or Condemned Vessel in any Port or Harbour not used for storing Coal, until completely broken up and removed: For the first six months, £25; for the second six months, £30: for every additional six months, £35."

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SCHEDULE C.

TARIFF OF LICENCES.

Annual.

Expiring on the 31st day of December.

	DUTY PAYABLE FOR A					
	Whole Year expiring 31st December.			Half-Year from 1st July, and expiring 31st Dec.		
	£	s.	d.	£	s.	d.
For every Wharf-Dingy plying for hire in any Port or Harbour	0	10	0	0	5	0
For every other Boat used in the conveyance of Goods or Materials or plying for Passengers in any Port or Harbour :—						
Of ten tons and under	1	0	0	0	10	0
Above ten tons	1	10	0	0	15	0
For every Steam Launch plying for Passengers only, in any Port or Harbour	2	0	0	1	0	0
For every Steam Tug used in the conveyance of Goods or Materials and the towage of lighters and ships and also plying for Passengers in any Port or Harbour	10	0	0	5	0	0
For every Steam Tug fitted and used only for supplying Water to Shipping in any Port or Harbour	10	0	0	5	0	0
For every Hulk or Condemned Vessel in any Port or Harbour not in process of breaking up	20	0	0	10	0	0
For every Hulk or Condemned Vessel in any Port or Harbour, in process of breaking up, and until the final removal of the broken portion or portions of such hulk or condemned vessel :— For the first six months, £25. For the second six months, £30. For every additional six months, £35.						

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No. 37—1896.] [July 31, 1896.

ACT

To Amend the Law relating to the use of Trek-paths.

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:—

Fence may be carried across trek-paths.

1. Notwithstanding anything to the contrary contained in any law, whenever the owner or occupier of any land over which a right of trek-path exists or is established by law, shall be desirous of erecting a fence on such land and of carrying such fence across such trek-path, it shall be lawful for him to do so if he provides a swing gate in that part of the fence which crosses the trek-path, of such width, size and description as, upon the application of such owner or occupier, it shall be the duty of the Council of the division in which such land is situated, to fix and determine: provided that the width of any such gate, erected or placed after the passing of this Act, shall in no case be less than fifteen feet.

Provisions of Sections 153 and 154 of Divisional Councils Act to apply.

2. The provisions of the one hundred and fifty-third and one hundred and fifty-fourth sections of the "Divisional Councils Act, (1) 1899," shall *mutatis mutandis* apply to any gate erected or provided in pursuance of the provisions of this Act.

Short Title.

3. This Act may be cited for all purposes as "The Trek-path Act, 1896."

No. 38—1896.] [July 31, 1896.

ACT

To Amend "The Brands Registration Act, 1890."

[Repealed by Act 4, 1897, p. 3,706.]

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[1] No. 40.

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No. 1—1897.] Repl by Act 38 of 1916. [May 25, 1897.

See act 14 of 1914

(1) ACT

To Amend and add to the Law relating to Lunatics.

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. "The Lunacy Act, 1891," and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act are hereby repealed; but such repeal shall not affect any warrant issued or thing done in pursuance of any such repealed law.

Interpretation of terms. 2. In the construction of this Act the following terms shall have the meanings herein assigned to them unless there is something in the context repugnant to such construction:—

"Asylum" means an asylum for lunatics now existing or which may hereafter be declared by the Governor as an asylum or place for the reception or detention of lunatics.

"Court" means the Supreme Court of the Cape of Good Hope, and the Court of the Eastern Districts, the High Court of Griqualand, and any Circuit Court within the limits of the jurisdiction of such Courts respectively.

"Criminal Lunatic" means any person convicted of any crime and certified to be insane under the provisions of this Act.

"Governor's Pleasure Lunatic" means any person for whose detention during his pleasure the Governor is authorised to grant an order.

"Judge" means any judge of the Supreme Court.

"Constable" includes members of the police force, and field-cornets.

"Lunatic" includes any idiot or person of unsound mind incapable of managing himself or his affairs.

"Magistrate" means a resident magistrate, and includes an acting resident magistrate and an assistant resident magistrate.

"Medical Practitioner" means a legally qualified medical practitioner, within the meaning of any law now or hereafter in force.

"Prison" means any prison or place of confinement to which a person may be committed, whether on remand or for trial, safe custody, punishment or otherwise, under any other than civil process; and

"Prisoner" means any person so committed.

"Single patient" means any person detained as a lunatic by order under this Act in any place other than an asylum or prison as defined in this section.

[1] Extended to all the Native Territories by Proclamation 1, 1898.

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Act to apply to persons detained in asylum at time of taking effect thereof.

3. The provisions of this Act shall apply to every person who, at the taking effect thereof, is detained in an asylum or place of confinement for lunatics, and every warrant or order granted for the detention of any such person shall be deemed to have been legally granted until set aside or varied under the provisions of this Act: provided that insane unconvicted prisoners detained by warrant under the provisions of Act No. 20 of 1879, may, if the Governor think fit, and so order, cease to be classed as criminal lunatics and be thenceforth in the same position as if they had been dealt with as insane persons by summary reception order under Part I. of this Act.

Urgency cases.

4. In cases of urgency where it is expedient either for the welfare of a person alleged to be a lunatic or for the public safety, that an alleged lunatic should be forthwith placed under care and treatment, he may be received and detained in any asylum or prison, upon an urgency order made (if possible) by the husband or wife or by a relative of the alleged lunatic, accompanied by one medical certificate, provided that

(1) If an urgency order is not signed by the husband or wife, or by a relative of the alleged lunatic, the order shall contain a statement of the various reasons why the same is not so signed and of the connection with the alleged lunatic of the person signing the order, and the circumstances under which he signs the same.

(2) No person shall sign an urgency order unless he is at least twenty-one years of age, and has, within two days before the date of the order, personally seen the alleged lunatic.

(3) No alleged lunatic shall be received under an urgency order unless it appears from the medical certificate accompanying the order that the certifying medical practitioner has personally examined the alleged lunatic not more than three clear days before his reception.

(4) The admission of an alleged lunatic on urgency order shall forthwith be notified by the person receiving the patient to the resident magistrate of the district, who shall thereupon on production to him of the urgency order and the medical certificate proceed in the same manner as if the original application had been made to him for the issue of a summary reception order.

(5) An urgency order shall not remain in force for a longer period than seven days from its date.

PART I.

Provisions relating to Lunatics who are neither Governor's Pleasure nor Criminal Lunatics.

Magistrate may order apprehension of person wander-

5. Any magistrate, upon the information on oath of any person, that a person wandering at large is deemed to be a lunatic,

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may by order require a constable to apprehend the alleged lunatic and bring him before the magistrate making the order, or before any magistrate having jurisdiction where the alleged lunatic is.

ing at large and deemed to be a lunatic.

6. If a constable is satisfied that it is necessary for the public safety or the welfare of an alleged lunatic with regard to whom it is his duty to take any proceedings under this Act, that the alleged lunatic should before any such proceedings are taken, be placed under care and control, the constable may apprehend and convey the alleged lunatic to a prison or hospital, and the gaoler or officer in charge of the hospital shall, unless there is no proper accommodation in such prison or hospital for the alleged lunatic, receive, relieve and detain the alleged lunatic therein, but no person shall be so detained for more than forty-eight hours without the knowledge and authority of a magistrate. It shall not be lawful to detain any alleged lunatic apprehended under this or any other section of this Act for a longer period than seven days without a magistrate's order under section ten unless a medical practitioner shall certify that it is impossible to decide as to the sanity or otherwise of the alleged lunatic within such period of seven days, in which case the magistrate may authorise the detention of the alleged lunatic for a further period not exceeding seven days.

Constable may under certain circumstances remove alleged lunatic to prison or hospital.

7. When under this Act notice has been given to, or an information on oath laid before a magistrate, that a person wandering at large is deemed to be a lunatic, such magistrate may examine the alleged lunatic at his own house, or elsewhere, and may proceed in all respects as if the alleged lunatic had been brought before him.

Magistrate may examine such person.

8. Every constable who has knowledge that any person not wandering at large is deemed to be a lunatic, and either is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall without delay give information thereof on oath before the nearest magistrate.

Constable to report to Magistrate cases of lunatics not under proper care, though not wandering about.

9. Upon the affidavit or information on oath of the husband or wife or other near relative of any person that such person is deemed to be a lunatic, or upon the affidavit or information on oath of any person that a person is deemed to be a lunatic and either is not under proper care, treatment and control, or is cruelly treated or neglected as aforesaid, any magistrate may himself visit the alleged lunatic, and shall, whether making such visit or not, obtain certificates from any two medical practitioners whom he thinks fit (one of whom shall, if practicable, be the district surgeon) as to the mental state of the alleged lunatic. In case the services of two medical practitioners shall not be available, or immediately available, the magistrate may accept the certificate of one medical practitioner.

Upon information given, magistrate may order person to be examined by medical practitioner.

10. If upon the certificate of the medical practitioners or practitioner who examined the alleged lunatic, and after such further or other enquiry as the magistrate thinks necessary, he is satisfied

Summary reception order. If magistrate satisfied that person is luna-

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tic and not under proper care, he may order person to be detained.

that the alleged lunatic is a lunatic, and either is not under proper care, treatment or control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, or if the person having the care, treatment or control of the alleged lunatic consents to the issue of the order hereinafter mentioned, the magistrate may by order (in this Act termed a summary reception order) direct the lunatic to be received and detained in some asylum or other place to be named in such order. Provided that a summary reception order shall not be granted unless each medical practitioner on whose certificate it is proposed to grant such order has personally examined the alleged lunatic not more than fourteen clear days before the date of the summary reception order, and that it shall not be competent for a magistrate to accept, for the purposes of such order, the certificate of any Asylum Medical Officer or private medical practitioner to whose charge he proposes to commit the alleged lunatic by such order, or who has any interest in the payments to be made on account of such alleged lunatic; provided further that all proceedings under this and the preceding section with respect to alleged lunatics shall be conducted in private. And provided further that if at any time after the issue of such order, the magistrate having jurisdiction to make such order is satisfied that some relative or friend of the lunatic who is willing to take such lunatic under his own charge, will take proper care of such lunatic and provide for his maintenance, it shall be lawful for such magistrate, on the recommendation of the District Surgeon, notwithstanding anything to the contrary in this Act contained, to discharge such lunatic to the care and custody of such relative or friend.

Such order shall authorise detention for one month.

11. A summary reception order shall authorise the detention of the person named therein for a period not exceeding one month, and if the place named therein be not an asylum it shall be lawful for the magistrate who has issued such order at any time during its continuance to authorise by endorsement of such order the removal of the lunatic named therein from the place of detention specified therein to an asylum; provided that the magistrate shall notify such removal within twenty-four hours, to the *ex officio curator ad litem*; and provided further that after the removal of such lunatic to an asylum any regulations as to discharge, transfer or death of patients framed under the provisions of this Act shall apply to such persons so removed, and that notice of such discharge, transfer or death shall be given within twenty-four hours to the *ex officio curator ad litem*.

Magistrate granting such order to send copy of order, report and medical practitioner's report to the Attorney-General, Solicitor-General or Crown Prosecutor.

12. A magistrate granting any order for the detention of any alleged lunatic under this Act shall, without delay, transmit a copy thereof with copies of the depositions and medical reports upon which he acted in granting such order, and his own report, to the Attorney-General, or in case the lunatic shall have been committed

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to an asylum or place within the districts over which the Court of the Eastern Districts or the High Court of Griqualand respectively have jurisdiction, to the Solicitor-General, or the Crown Prosecutor, as the case may be, and the Solicitor-General or the Crown Prosecutor as the case may be shall in such case be empowered to call for such further certificates or reports as he may deem necessary from any person whether or not such person shall reside within the districts over which the Court of the Eastern Districts, or the High Court of Griqualand respectively, have jurisdiction. The magistrate shall also within ten days transmit as aforesaid the report of the district surgeon or such medical practitioner as shall have been in attendance upon the lunatic, as to his mental condition during his detention, such report to be based upon an examination of the lunatic made not less than two or more than ten days after the date of the summary reception order; provided that if the lunatic shall have been committed by the order aforesaid to detention in an asylum, the duties of furnishing and transmitting the medical report shall devolve on the medical superintendent of such asylum. Such magistrate shall also make such report (if any) to the Colonial Secretary as may be prescribed by any general regulations, and otherwise conform thereto.

The Attorney-General, Solicitor-General and Crown Prosecutor *ex officio* curators *ad litem* of such lunatics within their jurisdiction

13. The Attorney-General, and the Solicitor-General and Crown Prosecutor of Griqualand West, within the limits of the districts respectively in which the latter exercise their functions, shall be *ex officio curators ad litem* of such persons as may be detained under any order granted by a magistrate under this Act, or further detained under a judge's order.

Curator ad litem receiving above reports, &c., to lay the same before Judge in Chambers.

14. A *curator ad litem* receiving any such order, depositions and reports as aforesaid from a magistrate, shall, within the said period of one month, lay the same with any further reports, depositions, or statements which he may have deemed necessary to call for, before a judge in chambers for his consideration.

The Judge may:—

15. The judge upon consideration of such order, reports, and evidence of lunacy therein appearing, may order as follows:—

Order further detention of alleged lunatic.

(1) If satisfied that an order for the further detention of the alleged lunatic may be made forthwith, make such order accordingly, and for such period as he may deem necessary.

Call upon *curator ad litem* and lunatic to appear before an appointed Court.

(2) Direct that a summons be issued and served upon the alleged lunatic and the *curator ad litem*, to appear in the court to be therein named to show cause why the alleged lunatic shall not be declared lunatic, and his detention as such confirmed, or if necessary a curator specially appointed for the care of his person, and for the care or administration of his property.

Appoint a *curator bonis*.

(3) Appoint a *curator bonis* for the temporary care or custody of any property of the alleged lunatic, and where it appears to the judge desirable that temporary provision should be made for the maintenance or other necessary

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purposes or requirements of the alleged lunatic, or any member of his family, out of any cash or available securities belonging to him in the hands of his bankers or of any other person, the judge may authorise any such banker or other person to pay to the *curator bonis* such sums as may be deemed necessary, and may give directions as to the application thereof for the alleged lunatic's benefit, or the relief of his family.

Direct discharge of alleged lunatic.

(4) Direct that the alleged lunatic be immediately discharged.

Direct as to issue, service, &c., of summons.

(5) Direct that any summons or other process be issued, and the proceedings in the case be continued, free of any stamp duty or office fee; and order that service of any process under this section be made in such manner as may seem expedient.

Generally give necessary directions.

(6) Generally give such directions as may appear necessary and proper.

Husband, wife, friend, or relative of person deemed to be lunatic may apply directly to any Court or Judge for enquiry.

16. Nothing in this Act contained shall prevent any husband, wife, or other relative of any person deemed to be a lunatic, or any friend of such person who has no husband, wife, or near relative at or near the place where such person is residing, from applying by petition directly to any court or judge for an enquiry in to such person's mental condition, whether a summary reception order shall previously have been granted or not, and such court or judge may order therein as may be deemed fitting.

Any person detained under summary reception order may apply to Court for enquiry.

17. Any person detained under the order of a magistrate under this Act, or under a judge's order for a further detention, granted as aforesaid, may apply to the court, directly or through a *curator ad litem*, for an enquiry into the cause and grounds of such person's detention, and such court may order therein as may be deemed fitting.

Where person is ordered to be further detained or is declared a lunatic, the Under Colonial Secretary may order his removal to Asylum.

18. At any time after a magistrate has issued a summary reception order for the detention of a lunatic, or a court has declared a person a lunatic, the Under Colonial Secretary may by **warrant** under his hand authorise the removal of such lunatic to some asylum, hospital, or other safe place of confinement, there to be detained until legally discharged or legally removed to some other asylum or place, provided that in the case of a person dealt with by summary reception order, if such warrant of removal as aforesaid is issued prior to the grant of the judge's order, notice of the issue of the warrant shall forthwith be sent by the Under Colonial Secretary to the *ex officio curator ad litem*.

PART II.

Provisions relating to Governors's Pleasure and Criminal Lunatics.

Procedure if found insane prior to arraignment.

19. If at any time prior to the arraignment of any person against whom criminal proceedings have been initiated for some crime or offence it shall appear to the gaoler or other custodian

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of such person that such person is insane, such gaoler or other custodian shall without delay report the fact to the magistrate of the district in which such person is confined; and such magistrate shall forthwith direct two medical practitioners or one medical practitioner if two are not immediately available, to examine such person and to enquire into his sanity, and after such examination the said medical practitioners may certify in writing that he is insane; and if upon such certificates or certificate the magistrate is satisfied that such person is a lunatic, the magistrate shall by order direct such person to be kept in custody in some prison pending the signification of the pleasure of the Governor: Provided that nothing in this or the next succeeding section shall be read as prohibiting the abandonment of the criminal charge at the discretion of the judge or magistrate concerned, and the adoption of the procedure specified in Part I. of this Act in those cases in which the crime or offence charged is of a petty nature, and the interests of justice will not suffer by the abandonment of the charge.

Procedure if found insane during trial or on arraignment.

20. If on the arraignment or during the trial of any person charged with any crime or offence it shall appear to the presiding judge or magistrate that such person is insane, the question of such person's sanity shall be enquired into, by a jury especially empanelled for the purpose if the trial be before a judge, or otherwise by the magistrate before whom the trial is being held; and if such jury or magistrate shall find that such person is insane the presiding judge or magistrate shall record such verdict or finding and shall issue an order committing such person to some prison pending the signification of the Governor's pleasure.

Procedure when persons charged with offences are found to be insane by Jury or Magistrate.

21. When in an indictment or other criminal proceedings any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane so as not to be responsible according to law for his action at the time when the act was done or the omission made, then if it appears to the jury or magistrate before whom such person is tried that he did the act or made the omission charged but was insane as aforesaid at the time when he did or made the same, the jury or such magistrate shall return a special verdict or finding to the effect that the accused was guilty of the act or omission charged against him but was insane as aforesaid at the time when he did the act or made the omission; and the presiding judge or magistrate shall thereupon order the accused to be kept in custody in some prison pending the signification of the pleasure of the Governor.

Such persons to be kept in custody during Governor's pleasure.

22. When an order committing a person as aforesaid, pending the signification of the Governor's pleasure, has been granted, it shall be the duty of the keeper of the prison to which such person has been committed to send a copy of such order forthwith through the magistrate of the district to the Colonial Secretary for transmission to the Governor, and it shall be lawful for the Governor thereupon and from time to time to give such order for the safe

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custody of such person in such place and in such manner as the Governor may see fit.

If found after conviction to be insane.

23. When it shall appear to the superintendent of a convict station, to a gaoler, or to any other custodian of prisoners that a convicted prisoner in his charge is insane, such superintendent, gaoler, or custodian shall report the fact to the resident magistrate of the district in which such prisoner is confined; and such resident magistrate, on receipt of such report or on an order from the Colonial Secretary, shall forthwith direct two medical practitioners (one of whom shall, if practicable, be the district surgeon), to examine such prisoner and to enquire as to his sanity, and after such examination and enquiry, the said medical practitioners may certify, in writing, that he is insane, provided that unless the prisoner is under sentence of death, the magistrate may in case the services of two medical practitioners shall not be available, direct one medical practitioner, who shall be, if practicable, the district surgeon, to perform such duty.

Resident Magistrate to order him to be confined.

24. When a convicted prisoner is certified as aforesaid to be insane, the resident magstrate shall, by order under his hand, direct that the said prisoner be kept in custody in the prison in which he is confined, as a criminal lunatic, until the Colonial Secretary, or, if such prisoner be under sentence of death the Governor, shall, by warrant, issue directions as to his disposal. The magistrate issuing such order as aforesaid shall, without delay, transmit a copy of such order, together with copies of the medical certificates upon which he acted in granting such order, and of the criminal warrant under which such lunatic was detained in prison, to the Colonial Secretary.

If prisoner certified insane to be removed under warrant of Governor to some asylum, and detained there as a lunatic.

25. When a convicted prisoner not under sentence of death is certified as aforesaid to be insane the Colonial Secretary may, if he thinks fit, direct such prisoner to be removed to an asylum named in the warrant, and thereupon such prisoner shall be removed to and received in such asylum, and, subject to the provisions of this Act relating to discharge and otherwise, shall be detained therein, or in any other asylum to which he may be transferred as a criminal lunatic, until he ceases to be a criminal lunatic.

Procedure in case of prisoner under sentence of death.

26. When a prisoner under sentence of death is certified as aforesaid to be insane the Governor may, if he thinks fit, direct such prisoner to be removed to an asylum named in the warrant, and thereupon such prisoner shall be removed to and received in such asylum, and, subject to the provisions of this Act relating to discharge and otherwise, shall be detained therein, or in any other asylum to which he may be transferred as a criminal lunatic, until he ceases to be a criminal lunatic.

When it is certified that a criminal lunatic (other than one in respect to whom a special verdict was returned) is sane, the

27. When it is certified by two medical practitioners as aforesaid that a person being a criminal lunatic or Governor's pleasure lunatic (not being a person with respect to whom a special finding or verdict under section twenty-one of this Act has been returned) is sane, the Colonial Secretary, if satisfied that it is proper to do so,

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may by warrant direct such person to be remitted to prison to be dealt with according to law.

Colonial Secretary may order him to be remitted to prison.

28. A criminal lunatic shall, upon the expiration of the sentence of imprisonment to which he may be subject, cease to be a criminal lunatic: provided, however, that the order or warrant under which he was previously detained as a criminal lunatic shall continue to operate as an authority for his detention pending the issue of the judge's order hereinafter mentioned. If one month before the expiration of his sentence of imprisonment a criminal lunatic is still of unsound mind, the asylum superintendent or other custodian of such lunatic shall forthwith transmit a medical certificate of insanity with such report and other documents as may be deemed necessary to the Atorney-General, Solicitor-General or Crown Prosecutor as the case may be, who shall without delay lay the same before a judge in chambers for his consideration: whereupon the said judge shall order the further detention of the said criminal lunatic as a case under Part I., or make such other order in accordance with section fifteen of this Act as the said judge may see fit; and such order shall have effect on and after the date of the expiration of the said lunatic's sentence of imprisonment.

When a criminal lunatic shall cease to be a criminal lunatic.

Superintendent of asylum or other place in which criminal or Governor's pleasure lunatic is detained, to report to Colonial Secretary at least once a year.

29. The superintendent of an asylum or other place in which a criminal lunatic or a Governor's pleasure lunatic is detained, shall make a report to the Colonial Secretary at such times (not being less than once a year), and containing such particulars as the Colonial Secretary may require, of the condition and circumstances of every criminal lunatic and Governor's pleasure lunatic in such asylum or place; and the Colonial Secretary shall at least once in every two years during which a criminal lunatic or Governor's pleasure lunatic is detained, take into consideration the condition, history and circumstances of such lunatic, for the purpose of determining whether he ought to be discharged or otherwise dealt with.

Colonial Secretary may order transfer of criminal lunatic or Governor's pleasure lunatic.

30. The Colonial Secretary may, from time to time, order the transfer of any criminal lunatic or Governor's pleasure lunatic detained in any asylum or other place, to any other asylum, and such criminal lunatic shall accordingly be received and detained in the asylum to which he is so transferred.

Governor may discharge criminal lunatic, absolutely or conditionally.

31. The Governor may discharge any criminal lunatic or Governor's pleasure lunatic absolutely, or conditionally, that is to say, on such conditions as to the duration of such discharge, and otherwise as the Governor may think fit.

Conditions to be observed in conditional discharge.

32. Where a criminal lunatic or Governor's pleasure lunatic is conditionally discharged in pursuance of this Act:

(1) A report of his condition shall be made to the Colonial Secretary by such persons and at such times and containing such particulars as may be required by the warrant of discharge (or directed by the Governor), or by any general rules and regulations;

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(2) If any of the conditions of such discharge appear to the Governor to be broken, or the condition discharge is revoked, the Governor may direct him to be taken into custody, and removed to some asylum or place named in the warrant; and he may thereupon be taken, and shall be received and detained in such asylum or place as if he had been removed thereto under the provisions of this Act.

Governor may make regulations for dealing with prisoners who appear from imbecility to be unfit for penal discipline.

33. The Governor may make, revoke, and vary regulations for the treatment of persons sentenced to imprisonment who appear, in accordance with the said regulations, to be, from imbecility of mind, either unfit for penal discipline, or unfit for the same penal discipline as other prisoners.

PART III.

Provisions for the Care and Administration of Lunatic's Property.

Court may appoint curator over property of lunatic.

34. The court may appoint a curator for the care or administration of the property of any person declared lunatic, or of a person lawfully detained as a criminal lunatic or Governor's pleasure lunatic, with or without security, as the court may direct, and may confer upon such curator authority to do any specified act, or exercise any specified power, or may confer a general authority to exercise on behalf of the lunatic, until further order, all or any of such powers without further application to the court; provided that when a lunatic detained by order of a court or judge, but of whose property no curator has been appointed, possesses property the estimated value of which does not exceed five hundred pounds in respect of the corpus thereof or fifty pounds per annum in respect of the income thereof, a judge in chambers or the master of the supreme court may, on the application of the official *curator ad litem*, appoint a curator of the property of the lunatic.

Court may under certain circumstances appoint curator over property without appointing curator over person.

35. Where upon an enquiry the court shall be of opinion that the person to whom it relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others, such court may make such order as it thinks fit for the care or administration of the property of the lunatic, including all proper provisions for his maintenance, but it shall not be necessary, unless the court shall think proper to do so, to make any order as to the custody of his person.

Court may dissolve a partnership if member thereof declared a lunatic.

36. When any person being a member of a partnership is declared a lunatic by the court, the court may by the same order or by any order subsequently granted, dissolve the partnership.

Copy of order appointing curator over property to be lodged with Master

37. When a court has granted an order for appointing a curator for the care or administration of the property of a lunatic, an office copy of such order shall forthwith be lodged with the Master of the Supreme Court.

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38. The Master shall grant to such curator a certificate that he has been so appointed, and is authorised as such to have the custody and administration of the lunatic's estate.

Master to grant certificate of appointment to curator.

39. Every such curator shall be under the like duty and obligation as an executor appointed for the administration of the estate of a deceased person, to lodge with the said Master an inventory, or additional inventory, of the property of a lunatic and accounts of his administration, and in respect of any such inventory or account the like stamps and fees shall be payable as in the case of the estate of a deceased person.

Curator to file inventory, &c., with Master.

40. Every such curator shall be allowed the like remuneration, to be taxed by the said Master, as in the case of an executor.

Curator to be allowed same remuneration as executor

41. When any lunatic for the care or administration of whose estate a curator has been appointed shall die intestate, or having left a will there shall be no executor, or none willing to act, such curator shall continue the administration of the estate of such lunatic, and distribute the assets thereof as if he had been appointed an executor dative.

If lunatic die intestate, or has no executor, *curator bonis* to act as executor.

42. The court may authorise and direct any curator appointed as aforesaid to do all or any of the following things:—

Court may authorise curator to do following acts.

(1) Sell any property belonging to the lunatic.

(2) Make exchange or partition of any property belonging to the lunatic, or in which he is interested, and give or receive any money for equality of exchange or partition.

(3) Carry on or discontinue any trade or business of the lunatic.

(4) Grant leases of any property of the lunatic.

(5) Perform any contract relating to the property of the lunatic entered into by the lunatic before his lunacy.

(6) Exercise any power or give any consent required for the exercise of any power where the power is vested in the lunatic for his own benefit, or the power is in the nature of a beneficial interest in the lunatic.

(7) Raise money on mortgage of the lunatic's property for payment of his debts, or payment of any debt or expenditure incurred for the lunatic's maintenance or otherwise for his benefit, or payment of, or provision for, the expenses of his future maintenance.

(8) Apply any money for or towards the maintenance or the benefit of the lunatic.

(9) Make such reports concerning the lunatic's estate to the court or to the Master as such court shall deem fit.

43. Nothing in this Act contained shall be deemed to limit or abridge the power by law possessed by the court in regard to declaring persons of unsound mind, or to the appointment of curators to the person or property of any lunatic.

Act not to be taken to limit power of Court as to declaring persons insane, or appointing curators.

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PART IV.

OFFENCES, AND PENALTIES.

Penalty for detaining alleged lunatic except under provisions of this Act.

44. Every person who, except under the provisions of this Act, receives or detains a lunatic, or alleged lunatic, in an asylum, or for payment takes charge of, receives to board and lodge, or detains a lunatic or alleged lunatic, shall, upon conviction, be liable to a penalty not exceeding fifty pounds.

Penalties for false statements, &c.

45. Every person guilty of any of the following acts or offences shall, upon conviction, be liable to a penalty not exceeding one hundred pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months:—

(1) Making any wilful misstatement of any material fact in any petition, application, statement of particulars, report, or reception order under this Act.

(2) Making a wilful misstatement of any material fact in any medical certificate or other certificate, or in any statement or report of bodily or mental condition under this Act.

(3) Knowingly making in any book, statement, or return, any false entry as to any matter as to which he is by this Act or by any rules or regulations made under this Act, required to make an entry.

(4) Wilfully obstructing any magistrate, curator, *curator ad litem*, visitor, medical practitioner, constable, or other person specially authorised by the Governor, or under any order of court, in the exercise of any of the powers conferred by this Act, or by any rules or regulations made under this Act.

Penalty where no special penalty provided.

46. Every person who shall contravene any of the provisions of this Act in respect of which no other penalty or punishment is by this Act or by any law otherwise provided, or who shall contravene any of the provisions of any rules or regulations made by the Governor under this Act, shall, upon conviction, be liable to a penalty not exceeding twenty pounds, or to imprisonment with or without hard labour for any period not exceeding three months.

Penalty if nurses, &c., or persons in charge illtreat lunatic.

47. Any officer, nurse, attendant, servant, or other person employed in any asylum or other place, or any person having the care or charge of a lunatic, or alleged lunatic, whether by reason of any contract, or any tie of relationship, or marriage, or otherwise, who shall illtreat or wilfully neglect any such lunatic or alleged lunatic shall, upon conviction, be liable to a penalty not exceeding fifty pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months.

Penalty for conniving at escape of lunatic.

48. Any officer, attendant, servant, or other person employed in any asylum or other place, who shall wilfully permit, or assist, or connive at the escape or attempted escape of any lunatic, or who shall secrete a lunatic, shall, upon conviction, be liable to a penalty not exceeding twenty pounds, and to instant dismissal from any position such convicted person may then occupy.

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49. It shall not be lawful to employ any male person in any asylum in the personal custody or restraint of any female patient, and any person employing a male person contrary to this section shall be liable to a penalty not exceeding twenty pounds: Provided that this section shall not extend to prohibit or impose a penalty on the employment of male persons on such occasions of urgency as may in the judgment of the superintendent of the institution render such employment necessary, but the employment shall be reported to the Colonial Secretary.

Male person not to be employed in personal custody of female patient.

50. If any officer, attendant, or other person employed in any asylum, or any person having the care or charge of or attending upon any single patient, carnally knows, or attempts to have carnal knowledge of any female under care or treatment as a lunatic, he shall, upon conviction, be liable to imprisonment with or without hard labour for any period not exceeding five years; and no consent or alleged consent of such female thereto shall be a defence in any prosecution for such offence.

Penalty on person having charge of lunatic for carnally knowing female patient.

PART V.

General.

51. Whenever any person shall, with the previous consent of the Colonial Secretary, be brought into this Colony from any other Colony, State or Territory in South Africa, to which the Governor may by proclamation apply the provisions of this section by virtue of a warrant under the hand of a person duly authorised in such Colony, State or Territory, to sign the same, setting forth that such person has been judicially declared in such Colony, State or Territory to be a lunatic, such person shall within this Coloney be deemed to be legally detained under such warrant for a period of one month from the date thereof, in any asylum or other safe place of confinement named in such warrant. On the admission of such person into the asylum or other safe place of confinement aforesaid, the medical superintendent or officer in charge of such asylum or other safe place of confinement shall forthwith forward the warrant with the supporting documents to the Attorney-General, Solicitor-General, or the Crown Prosecutor, as the case may be, for submission to a judge in chambers, and thereupon all the provisions of this Act shall apply as if such person were a person in respect of whom a summary reception order had been granted in terms of this Act.

Lunatics from neighbouring states and colonies.

52. Subject to any exception in this Act mentioned, it shall not be lawful to receive or detain in any asylum, hospital or other place, or as a single patient, any lunatic or alleged lunatic except under an order made by a magistrate, a judge or a court.

No person to be detained in asylum unless under order of Court or Judge.

53. Every person who shall take care or charge of any lunatic as a single patient, shall, within twenty-four hours after so taking charge of such person, transmit through the post a notice of such admission to the Colonial Secretary. True copies of the order,

Every person receiving a patient into his house to transmit a notice thereof to the Colonial Secretary.

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statement and medical certificates upon which such person shall have been so received shall be transmitted to the Colonial Secretary by the magistrate making the order.

Every such patient to be visited by independent medical practitioner.

54. Every such lunatic shall, as often as may be provided by regulations under this Act, or as may be directed by the Colonial Secretary, be visited by a medical practioner not deriving, and not having a partner, father, son, brother or other relative who derives any profit from the care and charge of such lunatic.

Licensed houses.

55. The Colonial Secretary may, on payment of such fee as he may prescribe and subject to such conditions and provisions as he shall deem fit, by writing under his hand grant to any person a licence to keep a house for the reception of more than one lunatic patient, and from time to time revoke or renew such licence.

Insanity of person residing in private dwelling house

56. If the insanity of a person residing in a private dwelling with relatives or others, who receive no remuneration for his maintenance and care, has endured for a period of six months, and is of such a nature as to require compulsory confinement in the house, or restraint or coercion of any kind, the person who has charge of the patient shall intimate such detention to the Colonial Secretary and shall transmit to the Colonial Secretary a certificate signed by at least one medical practitioner as to the condition of the person so detained and the reasons (if any) which render it desirable that such person shall remain under private care. The Colonial Secretary may thereupon order that such person be so detained for a further period not exceeding six months, at the expiration of which period if the insanity still continues the necessary steps must be taken by the person having charge of the patient to obtain an order under section ten.

Insane person may be received to board and lodge in any private dwelling upon certificate.

57. A person suffering from insanity may be received to board and lodge and be taken charge of for payment in any private dwelling for a period not exceeding six months after his lunacy shall have become apparent, under a certificate granted by a duly qualified medical practitioner. No such lunatic or alleged lunatic shall be detained for a longer period than six months as above enacted unless under an order made by a magistrate or court or judge: Provided, however, that it shall be lawful for any magistrate on any report or information that any such lunatic is detained for improper purposes or is cruelly treated or neglected in any way, to visit such lunatic in the place where he is detained and make such investigation and enquiry as may be found necessary, and thereafter to take such proceedings as he may consider expedient.

Persons voluntarily submitting to treatment.

58. The medical superintendent of an asylum may, with the previous assent in writing of the Colonial Secretary, which assent shall not be given without written application by the patient, receive and lodge as a boarder, for the time specified in the assent, any person who is desirous of voluntarily submitting to treatment, but whose mental condition is not such as to justify the issue of certificates of insanity.

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Provided always:

(*a*) That if such person makes a written application to the medical superintendent, he may be received as a boarder temporarily for a period not exceeding seven days, pending the receipt of the Colonial Secretary's assent.

(*b*) That every such boarder shall be produced, if required, to the official visitors at their visits to the asylum.

(*c*) That no such boarder shall be detained for more than three days after having given written notice to the medical superintendent of his intention or desire to leave, unless detained under an order made by a court or judge or resident magistrate.

(*d*) That notices of admission, discharge and death with respect to all such boarders shall be made to the Under Colonial Secretary in the same manner as in the case of lunatics.

(*e*) That every such boarder shall be discharged at the expiration of the time specified in the Colonial Secretary's assent, unless a renewed application is made and assent given.

Requirements of medical certificates under Act.

59. Every medical certificate or report under this Act shall be signed by a medical practitioner, and shall state the facts upon which the certifying medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and no order made under this Act shall be made upon a certificate founded only upon facts communicated by others.

Medical certificate evidence of certain facts.

60. Every medical certificate or report made under, and for purposes of this Act, shall be evidence of the facts therein appearing so far as they may be facts within the knowledge of the person making the certificate,, and of the judgment therein stated to have been formed by the certifying medical practitioners on such facts, as if the matters therein appearing had been verified on oath.

Medical certificates not to be signed by person related to alleged lunatic within fourth degree.

61. The medical certificates or reports under this Act shall not be received or acted upon if made by any person related to the supposed lunatic within the fourth degree of consanguinity or affinity, or the partner or assistant of a person so related; and neither of the persons signing such certificates or reports shall be so related to, or the partner or the assistant of, the other of them.

62. Mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for the purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others; and in every such case

Under what circumstances mechanical means of bodily restraint allowed.

(1) A medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the ground upon which the certificate is founded.

(2) The certificate shall be signed, in the case of a lunatic in an asylum or other place of confinement, by the medical officer thereof, and in the case of a private patient, by his medical attendant.

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(3) A full record of every case of restraint by mechanical means shall be kept from day to day.

(4) A copy of the certificates and records under this section shall be sent to the Colonial Secretary at the end of every quarter.

(5) In the application of this section "mechanical means" shall be such instruments as the Governor may, by regulations, determine.

Any person appointed under this Act to make enquiry may examine on oath and summon witnesses.

63. Any magistrate, or any commissioner, or person appointed by any competent court, or by the Governor, to make any enquiry under this Act, or in respect of any lunatic, may, if he deems it necessary so to do, summon any person to appear before him to testify on oath touching any matter respecting which such magistrate, commissioner or other person is under this Act, or by any commission or order issued by any such court, or by the Governor, authorised to enquire (which oath such magistrate, commissioner or other person is hereby empowered to administer).

Penalty for not obeying such summons.

64. Every person who does not appear pursuant to any such summons as is in the last section mentioned, or does not assign some reasonable excuse for not appearing, or who appears and refuses to be sworn or examined, shall, on conviction in the court of any resident magistrate having jurisdiction, be liable to a penalty not exceeding twenty pounds.

Expenses of witnesses.

65. Every person so summoned as aforesaid shall be entitled to be paid his expenses as if a witness summoned to attend upon a trial in a criminal case.

Requirements and execution of warrant under this Act.

66. A warrant of the Governor under this Act may be under the hand of the Colonial Secretary or of the Under Colonial Secretary, and where any warrant is authorised or required to be granted by the Colonial Secretary, such warrant may be under the hand of the Under Colonial Secretary. Every such warrant and every magistrate's order for the detention or removal of a lunatic may be executed by the person to whom it is addressed, or by any constable, and when it relates to a person not in custody may be executed in like manner as if it were a warrant for the arrest of a person charged with an offence, and it shall be the duty of every constable to aid in the execution of every warrant under this Act.

Powers of Colonial Secretary under Act may be exercised by another person appointed by Governor.

67. The Governor may, from time to time, direct that all or any of the powers, duties and authorities by this Act vested in or required to be performed by the Colonial Secretary, shall be exercised and performed by any person the Governor shall think fit, subject to any restrictions or limitations he may impose, or that such powers, duties, and authorities may, as to certain parts of the Colony, be exercised by the Colonial Secretary, and as to certain other parts by some person or persons other than the Colonial Secretary.

Escaped lunatic may be recaptured.

68. If any person escapes while being conveyed to an asylum or place in pursuance of this Act, or if any person lawfully detained

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in an asylum or other place for lunatics escapes, he may be retaken within twenty-eight days after his escape by the superintendent of such asylum, or person in charge of such other place, or any officer or servant belonging thereto, or by any person assisting such superintendent, person in charge, officer or servant, or by the duly appointed escort of such escaped person, or by any constable, and conveyed to and received and detained in such asylum or other place. If not retaken within twenty-eight days he shall be formally discharged, and before re-admission a new order must be obtained; provided that in the case of any criminal or Governor's pleasure lunatic who escapes he may be recaptured as aforesaid at any time after escape.

Cost of maintenance in an asylum or other place.

69. When any person shall be detained under the provisions of this Act in any asylum, or other place, the maintenance of such person shall, until further provision therefor be made, be defrayed out of the Colonial revenues: Provided always that all sums so paid may be recovered from the estate of any such person, or from any person or persons liable by law to contribute towards the maintenance of such detained person, by the civil commissioner of the district in which such estate is situated, or in which the person or persons so liable shall reside.

Procedure when persons on board ship become insane

70. If the port health officer at any port in this Colony certifies to the resident magistrate of the district in which such port is situate within sixty days after the arrival of any vessel that a passenger or seaman arriving by such vessel is insane, imbecile or idiotic, and has become or is likely to become a charge upon the public as an inmate of an asylum or other place for the reception of the insane, it shall be lawful for the said resident magistrate thereupon to require the owner, charterer, agent or master of the said vessel to execute with two sufficient sureties jointly and severally a bond in such sum as the said resident magistrate may determine, not exceeding five hundred pounds sterling, conditioned to pay to the said resident magistrate the maintenance of such passenger or seaman in such asylum or other place for the detention of lunatics at such rates and for such term as may be determined by the said resident magistrate, or at the option of such owner, charterer, agent or master, subject to the approval of the resident magistrate, to return such passenger or seaman to the place whence he was shipped.

Sureties to be resident in this Colony.

71. The sureties shall prove to the satisfaction of the resident magistrate that they are respectively resident within this Colony and worth treble the amount of the bond over and above all the liabilities: Provided that no bond shall be required when the passenger or seaman is at the date of the arrival of the vessel domiciled in this Colony; but the onus of proving such domicile shall be upon the said owner, charterer, agent or master.

Penalty for neglecting or refusing to execute bond.

72. If the said owner, charterer, agent or master neglects or refuses to execute the bond as aforesaid within seven days after being so required, he shall be liable to a penalty not exceeding

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£500 to be recovered summarily before the resident magistrate of the district in which the port is, and the said vessel shall not be cleared out until the bond is executed as aforesaid.

Action by lunatic, limitation of.

73. Any action brought by any person who has been detained as a lunatic against any person for anything done under this Act shall be commenced within three months next after the release of the person bringing the action.

Appointment of visitors.

74. It shall be lawful for the Governor from time to time to appoint fit and proper persons to visit, inspect and report on asylums and licensed houses under the provisions of this Act.

Governor may make, &c., regulations.

75. The Governor may, from time to time, make and alter rules or regulations for all or any of the following purposes:—

(1) For the discharge of lunatics on recovery or on the application of relatives or friends, or on probation.

(2) For the removal or transfer of lunatics from one asylum or place to another asylum or place, including the temporary transfer of patients to any specified place for such period as may be deemed expedient, for the benefit of their health.

(3) For the guidance of visitors and as to the reports to be made to or by them.

(4) For prescribing the books to be kept in asylums or otherwise in reference to any lunatic, and the entries to be made therein, and the accounts, returns, reports, extracts, copies, statements, notices, documents and information to be sent to the Colonial Secretary, or other authority or person as the Governor may direct.

(5) As to the persons by whom, the times when, and the manner in which such entries, accounts, returns, reports, extracts, copies, statements, notices, documents and information are to be made and sent, in regard to any asylum, or any lunatic or alleged lunatic.

(6) As to the terms of payment and accommodation for paying patients in any asylum.

(7) For the management of licensed houses.

(8) For prescribing forms for the purposes of this Act.

(9) Generally for the due administration and efficient working of this Act, and the care and comfort of lunatics.

Idiots from birth or early age may be detained.

76. Notwithstanding anything to the contrary in this Act an idiot or imbecile from birth or from an early age may, if under age, be placed by his parents or guardians or by any person undertaking and performing towards him the duty of a parent or guardian, and may lawfully be received into, and until of full age detained in such institution as the Colonial Secretary may appoint, for the care, education and training of idiots or imbeciles, upon the certificate in writing of a duly qualified medical practitioner that the person to whom such certificate relates is an idiot or imbecile capable of receiving benefit from training in such institution, accompanied by an application to the Colonial Secretary signed by the parent or guardian or person acting as such, and a

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statement by a resident magistrate in accordance with regulations framed under the provisions of this Act: Provided that the consent of the Colonial Secretary for the further detention of the above idiot or imbecile shall be obtained within one month of his reception into such institution; failing which the said idiot or imbecile shall be discharged. No. 2—1897.

77. The Governor may from time to time make and alter rules and regulations: Governor may make and alter regulations.

(1) For prescribing the books to be kept and the entries to be made in reference to any idiot or imbecile, and the returns, reports, extracts, copies, statements, notices, documents and information to be sent to the Colonial Secretary or other authority or person as the Governor may direct.

(2) For prescribing forms for the purposes of the last preceding section.

(3) Generally for the due administration and efficient working of such institution and the care and comfort of idiots or imbeciles.

78. This Act may be cited for all purposes as the "Lunacy Act, 1897," and shall take effect from a date to be fixed by the Governor by proclamation. Short title.

No. 2—1897.] [May 20, 1897.

Repealed by Act 14 of 1911

ACT (1)

To Make further Provision for Preventing the Spread of the Disease known as Rinderpest.

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.

1. It shall be lawful for the Governor, by proclamation, to make Rules and Regulations for all or any of the following purposes, that is to say:— Rules and regulations under this Act.

(*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 or near which the Governor shall be satisfied that Rinderpest prevails.

(*b*) To prohibit or regulate the movement of persons and the removal of any article or thing whatsoever from any area within the Colony proclaimed as infected with Rinderpest, or from place to place within such area.

(*c*) To prohibit or regulate the movement of any person, or the removal of any animal or animal produce, or any article or thing, from any area not proclaimed as infected

[1] See also Acts 12, 1897 (p. 3727), and 27, 1893 (p. 3260), and footnote thereto.

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with Rinderpest, whereby, in the opinion of the Governor, infection of Rinderpest would be liable to be conveyed.

(*d*) To prohibit or regulate the movement of persons and the removal of any article or thing whatsoever from, into or within the limits of any cordon or belt of country proclaimed under the provisions of Section two of Act No. 22 of 1896.

(*e*) To prohibit or regulate the entry into any port of this Colony of vessels which, in the opinion of the Governor, would be liable to convey infection of Rinderpest.

(*f*) For the quarantine, care, safe keeping or other treatment, whether by inoculation or otherwise, of any cattle or any other animals in any area within the Colony not proclaimed as infected with Rinderpest.

And the Governor may, by such Proclamation, provide for penalties for the contravention of any Regulation so made, and any person contravening any Regulation so proclaimed, shall be liable to a penalty in that behalf provided, and if no such penalty be specially provided, then to a penalty not exceeding one hundred pounds sterling, or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

Definition of "animal" by Governor.

2. Whenever it may become necessary to apply the provisions of Act No. 27 of 1893 to prevent the spread of Rinderpest, the term "animal" used in the said Act shall, notwithstanding anything contained in Section two of the said Act, be taken to mean any animal of whatsoever kind, as may be defined by proclamation of the Governor.

Entry on lands for purposes of this Act.

3. It shall be lawful for any person, duly authorised by the Minister, to enter at all reasonable times any land or premises for the purpose of inoculating against Rinderpest any cattle there kept running or being depastured, and such person may take and occupy any portion of such land or premises as a place for preparing material required for purposes of such inoculation: Provided that the owner of such land or premises shall be entitled to fair and reasonable compensation for any loss or damage occasioned to him by such occupation of any such place, the amount of such compensation to be such as the Governor may deem fit.

Penalty for obstruction.

4. Any person convicted of breaking, damaging, or in any way interfering with any fence constructed for Rinderpest purposes, and any person obstructing any duly authorised person in the lawful execution of his duty under this Act, or refusing such person, his agents or servants permission to enter upon his land for the purposes of this Act, shall be liable to a penalty not exceeding a fine of £50, or, in default of payment, imprisonment, with or without hard labour, for a period not exceeding three months, unless such fine be sooner paid.

Certain roads may be declared closed.

5. In order to check the spread of Rinderpest, it shall be lawful for the Governor to declare, by proclamation, that any Main

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or Divisional or Public Road or Thoroughfare in any division, whether proclaimed as infected with Rinderpest or not, shall either be closed for public or other traffic, or that the public or other traffic along such Road or Thoroughfare shall be regulated in such manner as may in such proclamation be prescribed, for such time as such proclamation shall fix.

Local Rinderpest Committee.

6. It shall be lawful for the Governor to constitute and appoint, during pleasure a Committee, to be styled the Local Rinderpest Committee, for any district or for any number of districts, or for any area which may be defined by Proclamation, of which at least two members shall be appointed upon the recommendation of each Divisional Council concerned, and which Committee shall be invested with such power and authority to enforce all Regulations duly framed and promulgated according to law for preventing the spread of Rinderpest as may by such regulations be conferred upon it.

When committees to be appointed.

7. Every Divisional Council shall be liable to be convened by the Civil Commissioner for a special meeting at not less than two days' notice for the purpose of recommending under this Act, and failing the receipt in due course of such recommendation, the Governor may act without the same: provided that as soon as may be after the passing of this Act the Governor shall take steps to constitute the Committee necessary for the purposes of this Act, and solicit recommendations from the Divisional Councils.

Expenditure for purposes of Act.

8. For the purpose of carrying out the provisions of this Act, and of Act 22 of 1896, it shall be lawful for the Governor to expend from time to time, in addition to any amounts otherwise provided, such sums as may be required, not exceeding in the whole four hundred thousand pounds sterling, from out of the accrued surplus revenue of the financial year ending 30th June, 1897.

Short title.

9. This Act may be cited for all purposes as "The Animals Diseases Rinderpest Amendment Act, 1897."

No. 3—1897.] [June 11, 1897.

ACT

To make further provision for the more effectual prevention of Cruelty to Animals.

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:—

Appointment of officer of S.P.C.A. as special constable.

1. It shall be lawful for the Minister to appoint, as a special constable, such officer of any Society for the Prevention of Cruelty to Animals recognised as such by the Government for the purposes of this Act, as such Minister may approve, and thereupon such officer shall have all the power and be subject to all the duties and liabilities of a Police Officer, but only with regard to the

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arrest, detention and prosecution of offenders against the Cruelty to Animals Act, 1888, within the district to which such officer shall be appointed.

Act to apply only to certain Municipalities.

2. This Act shall come into force in Cape Town and the municipalities within the Cape Division, and in Port Elizabeth, and in any other municipality upon proclamation by the Governor when satisfied that such a society there exists, and that the appointment of such an officer as aforesaid is there necessary.

Special constable to wear uniform or badge.

3. Any special constable appointed under the provisions of this Act shall wear such distinctive uniform or badge as shall be approved of by the Minister, and shall only exercise the powers conferred on him when wearing such uniform or badge.

Damages for unfounded or vexatious prosecution.

4. If upon the prosecution, at the instance of any such special constable, of any person for a contravention of the "Cruelty to Animals Act, 1888," the Court, upon hearing the charge or complaint, shall pronounce the same unfounded or vexatious, the Court may, within the limits of its jurisdiction, award to the accused at his request such amount as damages as shall be proved to have been sustained by him by reason of such prosecution, and any amount so awarded may be recovered, in any Court of competent jurisdiction, from the Society as whose officer such special constable shall have acted.

Short title.

5. This Act may be cited for all purposes as the "Cruelty to Animals Act, 1897."

No. 4—1897.] [June 18, 1897.

ACT

To Repeal the "Brands Registration Amendment Act, 1896," and make other provision in lieu thereof.

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. The "Brands Registration Amendment Act, 1896," and so much of "The Brands Registration Act, 1890," and of any other law as may be repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Extension of provisions of Brands Registration Act, 1890, to sheep and goats.

2. The provisions of the "Brands Registration Act, 1890," shall *mutatis mutandis*, apply and extend to sheep and goats, and from and after the taking effect of this Act the Registrar of Brands shall keep two additional registers for the registration of the brands of sheep and goats respectively.

Meaning of term "brand."

3. For the purposes of the said Act as hereby extended and of this Act the term "Brand" shall include the impression of any letter, sign or character branded or tattooed on the body of any sheep or goat, or any pitch, paint or tar brand impressed on the wool of any sheep or goat.

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4. No registration fee shall be prescribed under the said "Brands Registration Act, 1890," or this Act, exceeding the sum of two shillings and sixpence sterling for each brand registered. Registration fee limited.

5. Every owner of any horse, cattle or ostrich running in any part of any district in which the "Brands Registration Act, 1890," shall be in force, who shall mark any such horse, cattle or ostrich with any brand not duly registered as his brand under the provisions of the said Act, shall be liable to a fine not exceeding two pounds. Penalty for using unregistered brand.

6. The Brand Directory referred to in the said Act shall be compiled up to the 1st day of October in each year, and shall be published, and a copy thereof shall be issued to every Civil Commissioner, Field-cornet, proprietor of a registered brand, and Poundmaster in every area within which the said Act is in force, and to every Police Station therein not later than the 31st day of December following. Brand Directory to be forwarded to certain persons.

7. It shall be lawful for the Governor by Proclamation to suspend the operation of the "Brands Registration Act, 1890," in any Division to which the said Act shall have been extended under the provisions of the second Section thereof, and thereupon the provisions of the said Act shall cease to have effect in such Division, provided that no such Proclamation shall issue unless and until How Act may be suspended.

(*a*) The Divisional Council of such Division shall have passed, by a majority of not less than two-thirds of the elected members of such Council, a resolution requesting the Governor to issue such Proclamation, and

(*b*) It shall be proved to the satisfaction of the Governor that, at least six weeks before the date of such resolution, notice has been given in some newspaper circulating in such Division of the proposal to pass such a resolution, at some meeting referred to in such resolution.

And provided further, that the provisions of the said Act may again be extended, in manner and subject to the conditions set forth in the said second section thereof, to any Division in which the said provisions shall have been suspended under this Act. And again extended.

8. This Act shall be read as one with the said Act, and may be cited as "The Brands Registration Amendment Act, 1897." Short title.

No. 5—1897.] [June 11, 1897.

Repealed by act 30 of 1910 Sch 1.

ACT

To Provide for a Public Holiday on the 22nd day of June, 1897.

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.

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No. 6—1897.

Public holiday on 22nd June, 1897.

1. It shall be lawful for the Governor by Proclamation to declare the 22nd day of June, 1897, the day set apart for the celebration of the Long Reign of Her Majesty Queen Victoria, to be a Public Holiday throughout the Colony, and thereupon the provisions of Act No. 3 of 1856 shall apply as if such day had been specially referred to as a holiday in the first section of the said Act.

Short title.

2. This Act may be cited as "The Public Holiday Act, 1897."

No. 6—1897.] [June 11, 1897.

Preamble.

ACT

Revenue charged with £654 18s. 4d.

To Apply a Sum not exceeding Six Hundred and Fifty-four Pounds Eighteen Shillings and Fourpence Sterling for the purpose of meeting and covering certain Unauthorised Expenditure.

[Spent.]

Repealed by Act. 25 of 1934

Short title.

No. 7—1897.] [June 11, 1897.

ACT

To apply a further Sum not exceeding Seven Hundred and Thirty-four Thousand Three Hundred and Seven Pounds Sterling for the Service of the Year ending the 30th June, 1897.

[Spent.]

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No. 8—1897.] [June 25, 1897.

(1) ACT

To Amend the Customs Union Tariff Act of 1889, and to effect certain other alterations in the Customs Law.

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.

Repealed by Act 25 of 1934

So much as is unrepealed

[1] Extended to Native Territories by Proclamation 400 of 1897.

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No. 8—1897.

1. [Repealed by Act 6, 1898.]

2. [Repealed by Act 6, 1898.]

Duty on spirits distilled from South African produce.

3. A duty of customs shall be levied and imposed upon spirits distilled from the produce of and in any State, Colony or Territory within the Union, when imported into this Colony, which duty shall be equivalent to the duty imposed by way of excise according to the law of this Colony, at the time of such importation, upon spirits of the like class here distilled, provided that if an excise duty on any spirits so imported shall in manner provided by Customs Regulation be proved to have been lawfully paid elsewhere within the Union, the duty of customs by this section levied and imposed shall be reduced by the amount of such excise duty so paid elsewhere.

4. [Repealed by Act 5, 1903.]

Section 9 of Act 1 of 1889 repealed.

5. Section nine of the Customs Union Tariff Act of 1889 shall be and the same is hereby repealed.

Certain Proclamations and Regulations repealed.

6. The British Bechuanaland Proclamation No. 93 of the 1st December, 1890, and the regulations made thereunder, Proclamations Nos. 107 of the 8th May, 1891, 125 of the 21st December , 1891, and 143 of the 24th March, 1892, and any other Proclamations repugnant to or inconsistent with the provisions of this Act, are hereby repealed, and from and after the taking effect of this Act the Customs Act of 1872, and all other laws relating to the Customs of this Colony, shall be of full force and effect in that portion of the Colony recently annexed to it, and known as British Bechuanaland: but nothing in this Act shall be deemed to invalidate or to alter the conditions of any bond given under the laws heretofore relating to the Customs in British Bechuanaland, but every such bond shall remain in force as if such Act had not been passed.

Penalty for contravention of Regulations.

7. Any person contravening any of the rules and regulations made by the Collector or other Principal Officer of Customs under authority of Act No. 10 of 1872 shall forfeit the sum of five pounds sterling for each offence.

8. [Repealed by Act 6, 1898.]

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No. 8—1897.

9. Any Act or so much of any Act as may be repugnant to or inconsistent with the provisions of this Act shall be and the same is hereby repealed.

Repugnant laws repealed.

10. This Act may be cited for all purposes as the Customs Amendment Act, 1897, and shall come into force upon a date to be named by the Governor by Proclamation in the *Gazette*.

Short Title and date of taking effect of Act.

SCHEDULE A.

CLASS I.—SPECIAL RATES.

[This Schedule repealed by Act 6, 1898.]

[Pages 3712—3721.]

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No. 9—1897.] [June 18, 1897.

ACT

To provide for the Dissolution of the present Legislative Council without the Dissolution of the House of Assembly.

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:—

Dissolution of Legislative Council 1. Notwithstanding anything to the contrary contained in the Constitution Ordinance, or any other Law, it shall be lawful for the Governor to dissolve the present Legislative Council by Proclamation at any time after the 31st day of December, 1897, without dissolving the Legislative Assembly.

Proceedings upon dissolution. 2. Upon such dissolution the like proceedings, for the election of a new Council, shall be had and taken as are prescribed by Law for the election of a New Council upon a dissolution by reason of effluxion of time.

Short Title. 3. This Act may be cited for all purposes as "The Legislative Council Dissolution Act, 1897."

No. 10—1897.] [June 18, 1897.

ACT

To Apply a Sum of Money for the Service of the Year ending the 30th day of June, 1898.

[Spent.]

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No. 11—1897.] [June 18, 1897.

No. 11—1897.

Repealed by Act 18 of 1911 See 19

ACT

To Provide for the appointment of Commissioners for the Reduction of the Public Debt of the Colony, and to enable such Commissioners to grant Annuities for life, or for terms of years.

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:—

Laws repealed.

1. From and after the first meeting of Commissioners appointed under the provisions of this Act, the fifth section of Act 18 of 1883, and so much of any other Act as may be inconsistent with the provisions of this Act, shall be repealed, and the Commissioners appointed under the provisions of the fifth section of Act 18 of 1883, shall thereafter cease to hold office.

Definition of Public Debt of the Colony

2. The expression "Public Debt of the Colony" shall be taken to mean:—

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No. 11—1897.

(*a*) All debentures or stock issued on the guarantee of the public revenue of the Colony, and governed by the provisions of the "Cape of Good Hope General Loan Acts, 1881, 1883, 1888, and 1892; and

(*b*) All annuities granted under the provisions of this Act; and shall not be taken to include Temporary Loans, or any moneys belonging to any deposit account kept in the Treasury.

Functions and duties of the Sinking Fund Commissioners.

3. The control and administration:—

(*a*) Of all moneys applicable for the gradual extinction of the public debt of the Colony in any other manner than by annual drawings:

(*b*) Of all moneys received from and after the 1st day of July, 1896, either by way of instalment, or in full discharge of the capital sum for which any Crown land shall have been or may be disposed of:

(*c*) Of all existing investments of moneys heretofore received for such purposes:

(*d*) And of all monies received from time to time in respect of or in realization of such investments: [1]

shall be vested in six Commissioners, and the date of such vesting shall be the date of the first meeting of such Commissioners.

Who shall be the Commissioners.

4. The six Commissioners aforesaid shall consist of the Treasurer, who shall be *ex officio* Chairman, and of the Chief Justice, the Speaker of the House of Assembly, the Controller and Auditor-General, the Chief Agent of the Bank in which the Government Account may at the time be kept, and the Chairman of the South African Mutual Life Assurance Society, Cape Town.

Commissioners to apply certain Sinking Funds and proceeds of sale of Crown lands in reduction of the Public Debt.

5. In so far as debentures or stock issued under the authority of any Loan Act for the gradual extinction of which provision exists, other than by annual drawings, are obtainable on sufficiently favourable terms, it shall be the duty of the Commissioners, from time to time as opportunity offers, to apply all moneys available for the purpose, to the purchase of debentures or stock issued under the authority of the Act in question: And it shall also be their duty to apply the proceeds of the sale of Crown lands under their control and administration to the purchase of such Cape of Good Hope debentures or stock of any description, or of annuities for a limited number of years forming part of the public debt of the Colony, as may be obtainable on sufficiently favourable terms.

Commissioners may temporarily invest in approved securities.

6. Unless and until debentures or stock can be purchased on sufficiently favourable terms under the preceding section hereof, it shall be lawful for the Commissioners from time to time to invest temporarily on the best terms procurable, any of the moneys mentioned therein, and also all other moneys under their control and administration, in the purchase of Cape of Good Hope

[1] Certain other items added hitherto paid into revenue by Act 12, 1900 (p 4282). An annual sum of £10,000 and sums accruing from void money orders and unclaimed postal notes added by § 7, Act 43, 1905 (p. 4965).

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debentures or stock of any description, or of such other securities as may be approved of for that purpose in regulations framed by the Governor under the provisions of this Act, and from time to time to realize such investments, or may make payments into the public revenue in accordance with such regulations.

Commissioners may grant annuities in exchange for debentures or stock of the Colony

7. It shall be lawful for the Commissioners to accept and to receive from any person or persons whomsoever, Cape of Good Hope debentures, or the transfer of Cape of Good Hope stock, representing not less than one hundred pounds sterling in each case, as the consideration for the granting of life annuities; either on the continuance of single lives of named persons; or on the continuance of the lives of two named persons and the life of the longest liver of them; or on the joinst continuance of the lives of two named persons; or for the granting of annuities to named persons, or payable to bearer, for a limited number of years, not exceeding forty, commencing either immediately or at a period to be fixed at the time of granting any annuity: Provided

(*a*) That no deferred annuity may be granted to commence from the death of any person:

(*b*) That no life annuity may be granted on the continuance of the life of any person who is under 15 years of age.

(*c*) That annuities to named persons may be transferred to other named persons, or be made payable to bearer: and

(*d*) That annuities payable to bearer may be registered in the names of named persons.

The Governor may prescribe the tables to be used for annuities.

8. The amounts of such annuities shall be in accordance with such tables approved of by a competent actuary, as the Governor may from time to time direct to be used for the purpose in regulations framed under the provisions of this Act, and all such annuities shall be chargeable to the public revenue of the Colony.

Debentures or stock purchased other than as a temporary investment to be cancelled.

9. All debentures or stock purchased under the provisions of the fifth section, or accepted under the provisions of the seventh section of this Act as the consideration for the granting of any annuity, shall forthwith be cancelled in such a manner as the Governor may direct.

Governor may frame tables and regulations for certain purposes.

10. It shall be lawful for the Governor to frame regulations and tables, not inconsistent with the provisions of this Act, for:—

(*a*) Regulating the proceedings of the Commissioners, the number which shall constitute a quorum, the manner in which their acts shall be authenticated, and all other matters necessary to the efficient discharge of the duties imposed on them.

(*b*) Determining the circumstances and conditions under which, and the manner in which, the Commissioners may pay into the public revenue, the whole or part of the excess of annuities granted and payable under the provisions of this Act over the interest payable on the debentures or stock accepted in exchange for such annuities.

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(*c*) Specifying the nature of the securities in which the Commissioners may from time to time temporarily invest moneys, subject to their control and administration.

(*d*) Securing the safe custody of all Colonial debentures or stock certificates or other securities purchased as investments, and for determining in whose name or names and in what manner any Colonial stock or inscribed stock or other registered securities so purchased shall be registered.

(*e*) Determining the maximum rates at which debentures or stock of different denominations may be purchased for cash or exchanged for annuities.

(*f*) Prescribing the rate of interest of the stock to be taken to be the standard stock for the purpose of exchange for annuities, and determining the annuities which may be granted in exchange for a given amount of such standard stock.

(*g*) Prescribing the manner in which the age of a prospective annuitant and the identity, existence or death of an annuitant shall be established: provided that if the date of baptism be established and no satisfactory proof of the date of birth can be supplied, the date of baptism shall be treated as the date of birth.

(*h*) Prescribing the books and accounts to be kept and to whom accounts shall be rendered.

Annual accounts to be laid before Parliament.

11. A full account of the transactions of the Commissioners during the preceding calendar year, prepared in such manner and form as may be directed by the Governor in regulations framed under the provisions of the last preceding section hereof, and all regulations framed under the provisions of this Act, shall annually be laid before Parliament as soon as may be after the commencement of the session.

Penalties for submitting or framing false certificates of age.

12. Should any person directly or indirectly submit to the Commissioners a declaration or certificate of the age of any named person, knowing the same to be untrue in any material particular, with intent to obtain an annuity on the continuance of the life of any person under fifteen years of age, or to obtain a higher rate or amount of annuity than would be allowed according to the true age of such person, all securities received in respect of any such annuity shall be forfeited, and all right and title to any annuity which would otherwise have been payable shall cease and determine; and every person who may make any such declaration or certificate knowing the same to be untrue in any material particular shall on conviction be liable to punishment by fine not exceeding one hundred pounds, or in default of payment of the fine by imprisonment with or without hard labour for any period not exceeding six months, or to such imprisonment without the option of a fine.

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13. This Act may be cited for all purposes as the "Sinking Fund Commissioners Act, 1897." No. 12—1897. Short title.

No. 12—1897.] [June 18, 1897.

Repealed by Act 14 of 1911

ACT (1)

To Make further provision for defining the functions, powers and responsibilities of Local Rinderpest Committees.

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. Every Local Rinderpest Committee shall perform its functions and exercise its powers in accordance with Regulations duly proclaimed by the Governor, and may in accordance with such Regulations delegate functions and powers to any member of such committee or to any officer appointed in manner hereafter provided, and such member or officer shall in the discharge or exercise of the functions or powers so delegated be deemed to have the authority of the committee and to be entitled to protection, aid and support accordingly. Rinderpest Committee to act in accordance with regulations to be made by the Governor.

2. The Secretary for Agriculture, with the concurrence of the Attorney-General, may give directions to the chairman of any committee regarding the employment in aid of such committee and its members, and officers of police either belonging to the recognised police forces of this Colony, or to any force of special police which may have been or may be constituted for the purpose of preventing the spread of Rinderpest, and such directions may authorise the said chairman to order such police to act in accordance with the decisions of the committee or of members or officers of the committee by it duly authorised, and to aid in enforcing such decisions, and every act of any police officer or constable done in accordance with such orders and in carrying out such decisions shall be deemed to be lawfully done, and no liability shall attach to any such police officer or constable for any such act. Employment of police.

3. Any matter of dispute or difference arising between members of any committee or between different committees relative to the performance of functions or the exercise of powers under lawful regulation may be submitted for final decision to the Secretary for Agriculture. Matters in dispute to be referred to Secretary for Agriculture.

4. No committee or member or officer of any committee shall be personally liable for any act *bonâ fide* done in the performance of functions or the exercise of powers under regulations lawfully proclaimed, nor shall any such act render the Colonial Government liable to make any payment by way of damages or compensation beyond such amount as the Governor shall approve. Liability of members of committee.

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[1] See Acts 27, 1893 (p. 3260); 22, 1896 (p. 3611), and 2, 1897 (p 3703). Extended to all Native Territories by Proclamation 184, 1897.

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No. 12—1897.

Officers of committee.

5. Every committee may, with the approval of the Secretary for Agriculture, appoint an officer or officers to act under its direction within its area or any part thereof, and every such officer shall have the powers lawfully delegated to or conferred upon him by the committee to be exercised subject to its instructions from time to time, and shall, in the due exercise of such powers, be protected, aided and supported in all respects as if he were a member of such committee.

Remuneration.

6. The members of such committee, wherever resident, may receive as remuneration for attending meetings, and as allowances when travelling on the committee's work, such allowances as are approved by the Secretary for Agriculture, upon the same scale as allowances made to the members of any Divisional Council within the area of such committee for attending the Council's meetings and travelling on inspection duty: Provided that no member of Parliament shall be deemed to be disqualified as such member by accepting office as a member of a local Rinderpest Committee.

Notice to be given of disease amongst horned cattle.

7. It shall be lawful for any Rinderpest Committee to adopt a resolution directing all owners of horned cattle within the area of its jurisdiction, forthwith upon the appearance of any disease among such cattle, to give notice to such Committee or any member or officer thereof, and such resolution shall be notified by the Resident Magistrate in the *Gazette* and in any newspaper circulating in the area.

Penalty clause.

8. Any person wilfully disobeying any lawful order or direction of any committee or of any member or officer of any committee, in the exercise of power or discretion conferred by any regulation lawfully proclaimed, shall be liable to such penalty as may by any such regulations be lawfully provided.

Courts of Resident Magistrate to have jurisdiction

9. The Courts of Resident Magistrate shall have summary jurisdiction in respect of every alleged contravention of any provision of the Act No. 27 of 1893, Act No. 22 of 1896, Act No. 2 of 1897, or this Act, as well as of every alleged contravention of any regulation lawfully made under any one or more of the said Acts, and every prosecution for any breach of duty in respect of any lawful order or direction given by any Local Rinderpest Committee.

If committee cease to exist powers vest in Secretary for Agriculture.

10. If any committee shall cease to exist, the powers and functions of such committee shall forthwith vest in the Secretary for Agriculture.

Effect and short title.

11. This Act shall be read as one with the Act No. 2 of 1897, and may be cited as the "Local Rinderpest Committees' Powers Act, 1897."

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No. 13—1897.] [June 18, 1897.

ACT

To repeal Act No. 20 of 1883, "The Temporary Loans Act, 1883."

Repealed.

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:—

Act 20 of 1883 repealed.

1. The Act No. 20 of 1883, being an "Act for Raising a Sum not exceeding One Million Pounds sterling for the Public Service," is hereby repealed.

Governor may raise and take up upon debentures or Treasury bills, loans authorised by certain Acts.

2. Notwithstanding (1) such repeal it shall be lawful for the Governor to raise and take up upon Debentures or Treasury Bills, to be issued in this Colony or in England, all the loans authorised by the Acts mentioned in the Schedule hereunto annexed to the extent therein set forth.

Temporary loan may be taken up upon debentures, &c.

3. And it shall further be lawful for the Governor to take up upon Debenture or Treasury Bills any further sum or sums as may hereafter from time to time be authorised by Parliament to be raised as a temporary loan.

Interest. How chargeable.

4. Such Debentures or Treasury Bills shall bear interest at a rate to be agreed upon by the Governor, and the capital sum and interest shall be charged and chargeable on, and payable out of, the general revenue of the Colony.

Debentures and Treasury bills. How payable.

5. Such Debentures or Treasury Bills shall be payable at par, at such time or times, or after such notice, as the Governor shall, before issue thereof, fix and determine.

Statement of account to be laid before Parliament.

6. An account showing the amount of all such Debentures or Bills issued under the authority of this Act, and the moneys realised 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.

Provisions of General Loans Act, 1881, not to apply.

7. The provisions of "The Cape of Good Hope General Loans Act, 1881," shall not be deemed to apply to the loans authorised by this Act.

Short title.

8. This Act may be cited as "The Temporary Loans Act, 1897."

Schedule.

SCHEDULE.

	£
Act No. 25 of 1884...	92,000
Act No. 17 of 1890...	100,000
Act No. 32 of 1891...	20,000
Act No. 21 of 1892...	320,000
Act No. 17 of 1894...	40,000
Act No. 24 of 1896...	950,000

[1] See Act 30, 1898 (p. 4002), and 37, 1899 (p. 4207).

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No. 14—1897.] [June 18, 1897.

ACT

To Give the School Board of the Public Undenominational School (known as the First Class High School) at Simon's Town certain rights and powers for Educational purposes with respect to certain lands and property there situated.

Preamble.

WHEREAS on the 24th day of August, 1818, certain land situated at Simon's Town, and more fully described in the copy of the grant which forms the Schedule to this Act, was granted to the president and members for the time being of the Free School at Simon's Town, to be possessed by them in perpetuity for the purpose of erecting a Free School for the use of the inhabitants of Simon's Town:

And whereas since the abovenamed grant certain buildings have been erected on the land so granted:

And whereas a doubt may arise as to whether there are duly constituted legal successors to the said grantees in existence, in whom the title to the said land is now vested:

And whereas the School Board of the Public Undenominational School (known as the First Class High School) at Simon's Town has been for some time past in occupation of the said land and buildings, and has used the same for school purposes, and it is desirable, in the educational interests of the inhabitants of Simon's Town, to declare the said Board to be the legal Successor in title to the grantees in respect of the said property, and to give the said Board certain powers with regard 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:—

School Board declared legal successors to grantees.

1. The School Board of the Pubic Undenominational School (known as the First Class High School) at Simon's Town is hereby declared and shall be deemed for all the purposes of the grant in the preamble to this Act referred to, to be the legal successor to the grantees in the said grant mentioned, and as such vested with the title to the land comprised in the said grant and the buildings thereon, subject to the provisions of this Act.

School Board may dispose of land subject to certain conditions.

2. Notwithstanding anything contained in the said grant it shall be lawful for the said School Board, with the consent of the Governor, to dispose of the land comprised in the said grant and the buildings thereon: Provided that no building erected or to be erected upon the said land shall be used for the sale of intoxicating liquors so long as any of the immediately adjoining land remains the property or in possession of the Trustees of the Diocese of Cape Town: and provided further that any funds arising out of such disposal shall be applied towards the payment of the cost and expense already incurred in erecting a building at Simon's

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Town, for Educational purposes, in connection with the said school, upon a more suitable site, or towards the acquisition or purchase by the said Board of any land at Simon's Town aforesaid for the purposes aforesaid, or toward the cost of any building or buildings which the said Board may hereafter erect there upon land so acquired or purchased for such purposes, which said land and buildings shall be transferred to and vested in the Superintendent-General of Education, the Mayor of Simon's Town, and the Chairman of the School Board for the time being, as Trustees for the said Board, and shall be under the control and management of the School Board aforesaid.

Mortgages protected.

3. Nothing in this Act contained shall be construed so as to affect any encumbrance, if any, existing upon or against the said land.

Short title.

4. This Act may be cited for all purposes as "The Simon's Town Public Schools Grant Act, 1897."

SCHEDULE.

Schedule.

COPY OF GRANT.

By His Excellency the Right Hon'ble General Lord CHARLES HENRY SOMERSET, one of His Majesty's Most Honourable Privy Council, Colonel of His Majesty's 1st West India Regiment, Governor and Commander-in-Chief of His Majesty's Castle Town, &c., &c., &c.

I do hereby grant unto the President and Members of the Free School at Simon's Town, for the time being, a certain piece of Land therein situated (being part of the church ground), to be appropriated to the purpose of erecting a Free School for the use of the Inhabitants of Simon's Town, without, however, giving to the President and Members for the time being aforesaid, any right or authority to dispose of the same, or to appropriate the ground to any other purposes except as herein expressed, measuring twelve square roods and ninety-eight do. feet.

Extending north to the street E., to the Erf of Mr. LIND, S. and W. to the ground from which this has been deducted, as will appear by the diagram framed by the Surveyor, and with full power and authority henceforth to possess the said Piece of Land in perpetuity; subject, however, to all such duties and regulations as are either already or shall in future be established with regard to such Lands.

Granted at the Cape of Good Hope, this 24th day of August, 1818.

(Signed) C. H. SOMERSET.

By His Excellency's Command,
(Signed) C. BIRD.

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No. 15—1897.] [June 18, 1897.

ACT

To Amend the "Divisional Councils Act of 1889," by prohibiting the erection of Swing Gates across certain roads in the Division of Oudtshoorn, and to empower the Divisional Council of Oudtshoorn to remove certain Swing Gates, and for other purposes.

Preamble.

WHEREAS the existence or erection of swing gates across certain roads in the division of Oudtshoorn, is and will be an annoyance and inconvenience to the inhabitants of the said division and to the public generally, by reason whereof it is desirable to prohibit the erection of such swing gates and to empower the Divisional Council of Oudtshoorn to remove certain of the said gates, upon payment of compensation, and to amend the "Divisional Councils Act of 1889" accordingly.

Now, therefore, 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:—

No swing gates in future to be erected across main roads in the Division of Oudtshoorn.

1. From and after the promulgation of this Act no swing gates shall be erected across any duly proclaimed main road within the division of Oudtshoorn, anything in the "Divisional Councils Act of 1889" or any other Act or Law to the contrary notwithstanding.

Swing gates erected after passing of Act, notice to owner, owner liable for expenses and penalty.

2. If any such swing gate across such main road be erected after the proclamation of this Act the Divisional Council of Oudtshoorn shall serve upon the owner or owners of the land upon which the same shall have been erected, notice in writing to remove the same, and if the gate shall not have been removed within three clear days of the service of such notice, the said Council shall forthwith remove the said gate and shall recover the expenses of so doing and of the said notice from the said owner or owners; the said owner or owners shall in addition be liable to a penalty of two pounds and to a further penalty of one pound a day for every day after the expiration of the said three clear days during which the said gate shall not have been removed, such penalty or penalties to be recovered by the said Council in any competent Court.

Swing gates (across main roads) erected before passing of Act shall be removed. Notice to owner.

3. All swing gates which shall have been placed across any duly proclaimed main road in the Division of Oudtshoorn under the provisions of section one hundred and fifty-three of the Divisional Councils Act of 1889, or under any other lawful authority, before the promulgation of this Act, shall be removed by the Divisional Council of the said division; notice to remove the said gate shall be given to the relative owner or owners in manner as is provided in the last preceding Section, and if the said gate be not removed within sixty days after the service of such notice the said Council may remove the same at its own cost.

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4. In the event of any swing gate being removed under the last preceding Section by the owner or owners the Divisional Council shall repay to him or them the value of the said gate and the cost of removing the same. If the parties shall not be able to agree on the amount of such value and cost, the same shall be settled under the provisions of the "Lands and Arbitrations Clauses Act of 1882": Provided, however, that no such owner or owners shall refuse to remove or to allow the said Council to remove any swing gate by reason that the said value and cost have not yet been ascertained or paid.

Compensation to be paid to owner.

5. Section one hundred and fifty-three of "The Divisional Councils Act of 1889," in so far as the same relates to main roads within the Division of Oudtshoorn is concerned and any other Act or Law contrary to the provisions of this Act, are hereby repealed, and in other respects the said Act shall be read together with this Act.

Repeal of conflicting laws.

6. All costs and expenses payable by the Divisional Council of Oudtshoorn under the provisions of this Act, and the costs and expenses of promoting and passing this Act, shall be paid out of the revenue of the said Council.

Compensation, &c., payable out of revenues of Council.

7. This Act may be cited for all purposes as "The Oudtshoorn Swing Gates Act, 1897."

Short title.

No. 16—1897.] [July 1, 1897.

ACT

To Amend the "Excise Duty Act, 1887."

[Repealed by Act 5, 1898.]

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No. 17—1897.] [June 25, 1897.

ACT

To Make Provision for Dealing with Certain Land in Bechuanaland.

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:—

Certain Native Reserves may be declared Crown Lands.

1. Notwithstanding anything to the contrary contained in Proclamation No. 220, B.B., 1895, the "British Bechuanaland Annexation Act, 1895," or any other Law, it shall be lawful for the Governor, by Proclamation, to declare any portion of the land forming the Native Reserves mentioned in the Schedule to this Act, defined by the said Schedule, to be Crown Land, and thereupon the land so declared to be Crown Land may be dealt with in manner provided by the Laws relating to the Leasing and Disposal of Crown Lands: Provided that such Proclamation shall include only Reserves which the Governor shall be satisfied have recently, before the passing of this Act, been occupied by rebellious natives.

Cancellation of existing grants.

2. Upon the issue of any such Proclamation in respect of any such land all then existing grants to such land or any portion of it shall be deemed to be cancelled.

Short title.

3. This Act may be cited for all purposes as "The Bechuanaland Native Reserves Act, 1897."

Schedule.

SCHEDULE.

1	That portion of the Taung Native Reserve, known as the Phokwane Reserve, lately occupied by Galishiwe and his followers, including the farms Springbok Nek and Zwart Puts, which are held by Titles dated 9th September, 1893.
2	Garaphoane Native Reserve.
3	Detlaraping "
4	Budin "
5	Doxan "
6	Keloekeloe "
7	Deben "
8	Kathu "
9	That portion of the Langeberg Native Reserve occupied by Toto and Luka Jantje and their followers and by other natives in open rebellion.

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No. 18—1897.] [June 25, 1897.

ACT

To Provide for the Leasing and to Regulate the Disposal of Crown Land.

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 "Crown Lands Disposal and Leasing Acts Amendment Act, 1895," or of any other law as is repugnant to or inconsistent with the provisions of this Act is hereby repealed.

Re-enactment of Sections 4 and 5 of "Crown Lands Leasing Act, 1891"

2. So much of the first section of the "Crown Lands Disposal Act and Leasing Acts Amendment Act, 1895," as repeals the fourth and fifth sections of the "Crown Lands Leasing Act, 1891," is hereby repealed and the said fourth and fifth sections of the said Act are hereby specially re-enacted. (1)

Occupation of land under Section 4 of the Crown Lands Leasing Act, 1891.

3. The occupation of land on lease under the fourth section of "The Crown Lands Leasing Act, 1891," as hereby re-enacted shall not be held to be *bonâ fide* occupation under the provisions and for the purposes of section twenty of the "Crown Lands Disposal and Leasing Acts Amendment Act, 1895."

Short Title.

4. This Act may be cited as the "Crown Lands Leasing and Disposal Acts Amendment Act, 1897."

No. 19—1897.] [June 25, 1897.

ACT

To Amend the Southern Suburbs of Cape Town Tramway Act, 1896.

Preamble.

WHEREAS it is provided by the Schedule to the "Southern Suburbs of Cape Town Tramway Act, 1896," that the Maximum Charge to be made by the Company for the conveyance of any passenger upon the Tramway shall not exceed one penny halfpenny per mile, provided, that the Company may make a mini-

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[1] These are the sections of Act 26, 1891, which have been re-enacted:

Leasing of Crown Lands.

4. When any land has been put up for auction under the Crown Lands Disposal Act, 1887, and the minimum upset price has not been obtained, or when the Commissioner deems it inexpedient to dispose of any land by sale under the said Act,

then such land may be let on lease for any term not exceeding five years at the highest rent obtainable at public auction, on such terms and conditions as may be imposed.

Sale of land to lessee during currency of lease.

5. Any lessee of land previously offered for sale under the second section of the Crown Lands Disposal Act, 1887, may make written application during the currency of his lease for the purchase of the said land; and if he shall fulfil the conditions required by the said Act, the Commissioner shall accept the said lessee as a purchaser at the upset price at which the said land was offered for sale, in the same manner as if he had become a purchaser at public auction under the said Act.

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No. 20—1897.

mum charge of three pence for any distance less than two miles. And whereas the limitation of the rate of charge to a penny halfpenny a mile has been found to be attended with inconvenience to the Company and the public, and it is desirable that the said Schedule should be altered and amended:—

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:—

Repeal of Part of Schedule.

1. The first part of the first Clause in the Schedule to the Southern Suburbs of Cape Town Tramway Act, 1896, from the word "The" at the commencement of the said Schedule to the word "Miles" in the fifth line of the first Clause of the said Schedule, is hereby repealed, and in lieu and stead of the same the following Clauses shall be substituted, namely:—

Maximum charge between former terminus at Mowbray Hill and Constantia Road.

2. The maximum rate of charge to be made by the Company for the conveyance of any passenger for any distance on the said line, that is to say for any distance between the former terminus of the Company at Mowbray Hill and Constantia Road in the Municipality of Wynberg, or either way, shall not exceed sixpence.

Maximum charge between Mowbray Hill and Protea Road and Protea Road and Constantia Road.

3. The rate of charge to be made by the Company for the conveyance of any passenger between Mowbray Hill in the Municipality of Mowbray and Protea Road in the Municipality of Claremont, and between Protea Road in the Municipality of Claremont and Constantia Road in the Municipality of Wynberg, shall not exceed three pence in either case.

Maximum charge between Rosebank Match Factory and Station Road, Kenilworth.

4. The rate of charge to be made by the Company for the conveyance of any passenger between the Rosebank Match Factory and the Station Road, Kenilworth, shall not exceed three pence.

Time of taking effect of Act.

5. And from and after the passing of this Act the rates of charge in the new clauses above mentioned shall be the maximum rates to be charged by the Company for the distances therein mentioned.

Short Title and effect of this Act.

6. This Act shall be read as one with the Southern Suburbs of Cape Town Tramway Act, 1896, and may be cited for all purposes as the Southern Suburbs of Cape Town Tramway Act, 1896, Amendment Act, 1897.

No. 20—1897.] [June 25, 1897.

ACT

To Provide for the Construction of certain Additional Public Works.

Repealed

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:—

Application of money for purpose

1. For the purpose of constructing the works set forth in Schedule A to this Act, it shall be lawful for the Governor to

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raise or to take up, by way of temporary loan, a Sum of Six Hundred and Twenty Thousand Two Hundred and Eighty-six Pounds Sterling.

of works mentioned in Schedule A.

2. For the purposes of the Works provided for in Schedule B to this Act it shall be lawful for the Governor to apply a sum of Fifteen Thousand Pounds from moneys raised in the manner specified in the last preceding section.

Application of money for purpose of works mentioned in Schedule B.

3. The application of the moneys to be so raised for the purpose stated in Schedule B shall be entrusted to the "Mossel Bay Harbour Board" appointed or to be appointed under the provisions of any Act relating to the management of Harbour Works in Mossel Bay and the said Board shall in respect of such application have and exercise all the powers conferred upon such Board by any law.

Last-mentioned application entrusted to "Mossel Bay Harbour Board.

4. Save in cases in which it may be expressly provided by law to the contrary, the capital and interest of all loans raised on the guarantee of the Public Revenue, for the purpose of prosecuting and improving the Harbour Works of Mossel Bay, shall, in the first instance, be chargeable upon the revenues of the Mossel Bay Harbour Board, and such Board 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 of such loans.

Capital and interest of loans for Mossel Bay Harbour to be, in the first instance, chargeable upon the Revenues of the Mossel Bay Harbour Board.

5. This Act may be cited as the "Public Works Loans Act, 1897."

Short title.

SCHEDULE A.

Schedule.

1.	Additional Rolling Stock	£300,000
2.	Cape Town Extension	75,000
3.	Locomotive Workshops, &c.	20,000
4.	East London Workshops, to complete	18,311
5.	Water Supply	50,000
6.	Additional Station Accommodation	62,000
7.	Additional Siding Accommodation and Crossing Loops	44,000
8.	Additional Accommodation for Railway Employés	10,000
9.	Stores, Warehouses, &c.(Timber Sheds) ...	5,900
10.	East London Wharf—New Sheds, &c.	9,880
11.	Landing Stage for Explosives at P. E.	5,750
12.	Electric Lighting of Houses of Parliament	5,000
13.	Additional Telegraph Wire at Sundry Stations	2,695
14.	Overhead Bridge at Claremont	6,500
15.	Siding Zwartkops Junction—Bethelsdorp Salt Pan...	5,250
		£620,286

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No. 21—1897.

Schedule B.

SCHEDULE B.

Mossel Bay Harbour Board £15,000

No. 21—1897.] [June 25, 1897.

ACT

To give the Trustees of the Diocese of Cape Town certain Rights and Powers with respect to certain Land situate in the City of Cape Town.

Preamble.

WHEREAS on the eleventh day of April, 1848, certain land situate in Cape Town, more fully described in a Copy of the Grant of the said land which forms a Schedule to this Bill, was granted to the Right Reverend Father in God, Robert, by Divine permission, Bishop of Cape Town, and his successors in the said See, to be possessed by him or them in perpetuity and used for the purposes of a School or Schools and Teachers' Residences in connection with the Church of England and to and for no other use whatsoever:

And whereas the said land was thereafter, to wit, on the sixteenth May, 1870, transferred, subject to the conditions contained in the said Grant, to the Board of Trustees for the Diocese of Cape Town, in trust under and subject to the control, powers and authority of the Provincial Synod or the Provincial Trusts Board under the Deed of Constitution of the Church of the Province of South Africa:

And whereas since the above named Grant was issued certain buildings have been erected upon the land so granted, which have been utilised as a School in connection with the said Church:

And whereas the Trustees of the Diocese aforesaid are desirous of enlarging the Cathedral Church of this City, known as St. George's Church, and of utilising portion of the land so granted as aforesaid for that purpose:

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, as follows:—

Diocesan trustees may utilise land granted for Schools and Teachers' Residences for enlarging St. George's Church, notwithstanding conditions in Grant, subject to certain restrictions.

1. Notwithstanding anything contained in the said Grant it shall be lawful for the Board of Trustees of the Diocese of Cape Town to utilise the land granted and transferred as aforesaid for the purpose of enlarging or adding to the Cathedral Church of this City known as St. George's Church, or for building upon the said land portion of a new Cathedral Church, which addition, enlargement or building shall at all times be used for Divine Service in connection with the Church of England and for no other purpose whatsoever; provided however, that the Trustees aforesaid shall make due provision, shall it be found necessary to remove the

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existing school building, for the erection of another building for educational purposes in connection with the Church of England aforesaid on the same or some other suitable site. No. 21—1897.

2. This Act may be cited for all purposes as the "St. George's Church Enlargement Act, 1897." Short Title.

SCHEDULE. Schedule.

Copy of Grant.

In the Name and on behalf of Her Majesty Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

I do hereby grant in Freehold unto the Right Reverend Father in God, Robert by Divine permission Bishop of Cape Town in the said Colony, and his Successors in the said See, a piece of land containing One Hundred and Ninety-one square roods and 73 do. feet, situate in Cape Town, bounded N.E. by a drain between this land and Waale Street, S.E. by the walk of the Government Gardens—S.W. by a passage ten feet wide between this land and the Gardens; and N.W. by land granted to the Trustees of St. George's Church, as will further appear by the Diagram framed by the Surveyor together with a full right of way on foot and with horses, cattle, carts and carriages to, into and from the said piece of land from the N. Eastern Boundary thereof over the adjoining public drain or water course into the Street called Waale Street, with power to arch or cover over or put bridges across the said water course; and also with a right of foot passage to, into and from the said piece of land from the S. Western Boundary thereof into the foot road at the S. West end thereof, leading to St. George's Church, for the purpose of going to and from the said Church, and with full power and authority to the said Bishop and his Successors henceforth to possess the same land and rights hereby granted in perpetuity but without permission to dispose of or alienate the same except by and with the approbation of Government, and upon the Conditions following, that is to say, that the said piece of land shall for ever hereafter be used for the purposes of a School or Schools and Teachers' residences in connection with the Church of England, and to and for no other use and purpose whatsoever.

And further that all buildings to be erected upon the said land shall be of a neat and substantial character.

And further that the said Bishop and his Successors do and shall well and sufficiently fence off with walls or railings the South East, and South West boundaries of the said piece of land,

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No. 22—1897.

and do and shall for ever hereafter maintain and keep the same walls and railings with all needful reparations. And further that no road whatsoever shall be made from the South W. side of the said piece of land into the road or Avenue called the Government Walk, nor shall any opening be made in the railing or wall on such S.W. side, the land thus granted being further subject to all such Duties and Regulations as are already or shall in future be established respecting lands so granted.

Given under my Hand and Public Seal of the Settlement at Cape Town, this Eleventh day of April, 1848.

By His Excellency's Command,

(Sd.) H. J. SMITH.

(Sd.) M. R. ROBINSON,
Actg. Surveyor-General.

No. 22—1897.] Rep by Act 22 of 1916 [June 25, 1897.

(1) ACT

To Amend the "Railway Injuries Compensation Act, 1889."

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:—

Compensation for stock destroyed or injured.

1. The amount of the compensation payable by the Colonial Government under the provisions of the first section of the "Railway Injuries Compensation Act, 1889," to the owner of any stock destroyed or injured by a train running on any part of the Cape Government Railways, shall in no case exceed the following rates, viz:—

For any horse	£40
For any ass or (1) mule...	£12
For any neat cattle (1), per head	£20
For any ostrich	£12
For any sheep or goat...	£2

Application to private companies.

2. The provisions of the said Act, as amended by this Act, shall, *mutatis mutandis*, extend and apply to every individual partnership or company in respect of any line of railway owned or worked by such individual, partnership or company.

Short title.

3. This Act may be cited as the "Railway Injuries Compensation Amendment Act, 1897."

[1] Printed as amended by Act 10, 1903 (p. 4591). For any mule not exceeding £20.

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No. 23—1897.] [June 25, 1897.

(1) ACT

To Amend and Add to the Law with regard to Public Health, and to Extend and Define the Jurisdiction and Powers of Local Authorities in respect to matters relating to Public Health.

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:—

PART I.—PRELIMINARY.

Repeal of Repugnant Laws.

1. The laws mentioned in the first schedule hereto, to the extent to which the same are therein expressed to be repealed, together with so much of any other law as may be repugnant to or inconsistent with any of the provisions of this Act, shall be and the same are hereby repealed; but such repeal shall not affect things done, offences committed, penalties incurred, or proceedings commenced or pending under or by virtue of, or against any of the said repealed laws, or any bye-laws or regulations framed thereunder.

Interpretation Clause.

2. 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:—

"Urban Local Authority" shall mean

(1) The council or board of commissioners of any municipality, borough or corporate town.

(2) The board of management of any community in which the "Villages Management Act, 1881," or portion of that Act, is in operation

"Medical Officer of Health" shall include the "Assistant Medical Officer of Health."

"District" shall mean the area within the local limits of and subject to the jurisdiction of a local authority.

"Sanitary convenience" shall mean and include urinals, water-closets, earth-closets, privies, middens, ashpits, and any similar convenience.

"Night-soil" shall mean human excrement, or excrement and urine, whether by itself or mixed with earth, ashes or any other matter or thing.

"Drain" shall mean any drain of and used for the drainage of one building only, or of premises, within the same curtilage or enclosure, and made merely for the purpose of communicating therefrom with a sewer, cesspool or receptacle for drainage, into which the drainage of two or more such buildings or premises occupied by different persons is conveyed.

[1] Extended, as modified, by Proclamation 18, 1899, to Mount Currie; by Proclamation 197, 1901, to Umtata; by Proclamation 108, 1904, to Xalanga.

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"Sewer" shall mean and include sewers, drains, pipes, culverts, manholes, chambers, ventilating shafts, ejectors, sluices, and all things for or in connection with the conveyance of sewage or sewage effluent, except drains to which the word "drain" interpreted as aforesaid applies.

"Sewage-works" shall mean and include reservoirs, tanks, strainers, filter-beds, engines, pumps, and all machinery, buildings, things, lands, and cultivated lands, for dealing with or disposing of sewage or night-soil, except drains and sewers to which the words "drain" and "sewer" defined as aforesaid apply.

"Waterworks" shall mean and include streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines, and all machinery, lands, buildings and things for supplying or used for supplying water.

"Dwelling" shall mean and include any house, building or premises, *huur kamer* (hire room), hut, tent, caravan, vessel or boat, or other place, the whole or any part of which is used as a sleeping place, or habitually occupied by one or more persons.

"Public Building" shall mean and include theatres, opera houses, halls, rooms, exhibitions, churches, chapels, meeting-houses, and all buildings used for purposes of public resort or assembly; also hotels, boarding-houses, and similar establishments, in which twenty-five or more persons, besides the servants and family of the occupier, may be accommodated; and schools, factories, lodging houses, hospitals and benevolent or other asylums, in which above twenty-five persons in number are gathered or employed, or intended to be gathered or employed at one time.

"Street" shall include any highway, public bridge, road, lane, footway, square, court, alley, passage, or public place, whether a thoroughfare or not.

"Dairy" shall include any farm, farm-house, cow-shed, milk-store, milk-shop, or other place from which milk or the product of milk is sold or supplied, or is kept for purposes of sale or profit.

"Dairyman" shall include any occupier of a dairy, dealer in milk, or person keeping any cow for the purpose of selling milk.

"Slaughter-house" shall mean and include the buildings and places commonly called slaughter-houses or abattoirs, and also knacker's yards, and any building or place used for slaughtering, or for dressing or preparing the carcases of cattle, horses, or animals of any description.

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See note on page 3741

"Burial Ground" shall mean any burial ground, whether public or private, or any place whatsoever wherein is buried or intended to be buried one or more human bodies.

PART II.—Medical Officers of Health and Advising Board.

Appointment of Health Officer for the Colony.

3. It shall be lawful for the Governor, so soon after the taking effect of this Act as may be, to appoint a Medical Officer of Health and an Assistant Medical Officer of Health for the Colony, who shall be legally qualified medical practitioners, and whose duty it shall be to advise the minister upon and, subject to the authority and instructions of the Minister, superintend any matters and things relating to the Public Health of the Colony, and who shall have and may exercise all or any of the rights and powers conferred upon a health officer under this Act.

Local Health Officers.

4. It shall be lawful for any local authority from time to time to appoint, and, subject to the approval of the Minister, to suspend or dismiss, a health officer for its district, who shall be a qualified medical practitioner and who shall be subject and conform to regulations to be made from time to time in that behalf by such local authority with the approval of the Minister. Should the local authority fail to appoint a health officer, and until such time as the local authority intimates to the Minister that it has appointed a health officer as is herein provided, the district surgeon, or such other qualified medical practitioner as the Minister shall appoint, shall be the health officer for the purposes of this Act, and shall conform to regulations made in that behalf by the Minister with the approval of the Governor.

Advising Board of Health.

5. The Colonial Medical Council as constituted by the "Medical and Pharmacy Act, 1891," shall be and is hereby constituted an Advising Board of Health for the purposes of this Act, and shall have the powers, and be subject to the duties hereinafter set forth.

Reference of matters of public health to Board of Health.

6. It shall be lawful for the Minister from time to time to refer all or any reports concerning the public health received from the Medical Officer of Health or Assistant Medical Officer of Health, to the Board for their consideration, and to require their advice and recommendations thereon; and no compulsory power conferred by this Act upon the Governor or the Minister as the case may be shall be exercised unless and until the report and recommendations of the Medical Officer of Health thereon, together with a statement of the objections, if any, of the local authority affected or intended to be affected thereby shall have been laid before the Board for their advice.

PART III.—Local Authorities—Powers and Duties.

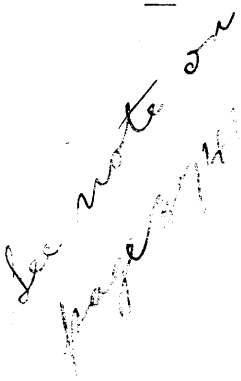
Certain regulations must be made.

7. Every urban local authority shall make, and may from time to time alter or revoke bye-laws or regulations:—

(1) For the suppression of nuisances and for the preservation of the public health.

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(2) For compelling residents to keep their premises free from offensive, infectious or unwholesome matters.

(3) For the protection from pollution of any water which the public have to use for drinking purposes.

(4) For regulating and restricting the killing of animals, the sale of butchers' meat, the establishment, locality and supervisions of slaughter houses, and the disposal of the waste products of slaughtering, and for the inspection of imported meat, and the prevention of the sale of any such as is diseased or in an unsound or unwholesome condition.

If any local authority shall fail to make, alter or revoke such regulations as in the opinion of the Minister are necessary for the foregoing purposes, it shall be lawful for the Minister to give notice to the local authority in default, requiring it to make, alter or revoke such regulations. If such local authority shall fail to comply within four months after the receipt of such notice, it shall be lawful for the Governor to proclaim such regulations as may be considered necessary, which said regulations shall thereupon have the force and effect of law within the district of such local authority. Copies of such regulations shall be laid before both Houses of Parliament during the next ensuing Session of Parliament.

Governor may enforce regulations on failure of local authority.

8. If any local authority fails to enforce or carry out any regulation made under the provisions of the preceding section, it shall be lawful for the Governor to enforce or carry out such regulation, and to authorise any person or persons to take the necessary steps for that purpose. In order to carry out or enforce such regulation, it shall be lawful for the Governor to expend a sum not exceeding one-fourth of the amount of the revenue of the local authority derived from rates for the preceding year, but in no case to exceed the sum of one hundred pounds in any one year; provided that it shall be lawful for the Governor to expend such larger sum as may be deemed necessary for the above purpose upon the consent of both Houses of Parliament being first obtained thereto; provided further that any money expended by the Governor under this section shall be recoverable by the Minister from the local authority in any competent Court.

Certain regulations may be made.

9. 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:—

(1) (*a*) For providing and maintaining a sufficient supply of water for the inhabitants and regulating its use and charges to be made for the same;

(*b*) For regulating the supply and distribution of any water under the control or management of such authority;

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(c) For providing, maintaining and regulating public baths and washhouses, and bleaching and drying greens and grounds, and for regulating the use and the charges to be made for the same.

(2) (a) For establishing and regulating a suitable system of sewerage and drainage and sewage works.

(b) For providing for the satisfactory removal or disposal of night soil and of other decaying offensive or unhealthy matter, including slopwater, town and domestic refuse and stable litter and for regulating the time and mode of removal thereof;

(c) For providing and maintaining public sanitary conveniences.

(3) (a) For regulating and controlling the erection of new buildings and securing stability, the observance of sanitary precautions, the provision of a sufficiency of air space and the prevention of fire;

(b) For preventing the overcrowding and the unhealthy use of dwellings and public buildings;

(c) For preventing the occupation of such dwellings or public buildings as are unhealthy or dangerous to life, or unsuitably situated.

(4) (a) For preventing the spread of contagious or infectious diseases;

(b) For providing and maintaining sufficient and suitable hospital accommodation for the isolation of persons suffering from infectious or contagious disease;

(c) For providing and maintaining apparatus for the disinfection of any infectious person, article or thing and for regulating its use and the charge to be made therefor;

(d) For establishing and maintaining cemeteries and mortuaries;

(5) (a) For the establishment and maintenance of public slaughter houses or abattoirs, and for regulating the use and the charge to be made for the use of the same;

(b) For regulating the fish industry and the establishment and locality of fish markets;

(c) For the regulation, restriction and inspection of dairies, the sale of milk, its products, and the keeping of cows, asses, ewes or goats for the sale of milk;

(d) For regulating the trade in fruit and vegetables, or any article intended for the food of man, and preventing the sale or exposure or preparation for sale of any such as are unsound or dangerous to health;

(6) (a) For regulating, restricting or preventing noisome or offensive trades;

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(*b*) For the regulation of the keeping of horses, cattle, asses, mules, goats, sheep or swine.

(7) For regulating the use of Native Locations and for maintaining good order, cleanliness and sanitation therein, and for preventing overcrowding and the erection or the use of unhealthy or unsuitable huts and dwellings;

(8) For the purpose of carrying into effect any provision of this Act.

Regulations to be approved by Governor, and published.

10. After any bye-law has been made or amended by the 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 shall have the force of law in the district.

How regulations to be made.

11. Every urban local authority shall in respect of the making, amending or repealing of bye-laws or regulations to be made under this Act, be at liberty to conform either to the provisions of the "Municipal Act, 1882," or to the provisions of the Law under which the Board of Commissioners or Council, or the Board of Management, as the case may be, constituting such local authority is established.

Power to impose penalties in bye-laws.

12. Any bye-law 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 of not less than seven days from the local authority.

Establishment of local authority by Governor outside municipality, &c.

13. Whenever [1] it shall be shown to the satisfaction of the Governor that any area not under the jurisdiction of any Council or Board of Commissioners of any Municipality, Borough, or Corporate Town, or within which the Villages Management Act, or portion of that Act, is not in force, should, by reason of the density of its population, sanitary condition, or other sufficient reason, be placed under the control or management of an urban authority, it shall be lawful for the Governor to proclaim such area, or such portion of it as he may deem fit, to be a district within the meaning of this Act, and shall appoint such persons, as he may deem fit, not being more than five or less than three in number, to act during his pleasure as the local authority for the purpose of carrying out the provisions of this section: Provided that before any such area shall be proclaimed a district under this section or a local authority be so appointed, notice of the intention of the Governor so to do shall be advertised for four consecutive weeks in the *Gazette* and a newspaper (if any) circulating within such area: And provided further that it shall be competent for

Notice.

Residents may recommend persons to serve.

[1] As to establishment of Native Reserve Location in or near urban areas see Acts 40, 1902 (p. 4511) and 8, 1905 (p. 4815).

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the residents within such area on the Divisional Council Voters' Roll, at any public meeting held before the expiration of a date to be named in such notice as aforesaid, but not being less than four weeks from the date of the first issue of such notice, and at which not less than one half of such residents are present, by a majority at such meeting to recommend to the Governor any person or persons to serve on such local authority as aforesaid: And provided further that in the event at any time of the residents within such area determining to come under the operation of the Municipal Act, 1882, or the Village Management Act, 1881, the provisions of this section shall cease to operate from and after the date of such community so coming and continuing under the operation of either of the said Acts.

Power of such local authority.

14. Whenever any such local authority shall be constituted by the Governor, as in the last preceding section provided, such local authority shall, *mutatis mutandis*, within the district proclaimed as aforesaid have and exercise all the rights, powers and duties conferred by, and shall conform to all the requirements of the provisions contained in the sections seven and eight, the sub-clause two (*b*) and three (*b*) of section nine, and the sections eleven, twelve, seventy-five, seventy-six, seventy-eight, seventy-nine, eighty and eighty-one, and all the sections included in Part V, Procedure, and Part VI, Contracts, of this Act. Further, in regard to the assessing and levying of rates for any of the purposes contained in this section, such local authority shall, *mutatis mutandis*, have the powers conferred by section sixteen of the Villages Management Act of 1881; and every such local authority shall keep accounts in conformity with section seventeen of the said Act.

Governor may proclaim regulations.

15. In cases of urgent necessity arising from the prevalence or threatened outbreak in any district of any contagious or infectious disease, mentioned in section thirty-eight, it shall be lawful for the Minister to make and proclaim such regulations to be in force within such district as may be required to prevent the outbreak, or check the progress of, or eradicate such disease.

Such regulations to have force of law.

16. Any regulations so made and proclaimed under the provisions of the last preceding section for any such district shall have the force of law therein until repealed or amended by the Governor.

The Governor may frame special regulations for dealing with certain matters outside the district of an urban local authority, but affecting the inhabitants within such district.

17. It shall be lawful for the Governor, on the recommendation of the medical officer of health or the representation of any urban local authority directly concerned, to make and proclaim and from time to time to vary, amend, alter or repeal regulations to be in force within any area not in any part included within the district of such local authority, for all or any of the following purposes:

(1) For regulating slaughter-houses, and the inspection either of slaughter-houses or premises used for slaughtering, or the storage or preparation of meat for sale, or of any

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animal, carcase, offal or meat therein by any officer appointed by any local authority in whose district the meat from such slaughter house or premises has been or is intended to be sold.

(2) For preventing the pollution, outside the district of any local authority, of any water used for drinking purposes so as to be a source of danger to persons living within such district.

(3) For preventing the depositing of sewage, night-soil or filth, or the carrying on of any offensive trade outside the district of any local authority so as to be a nuisance or source of danger to persons living within such district:

Provided, that:

(*a*) The intention of the Governor shall be first advertised for three consecutive weeks in the *Gazette* and a newspaper (if any) circulating in the neighbourhood of the said area; and

(*b*) Any local authority directly concerned in the enforcement of such regulations shall for the purposes of the procedure provided by Part V of this Act be deemed to be the local authority therein referred to.

Powers of local authority.

18. It shall be lawful for any urban local authority to undertake, carry out and effect or cause to be undertaken, carried out and effected, all things necessary for the purposes of

(*a*) Any scheme for the supply of good water or for the improvement of any existing supply.

(*b*) Any scheme of sewerage or drainage, or for the removal or disposal of night-soil, or other decaying, offensive or unhealthy matter, including town refuse, or for the improvement of any such scheme:

Provided that such local authority shall satisfy the Minister that the intended scheme is suitable and the best practicable; and, provided further, that no scheme involving expenditure exceeding one quarter of the amount of the preceding year's revenue, derived from rates, shall be undertaken without the consent of a majority of ratepayers present at a meeting duly convened in manner provided by the law under which such local authority is constituted, or, in the case of a Village Management Board, a majority of the registered voters present at a meeting convened by the chairman after fourteen days' notice published in a newspaper circulating in the district.

Powers of local authorities with regard to the construction of waterworks.

19. For the purpose of carrying out any scheme for the supply of water, as in the preceding section mentioned, any urban local authority may either within or without the limits of its district from time to time purchase or acquire the right to any water or waterworks, or undertake, or cause to be undertaken, any works for impounding, storing or distributing any water to which such local authority has a legal right, or construct, keep in repair, alter, extend or maintain any waterworks, and may carry

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any pipes into, through, or under any street, and, after giving reasonable notice, in writing, to the owner or occupier of its intention of so doing, into, through, or under any private land or premises, or compulsorily acquire any land or premises, and for these purposes may make such compensation as may be mutually agreed upon or fixed by arbitration; and all such waterworks shall be vested in the local authority.

Powers of local authorities with regard to the construction of sewers

20. For the purposes of carrying out any drainage or sewage works any urban local authority may

(1) Make such sewers as may be necessary for effectually draining the whole or any portion of its district, and may carry any such sewer through, across or under any street, or under any cellar or vault which may be under the pavement or carriage way of any street within its district; and also (subject to the provisions contained in sections twenty-two and twenty-three) without the limits of its district; and after giving reasonable notice in writing to the owner or occupier of their intention of so doing, into, through or under any land or premises whatsoever within its district, and for this purpose may make such compensation to the owner or occupier thereof, as may be mutually agreed upon or fixed by arbitration; and the local authority or any person duly authorised by them shall at all times have the right of access over or through such land or premises to any such sewer for purposes of inspection, maintenance, alteration or repair; and all such sewers shall be vested in the local authority.

Powers and duties of local authorities with regard to maintenance of sewers.

(2) From time to time alter, enlarge, divert, discontinue, close up or destroy any sewer under its control: Provided that the discontinuance, closing up or destruction of any sewer shall not cause any person to be deprived of or injured in the rights conferred upon him by the twenty-fourth section hereof, or be done in such a manner as to create a nuisance. It shall be the duty of every local authority to cause the sewers under its control to be kept at all times properly ventilated, cleansed, emptied and free from deposit, and in good repair so as not to be a nuisance.

Local authority may undertake sewage works or farms.

(3) Within the limits of its district, and also (subject to the provisions contained in the three next succeeding sections), without the limits of its district, acquire, or take and expropriate at such price as shall be mutually agreed upon or fixed by arbitration, any land or premises, and construct or cause to be constructed any sewage works, and may deal with or cause to be dealt with, or lease for the dealing with, any lands held by it for this purpose, or deal with the produce of any such lands or the products of any such sewage works in such manner as it may deem to be most profitable and best: Provided, always, that it shall not thereby create a nuisance, or

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pollute any natural stream, watercourse, canal, pond or lake.

May contract for disposal of sewage.

(4) Contract for the dealing with or disposal of sewage or night-soil, either within or without the limits of its district.

Notice to be given before commencing any works outside the limits of district of local authority.

21. An urban local authority shall at least three months before commencing the construction or extension of any scheme for water supply or for any sewer or sewage works without the limits of its district give notice of the intended work by advertisement in one or more local newspapers circulating within the district or districts wherein the work is to be done.

Contents and service of notice.

Such notice shall describe the nature of the intended work, and shall state the intended course and termini thereof, and the particulars of the streets and other land or premises (if any) through, across, under or on which the work is to be done; and shall name a place where a plan of the intended work is open for inspection at all reasonable hours; and a copy of such notice shall be served on the owners or reputed owners, lessees or reputed lessees, and occupiers of the said land or premises and on the local authority having the care and control of such streets, land or premises.

See note on page 3741

In case of objection local authority not to commence intended work without sanction of the Minister.

22. If any such owner, lessee, or occupier, or any such local authority, or any other person who would be affected by the intended work, object to such work, and serve notice in writing of such objection on the urban local authority at any time within the said period of three months, then the intended work shall not be commenced without the sanction of the Minister, unless such objection shall have been withdrawn.

The Minister may appoint some person or persons to enquire into and report upon the intended work.

23. The Minister shall on the application of the said urban local authority appoint some person or persons to make inquiry on the spot, after notice of the time and place of inquiry published ten days previously in one or more newspapers circulating in the district, into the propriety of the proposed work, and into the objections thereto, and such person or persons shall report to the Minister thereon; and on receiving such report the Minister shall make an order disallowing or allowing the proposed work, with or without such modifications as he may be advised are, and deem to be necessary.

Rights of owners or occupiers to use sewers.

24. The owner or occupier of any premises within the district of an urban local authority shall be entitled to have or to cause his drains to empty into the sewers of that authority on condition of his giving to that authority seven days' notice of his intention so to do or such other notice as may be required by that authority, and of complying with the regulations in force within the district in respect of the mode in which, and the persons by and under the superintendence of whom the communications between such drains and sewers are to be made, and in respect of the payment of expenses necessarily incurred by such authority.

Protection of sewers, &c., against damage.

25. Any person who without complying with the provisions of the last preceding section shall cause a drain to empty into any sewer belonging to or vested in a local authority, or who shall

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See note on page 3741.

(1) Erect or cause to be erected any building or other structure over any sewer;

(2) Excavate, open up, or remove, or cause to be excavated, opened up or removed the ground around, under or near to any sewer;

(3) Make or cause to be made any opening into any sewer, without the written consent of the local authority to whom belongs, in whom is vested, or under whose authority was constructed, such sewer; or any person who shall injure or destroy, or cause to be injured or destroyed, any sewers or any works or things in connection therewith, belonging to, vested in, or constructed under the authority of a local authority, shall for each offence be liable to a penalty not exceeding twenty pounds; and the local authority may close, subject to any rights conferred on any person under the last preceding section, any such communication between a drain and sewer, alter, demolish, or otherwise deal with, as they may think fit, any building or structure so erected, fill in and make good any ground so excavated, opened up or removed, and repair and make good any such damage; and the expenses incurred in so doing shall along with such penalty be recoverable from the offender in any competent court of jurisdiction, and upon failure to pay such penalty and expenses such person may by order of such court be imprisoned for any period not exceeding three months.

PART IV.—Prevention of Infectious Disease.

Inspection of dairies in case of suspected spread of infectious diseases and power to prohibit supply of milk.

26. Whenever it shall appear to any urban local authority and be certified to that effect by the Mayor or Chairman, or in the absence or incapacity of such Mayor or Chairman, then by the secretary or clerk to the Council or Board, or be certified by any health officer, or by any medical practitioner, that the spread of infectious disease is in his opinion attributable to the milk supplied from any dairy, the resident magistrate or any justice of the peace having jurisdiction in the place where such dairy is situate may authorise a health officer, or in the event of the services of such officer not being available, then a medical practitioner to inspect such diary and the animals therein, and any cows supplying milk thereto, and to make any inquiries that he may deem necessary in order to form a correct opinion, and report thereon to the resident magistrate or justice of the peace, and if on such report it shall appear that infectious disease is caused by the consumption of the milk supplied from such dairy, the resident magistrate or justice of the peace shall give notice to the dairyman to appear before him within such time, being not less than twenty-four hours, as may be specified in the notice, to show cause why an order should not be made requiring him not to supply any milk therefrom, or to manufacture any dairy produce from such milk, until such order shall have been withdrawn by the resident magistrate or justice of the peace as the case may

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be. And if in the opinion of the said resident magistrate or justice of the peace he fails to show such cause, the resident magistrate or justice of the peace may make such order as aforesaid; and shall forthwith give notice of the facts to the local authority within whose district such dairy is situate, and to the Minister. An order made by a resident magistrate or justice of the peace in pursuance of this section shall be forthwith withdrawn on the resident magistrate or justice of the peace becoming satisfied upon the report of the health officer or any medical practitioner, or the showing of the said dairyman or of the local authority within whose district such dairy is situate, or of the local authority originally making the complaint, that the milk supply has been changed or that the cause of infection has been removed. Any person refusing to permit any such inspector, health officer or medical practitioner duly authorised in the manner aforesaid, to inspect any dairy or any animals kept therein or supplying milk thereto, or in any way obstructing such officer or medical practitioner in the execution of his duties under this section, or making false answer to any necessary question put by such health officer or medical practitioner, shall be liable to a penalty not exceeding five pounds, or to imprisonment with or without hard labour for a period not exceeding three months. And any person, after any such order not to supply milk or to manufacture dairy produce therefrom as aforesaid has been given, supplying any milk or selling any for consumption or manufacturing any dairy produce therefrom, in contravention to such order, shall be liable to a penalty not exceeding five pounds, or to imprisonment with or without hard labour not exceeding three months for each offence: Provided that no dairyman shall be liable to an action for breach of contract, if the breach be due to an order from the resident magistrate or justice of the peace under this Act. Any expenses incurred under this section for the reasonable remuneration or travelling expenses of any health officer or medical practitioner while inspecting any dairy as aforesaid shall be borne by the local authority within whose district such dairy is situate. The provisions of this section shall apply *mutatis mutandis* to any manufactory of aerated waters or any other drink intended for sale and consumption by man.

Penalty for obstructing inspection.

Penalty for disregarding order.

Expenses of health officer.

Aerated waters and other drinks.

Specification of infectious diseases.

27. The provisions of this Act, unless otherwise expressed, in so far as they concern infectious disease, shall be taken to extend and apply to all of the following diseases, namely:—small-pox, and diseases resembling small-pox, cholera, diphtheria, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names: typhus, enteric, relapsing, yellow, or puerperal, leprosy, and any other disease which the Governor may from time to time, by proclamation, declare to be contagious or infectious within the meaning of this Act.

Notification of infectious diseases.

28. It shall be the duty of any person in charge of a person suffering from any infectious disease mentioned in section twenty-

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seven, or of any householder, hotel-keeper, boarding-housekeeper, lodging-housekeeper, or school-keeper on whose premises there is any person suffering from any such infectious disease, on becoming aware of such disease, to give immediate notice thereof to the urban local authority, or in case the person suffering from such disease is beyond the limits of such local authority, then to give notice thereof to the divisional council, or if there be no divisional council, to the resident magistrate of the district, as soon as may be reasonably practicable. Any such person as aforesaid failing to give the notice required in this section shall be guilty of an offence under this Act.

By medical man.

29. It shall be the duty of any medical practitioner in attendance upon any person suffering from any infectious disease within the meaning of the twenty-seventh section hereof, to inform the householder, hotelkeeper, boarding or lodging-house keeper, or school-keeper, or person in charge of such person, of the infectious nature of the complaint, and to forward as early as possible to the urban local authority of the district in which such person is dwelling, and in case such person is dwelling beyond the limits of any urban local authority then to the divisional council, or the resident magistrate in case there be no divisional council, a written certificate specifying to the best of his knowledge and belief the nature of the complaint, and the name, sex, age and location of such person; and it shall be lawful for the medical practitioner supplying any such certificate to charge and recover from the local authority or the divisional council, or the Government as the case may be, any reasonable sum not exceeding two shillings and sixpence sterling for the same in respect to each case of disease so notified: and the local authority, divisional council or resident magistrate, as the case may be, upon receiving such report or such notice as in the preceding section mentioned, shall immediately report the fact to the health officer: and if required by the Minister, also to the medical officer of health: Provided that no charge shall be made for any such certificate given by any health officer, district surgeon or other medical officer in the ordinary course of his official duty; and provided further that any sums defrayed by the local authority under this section in respect of diseases provided for under the thirty-eighth section of this Act shall be taken to be moneys expended within the meaning of that section. Any such medical practitioner as aforesaid failing to give the notice or the certificate required in this section shall be guilty of an offence under this Act.

Special service for removal of typhoid or cholera excreta.

30. When typhoid fever or cholera or any infectious disease proclaimed for the purposes of this section by the Governor exists in the district of any urban local authority, such local authority may, and when required by order of the Minister shall, provide and maintain a separate service under regulations to be framed by the Minister for the removal and destruction by fire of, or otherwise efficiently dealing with the excreta of persons suffering from such typhoid fever or cholera.

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Infectious matter thrown into ashpits, &c., to be disinfected.

31. Any person who shall knowingly cast, or cause, or permit to be cast into any ashpit, ashtub, or other receptacle for the deposit of refuse matter, or on to any rubbish heap, any infectious rubbish or matter, without previous disinfection, shall be guilty of an offence under this Act.

Disinfection of public vehicles.

32. Every owner or driver of a public conveyance, other than a hearse, shall immediately provide for the disinfection of such conveyance after it has to his knowledge conveyed any person suffering from an infectious disease, or the body of any person that has died from infectious disease, or any article, matter or thing that has been exposed to infection from any such disease, and if he fails to do so he shall be liable to a penalty not exceeding ten pounds; but no such owner or driver shall be required to convey any person so suffering, or any article, matter or thing so infected, until he has been paid a sufficient sum to cover any loss or expense incurred by him in carrying into effect the provisions of this section.

See note on page 3744

Penalties for ceasing to occupy, or letting, infected premises without previous disinfection.

33. Any person who shall cease to occupy, or knowingly (the onus of proof to the contrary of which shall lie upon such person) let for hire any house, room, or part of a house in which any person has been suffering from any infectious disease, without having such house, room, or part of a house, and all articles therein liable to retain infection efficiently disinfected, shall be liable to a penalty not exceeding twenty pounds. For the purposes of this section, the keeper of any hotel shall be deemed to let for hire part of a house to any person admitted as a guest into such an hotel.

List of names and addresses of customers may be demanded from any persons selling drink or food.

34. Whenever the Minister shall deem it necessary for the purpose of dealing with any outbreak of disease he may authorise the local authority or the medical officer of health, or such other person as he may deem fit, to require of any person selling or preparing for sale any article of food or drink for man to furnish a complete list of the names and addresses of his customers, and any person as aforesaid refusing to furnish such list, when called upon to do so by the local authority, medical officer of health or other person duly authorised as aforesaid, or wilfully furnishing an incorrect or incomplete list, shall be guilty of an offence under this Act; provided that every such list shall be treated as confidential, and shall not be divulged by the local authority or other person as aforesaid to whom it is given, except with the consent of the person by whom such list is furnished.

Divisional Council to be local authority for Public Health Acts outside any municipality or Village Management Board.

35. The divisional council of any division shall for all purposes and within the meaning of the Act No. 4 of 1883, as amended by this Act, be deemed and taken in respect of the whole or any portion of its division not situated within the local limits of any municipality, borough, or corporate town, or of any community in which the "Villages Management Act, 1881," or part thereof is in operation, to be the "local authority," and from the date of the coming into operation of this Act, all rights, powers, duties capacities, liabilities and obligations conferred upon and exercised

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by any resident magistrate, special justice of the peace, or Board as a "local authority" for the purposes and within the meaning of the said Act No 4 of 1883, shall cease to be held or exercised by such resident magistrate, special justice of the peace or Board in that behalf so far as any such division or portion of such division as aforesaid is concerned: Provided that nothing herein contained shall be deemed to alter or affect the provisions of Part II. of the said Act No. 4 of 1883.

Village Management area may be placed under jurisdiction of Divisional Council.

36. Whenever it shall appear to the Governor that better provision for the prevention of the spread of infectious disease would be likely to result thereby, and that action under this section is urgently required, it shall be lawful for the Governor to temporarily include, for such period as shall seem fit, for all or any of the purposes of the said Act No. 4 of 1883, the area within the local limits of any community under the "Villages Management Act, 1881," under the jurisdiction of the divisional council within whose division such area may be situated, and thereupon any such powers, rights, or duties, conferred by the provisions of the said Act in respect to such area shall cease to be exercised by such Board of Management and shall devolve upon and be exercised by such divisional council as a "local authority" within the meaning of the said Act

Divisional Councils may establish infectious diseases hospitals for the use of the inhabitants of the division.

37. It shall be lawful for a local authority to contribute towards the maintenance of any public hospital within its district and whenever it shall deem it expedient so to do, a divisional council may establish and maintain within its division one or more hospitals for the proper isolation and treatment of any person within the division suffering from any infectious disease mentioned in section twenty-seven; and such divisional council may levy and recover a special rate for this purpose upon all property liable to be rated for divisional council purposes within its division in the manner provided for in Parts III. and IV., Subdivision viii., Division iii, of the "Divisional Councils Act, 1889," for the levying of rates generally: Provided always that no such rate shall be levied upon any rateable property within the district of any local authority that shall be unable, by reason of the distance off of such hospital, to participate in the benefits thereof, or shall have already provided and be maintaining to the satisfaction of the Minister a suitable and adequate infectious diseases isolation hospital; and in every case a certificate to either of these effects signed by the Minister shall at any time within six months after the date thereof be sufficient authority to prevent the levying of any such rate upon property within the district of the said local authority: and provided further that any expenditure incurred under this section in respect of diseases within the meaning of the twenty-seventh section of this Act shall be subject to the provisions contained in that section.

Four-fifths of the amount expended for certain pur-

38. It shall be lawful for the Governor, out of such moneys as may be appropriated by Parliament for the purpose, to advance to any local authority for the purposes of the "Public Health

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poses to be paid by Treasury.

Act, 1883," such sum as he may deem desirable: and a proportion, not exceeding four-fifths of such amount as shall be proved to have been expended in a satisfactory manner and in accordance with regulations to be framed from time to time by the Governor in that behalf by any local authority for the purpose of preventing the spread of or suppressing small-pox, cholera, diphtheria, typhus, yellow fever, or any contagious or infectious disease, which the Governor may from time to time proclaim to be a disease within the meaning of this section, shall be paid out of the Public Treasury: Provided that if it be certified to the Minister by the resident magistrate, and by the district surgeon of such district, that the outbreak of small-pox for the prevention of the spread of which a local authority has expended money in manner aforesaid, was brought into the district by means of the introduction therein from any Government railway, or by sea, of any person suffering from such infectious disease the whole of the money so expended may be paid out of the Public Treasury.

See page 3741

Vaccination.

39. It sshall be lawful for the Governor to frame regulations providing for the vaccination and revaccination of persons by the district surgeons or by persons specially appointed by the Governor as vaccinators, and for appointing places for the performance of vaccination, and also for giving from time to time notice of the days and hours at which such district surgeon or other vaccinator will attend at such places to vaccinate all persons, not already successfully vaccinated, who may appear there. The times so appointed for vaccination shall not be less frequent than once in every three months in urban and once in every twelve months in rural areas.

No charge for vaccination by District Surgeon or person appointed by Government.

40. As often as any person shall be vaccinated or revaccinated by any district surgeon, or person appointed as vaccinator as aforesaid, no charge shall be made in respect of such vaccination or revaccination, subject to any regulations framed by the Governor under the last preceding section.

Vaccination of children in urban districts. Within what time after birth.

41. The parent of every child born in this Colony after the first day of January, 1898, shall, in all urban districts, within three months after the birth of such child, or when, by reason of the death, illness, absence or inability of the parent or any other cause, any other person shall have the custody of such child, such person shall, within three months after the birth of such child, cause the child to be successfully vaccinated.

Persons vaccinated free of charge may be required to attend again the following week.

42. Any person residing in any urban area and vaccinated or revaccinated by the district surgeon or other vaccinator appointed by the Governor as aforesaid, without charge, may be required to attend at the same place on the same day in the following week, and if any such person shall fail to attend, or if any parent or person having charge of an infant who has been gratuitously vaccinated, shall fail to bring or cause to be brought such infant to the same place, in order that such person or infant may be inspected and the result of the vaccination ascertained,

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and, in the event of the operation being unsuccessful, be again vaccinated if such district surgeon or other vaccinator shall see fit so to do, such person or such parent or person, as the case may be, shall be liable to a penalty not exceeding five pounds; and if such district surgeon or other vaccinator shall see fit he may take from any such infant lymph for the performance of other operations.

Vaccination of children outside the limits of an urban district.

43. The parent, or person having the custody as aforesaid, of any child living in any area outside the limits of an urban local authority, and born after the first day of January, 1898, shall cause such child to be successfully vaccinated within three months after its birth, or at the date of that public vaccination in such area held next after the date of such child's attainting the age of three months.

No burial ground to be opened without leave of the Governor and local authority.

44. No cemetery or burial ground shall after the passing of this Act be established or opened within the limits of any urban area, and no public cemetery shall be opened in any district outside the limits of any such area without the leave of the Governor and of the local authority over such urban area or district previously obtained. Any person who shall open any such ground for the purpose of burial without such leave as aforesaid first had and obtained, or any person who shall bury any body in, or shall act or assist in, or shall suffer or permit, the burial of any body in any such ground, well knowing it to have been opened or established without such leave first had and obtained, shall upon conviction be liable to a penalty not exceeding twenty pounds for each offence, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months, or to both such fine and such imprisonment.

Ship's surgeon may be required to sign a declaration of health as well as the commander or master.

45. In the case of vessels carrying a surgeon-in-charge arriving at any port of this Colony, it shall be competent for the port health officer, port officer, or other person duly authorised by the Minister, to require of such surgeon a signed declaration of health according to the second schedule hereto. If the surgeon of any such vessel shall knowingly sign and deliver any declaration of health containing any false statement, or false answer to any question therein inserted, the onus of proof to the contrary of which shall lie upon such surgeon, such surgeon shall, upon conviction, be liable to a penalty not exceeding one hundred pounds, or in default of payment, to imprisonment, with or without hard labour, for a period not exceeding six months, or to both such penalty and imprisonment. Such declaration by the surgeon shall be in addition to that required of the commander or master of the vessel under the provisions of the "Public Health Act, 1883."

Health officer may inspect vessel and question persons on board. Penalty for obstruction, &c.

46. Whenever it shall appear to such health officer to be necessary and advisable for the purpose of ascertaining the existence of any cause of infection or contagion on board of any vessel arriving in a port of this Colony, whether the commander or master, or the surgeon, of such vessel shall or shall not have signed and

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delivered a declaration of the perfectly healthy state of such vessel, such health officer shall, under such proper precautions as the Governor shall from time to time prescribe for the purpose of preventing the conveyance of infection by such health officer, be entitled to inspect the whole or any part of such vessel, and to require of the commander or master a complete list of all persons on board at the time being, and to inspect all or any of the passengers, officers, crew, or others on board such vessel, and may ask all or any such persons the questions prescribed in the third schedule hereto: Provided that no such inspection so conducted shall be taken to render such health officer liable to quarantine, anything to the contrary in the "Public Health Act, 1883," notwithstanding. Any commander or master in charge of such vessel refusing to permit such inspection, or refusing to furnish such list as aforesaid, or furnishing an incorrect or imperfect list, or any person obstructing such health officer in the performance of his duty, shall for every such offence be liable to a penalty not exceeding fifty pounds, or in default of payment, to imprisonment, with or without hard labour, for a period not exceeding three months, or to both such penalty and such imprisonment. And any passenger or other person knowingly making false answer to any such question, the onus of proof to the contrary of which shall lie upon such passenger or other person, or refusing to answer any such question, shall for every such offence be liable to a penalty not exceeding twenty pounds, or in default of payment to imprisonment, with or without hard labour, for a period not exceeding one month, or to both such penalty and such imprisonment. Such health officer shall, after such inspection as aforesaid, either detain the said vessel in quarantine, or give her pratique as to him may appear fitting: Provided that when there may be any reasonable cause of doubt or suspicion, he shall not grant pratique, but shall place the vessel in quarantine, and report thereon immediately, if the vessel is in Table Bay, to the Colonial Secretary, or if in any other port of this Colony, to the resident magistrate thereat, or if there be no resident magistrate, to a justice of the peace, in order that instructions in regard thereto or further medical advice may be obtained.

When pratique may be given.

47. In case of there being no port health officer or of the illness or other necessary absence of the port health officer the port officer may give pratique to any vessel: Provided the commander or master and the surgeon (if any) shall have signed the declaration of the perfectly healthy state of the vessel; and provided also such vessel has not touched at, or communicated with vessels coming from, any infected port, in either of which cases the port officer shall not give pratique, shall forthwith report the same in the manner hereinbefore mentioned, and shall place the vessel in quarantine until a competent person shall be expressly appointed to act for and perform the functions of a health officer.

In what cases port officer may give pratique.

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48. The provisions of Part II. of the "Public Health Act, 1883," shall not apply to, and no vessel or healthy person shall be placed in quarantine on account of any contagious or infectious disease other than such disease as the Governor may from time to time, by Proclamation, declare to be a contagious or infectious disease for this purpose, anything to the contrary in this Act or the "Public Health Act, 1883," or in any other Act notwithstanding.

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When Part II. of Public Health Act, 1883, shall not apply to infectious diseases.

PART V.—PROCEDURE.

49. Where in any urban district it appears to any health officer or inspector of nuisances appointed by the local authority that any accumulation of manure, dung, night-soil, or filth, or other offensive or noxious matter on any premises, ought to be removed, he shall give notice to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove the same to such place and in such manner as shall be approved of by the local authority: and if such notice is not complied with within twenty-four hours from the service thereof, the local authority may at once remove such manure, dung, night-soil, or filth, or other offensive or noxious matter, and sell or otherwise deal with it in such manner as they shall think fit. The expenses of removal by the local authority of any such accumulation, if and so far as they are not covered by the sale thereof, as hereinbefore provided, may be recovered by the local authority in any competent court from the person to whom the accumulation belongs, or from the occupier of the land or premises, or (where there is no occupier) from the owner.

Power of local authority to summarily remove accumulations of filth after short notice.

Recovery of expenses of removal.

50. On receipt of any information respecting the existence of a nuisance, or of any cause of offence against this Act or any bye-law or regulation made under this Act, or any similar act or bye-law or regulation in force within its district, the local authority may, if satisfied of the existence of a nuisance or other cause of offence, or of the likelihood of the recurrence of a nuisance or other cause of offence, give notice to the person by whose act, default, or sufferance the nuisance or other cause of offence arises or continues, or is likely to recur, or if such person cannot be found, then the owner or occupier of the land or premises on which the nuisance or other cause of offence arises, or is continued or is likely to recur, requiring him to remove, abate or discontinue the same within a time to be specified in such notice, and to execute such works and do such things as may be necessary for that purpose, or for preventing a recurrence thereof. Provided that where the person by whose act, default, or sufferance the nuisance or other cause of offence arises, or is continued, or the owner of the land or premises, is not known or cannot be found, and where there is no occupier of the land or premises, the local authority may itself, without further notice, execute such works and do such things as may be necessary for removing, abating, or preventing a recurrence of the same; and any expenses incurred by the local

How local authority to proceed on receipt of information as to an offence against the Act.

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authority in so doing shall, unless it is clear that the nuisance or other cause of offence does not arise or continue by the act, default or sufferance of the owner, remain a charge upon the property and be recoverable, as hereinafter provided, by the local authority from the owner of such land or premises at any future time.

The local authority to lay complaint, if offence not discontinued, before competent court, who may make order in regard thereto.

51. If the person on whom a notice as aforesaid has been served makes default in complying with any of the requirements thereof within the time specified, the local authority shall cause a complaint relating to such nuisance or other cause of offence to be made to the resident magistrate or special justice of the peace having jurisdiction within the district of such local authority, and such resident magistrate or special justice of the peace shall thereupon issue a summons requiring the person on whom the notice was served to appear before his court, and if satisfied that the alleged nuisance or other cause of offence exists, or that, although removed, abated or discontinued, it is likely to recur on the same premises, the court shall make an order on such person requiring him to comply with all or any of the requirements of the notice, or otherwise to remove, abate or discontinue the nuisance or other cause of offence, within a time to be specified in the order, and to do any works necessary for that purpose; or an order prohibiting the recurrence of the nuisance or other cause of offence, and directing the execution of any works necessary to prevent the recurrence; or an order both requiring the removal, abatement or discontinuance, and prohibiting the recurrence of the nuisance or other cause of offence.

see note on page 3761

Court may impose penalty and give directions as to costs.

52. The court may by its order impose such penalty as may be provided for such offence by this Act or by any bye-law or regulation made under this Act or any other law in force within the district of the local authority, on the person on whom the order is made, and shall also give directions as to the payment of all costs incurred up to the time of the hearing or making of the said order.

Before making order court may require inspection of premises or analysis of water.

53. The court may, if it see fit, adjourn the hearing or further hearing of the summons for an inspection or examination by a competent person of the land or premises whereon the nuisance, contravention or cause of offence is alleged to exist, or of any matter or thing alleged to be a nuisance, contravention, or cause of offence, or for the analysis of any water alleged to be polluted, and the cost of so doing or of any such inspection, examination or analysis shall be borne by the person against whom the order is made, and if no order is made, then by the local authority instituting the prosecution

Order closing polluted wells, &c.

54. Where the nuisance, contravention or other cause of offence proved to exist is of such a nature as to render the water in or supplied from any well, tank, cistern, pump or other place, public or private, and used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks or any article of food for consumption by man, so polluted as to be injurious to health, such authority may apply to the court, and the court

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may (by its order) require the closing of such well, tank, cistern, pump or other place, or may restrict the use of the water thereof to certain purposes only until in its judgment the water in or supplied from such well, tank, cistern, pump or other place shall have been rendered fit for consumption or domestic use by man. And on the court being satisfied that it has been rendered fit for that purpose the court may determine its previous order by another order declaring the water in or supplied from such well, tank, cistern, pump or other place, fit for consumption or domestic use by man, and from the date thereof such water may be used or sold to be used for that purpose.

Order closing houses unfit for human habitation or dwellings overcrowded.

55. Where the nuisance, contravention, or other cause of offence proved to exist is of such a nature as to render any house, building, or part of a house, building, or any dwelling, in the judgment of the court, unfit or unsafe for human habitation, or so overcrowded as to be injurious to the health of the inmates thereof, the court may (by its order) prohibit the using of such house or building, or part of a house or building, or such dwelling, for habitation, until, in the judgment of the court, the house, building or dwelling is rendered fit for that purpose; and on the court being satisfied that it has been rendered fit and safe for human habitation or that the overcrowding is not likely to recur, the court may determine its previous order by another order declaring the house, building or dwelling habitable, and from the date thereof such house or building or dwelling may be let or inhabited.

May order the closing of public buildings.

56. Where the contravention or cause of offence proved to exist consists in the employment of any public building in contravention of any law in force within the district of the local authority, or is of such a nature as to render any public building, in the judgment of the court, unsafe, or injurious to the health of any person frequenting or occupying the same, the court may (by its order) prohibit the using of such public building for any public purpose until such alterations or repairs shall have been done to render it fit for that purpose; and on the court being satisfied that such public building has been made fit for that purpose and is in confirmity with the provisions of such law, the court may determine its previous order by another declaring such public building fit and permitting it to be used for that purpose.

Orders in respect of offensive trades.

57. Where the nuisance, contravention, or other cause of offence proved to exist consists in, or is caused by, the establishment or carrying on of any offensive trade contrary to any law in force within the district of the local authority, or where, in the judgment of the court, it is shown that the person carrying on the same has not used the best practicable means for abating such nuisance, or of preventing, counteracting or mitigating, the fumes, vapours, or effluvia arising therefrom, the court may (by its order) prohibit the carrying on of such trade for all time, or until such time as the court shall be satisfied that such means have been

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adopted, and upon the court being so satisfied the court shall make a further order determining such previous order and permitting the carrying on of such offensive trade.

Order in respect of slaughter-houses, stables, butcheries, bake-houses, &c.

58. Where the nuisance, contravention, or other cause of offence proved to exist is caused by any slaughter-house, stable, cow-shed, pig-stye, or place for keeping live animals; or any butchery, bake-house or other premises or place wherein is prepared, manufactured, stored, kept or exposed for the purpose of sale, any carcase or article of food intended for the food of man, being kept in a condition contrary to any law in force within the district of the local authority, the court may (by its order) prohibit the use of such slaughter-house, stable, cow-shed, pig-sty or place for keeping live animals, or the use of any such butchery, bakehouse or other premises or place for the preparation, manufacture, storage, keeping or exposure for sale of any carcase or article of food intended for the food of man, until the court shall be satisfied that such nuisance or other cause of offence has been removed, abated or discontinued; and upon being so satisfied the court shall make a further order determining its previous order.

When order of court contravened

59. Any person not obeying an order of the court to comply with the requirements of the local authority, or otherwise to remove, abate, or dicontinue a nuisance, contravention, or other other cause of offence, shall, if he fails to satisfy the court that he has used all due diligence to carry out such order, be liable to a penalty not exceeding twenty shillings for each day during his default; and any person knowingly and wilfully acting contrary to an order of prohibition shall be liable to a penalty not exceeding forty shillings for each day during such contrary action, or in the case of an offensive trade, not exceeding five pounds for each day during such contrary action; but no such penalties shall be imposed in addition to and concurrently with a daily penalty imposed under any other provision of this Act, or by any bye-law or regulation made under this Act, or any other Act at the time being in force, for the same offence. Moreover the local authority may enter the premises to which any such order relates and remove or abate the nuisance or other cause of offence, and do whatever may be necessary in execution of such order, at the expense of the person liable.

Entry by local authority.

When offender, owner or occupier cannot be found.

60. Whenever it appears to the satisfaction of the court that the person by whose act, default or sufferance the nuisance, contravention or cause of offence arises, or the owner or occupier of the premises, is not known or cannot be found, then the order of the court shall be addressed to, and executed, by the local authority.

Proceedings where nuisance or other cause of offence is caused by two or more persons.

61. Where under this Act any nuisance, contravention or other cause of offence appears to exist wholly or partially by the acts, defaults or sufferance of two or more persons, it shall be lawful for the local authroity to institute proceedings against any one of such persons, or to include all or any two or more of such persons in one proceeding: and any one or more of such persons

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see note on page 3714

may be ordered to remove, abate or discontinue such nuisance, contravention or other cause of offence, so far as the same appears to the court having cognizance of the case to exist by his or their acts, defaults or sufferance, or may be prohibited from continuing any such act or default which in the opinion of such court contributes to such nuisance, or other cause of offence; or may be fined or otherwise punished, notwithstanding that the act, default or sufferance of any one of such persons would not separately have caused a nuisance or other cause of offence; and the costs may be distributed as to such court may appear fair and reasonable.

Proceedings not to abate by reason of death of one of such persons.

62. Proceedings against several persons included in one complaint shall not abate by reason of the death of any among the persons so included, but all such proceedings may be carried on as if the deceased person had not been originally so included.

Service of notices.

63. Any notice or order under this Act may be wholly or partly in printing or in writing, or both, and where under this Act any notice or order is required to be given to the owner or occupier of any land or premises, such notice or order, addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of such land or premises, or left with some inmate of his abode, or if there is no occupier, may be put upon some conspicuous part of such land or premises; and it shall not be necessary in any such order or notice to name the occupier or the owner of such land or premises: Provided that when the owner of any such land or premises and his residence are known to the local authority, it shall be the duty of the local authority, if such owner is residing within the district of such local authority, to cause every notice or order required to be given to the owner, to be served on such owner, or left with some inmate of his abode, and if such owner is not resident within the district to send every such notice or order by the post, addressed to the residence of such owner.

Proceedings taken under this part of Act not to affect right to proceed under any other part of this Act or under any other Act.

64. The provisions of this part of this Act relating to the removal, abatement or prevention of nuisances, contraventions or causes of offence as aforesaid, shall be deemed to be in addition to and not to abridge or affect any right, remedy or proceeding under any other provisions of this Act, or under any bye-law or regulation made under this Act, or under any other Act, or at law: Provided that no person shall be punished for the same offence more than once.

PART VI.—Contracts.

Local authorities may make contracts which shall be in writing.

65. Every local authority acting in pursance of the provisions of this Act may from time to time enter into any contract with any person or company for any work to be done, or for any materials or things to be furnished for any purpose of this Act, and all such contracts lawfully made shall be effectual and binding on the local authority and all the other parties thereto, their successors, heirs, executors, or administrators, as the case may be.

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Every contract shall be in writing and shall specify the work to be done, or the materials or things to be supplied, and the price or sum to be paid for the same respectively; and in the case of work to be done, the time within which the same shall be completed; and shall be signed by not less than two members of such local authority thereto authorised by resolution of the local authority, and also by the person or persons contracting; which contract, or a copy thereof, shall be entered in a book to be kept for that purpose by the local authority.

Tenders for contracts beyond a certain amount to be called for publicly.

66. Except in cases of emergency, before any contract for the execution of any work or the furnishing of any goods to the amount of fifty pounds or upwards, is entered into by a local authority, fourteen clear days' notice at least shall be given in some newspaper generally circulating in the district, expressing the purpose of such contract and inviting any person willing to undertake the same to make proposals for that purpose to the local authority. And the local authority shall accept the proposal which on a view of all the circumstances appears to them to be most advantageous, and may take security for the due and faithful performance of every such contract, or the local authority may decline to accept any such proposal.

See note on page 3741

PART VII.—RATES AND LOANS. (1)

Power to levy rates.

67. In regard to the assessing and levying of rates for any of the purposes of this Act,

(1) The council or board of commissioners of a municipality, borough, or corporate town, shall have power to make, levy and recover rates upon all property liable to assessment for municipal purposes within its district, and such rates shall be made, levied, collected and recovered in the same manner as other rates provided for by the law under which such municipality, borough or corporate town shall have been constituted.

(2) The board of management of any community in which the "Villages Management Act, 1881," is in operation, shall have power to make written application, signed by the chairman of such Board, to the divisional council of the division in which the district of such Board is situated, to levy a rate upon all the rateable property within such district; and such divisional council shall levy and collect such rate and pay over the proceeds thereof to the said local authority in the same manner as other rates provided for by the "Villages Management Act, 1881."

(3) For the purpose of assessing and making a rate under this Act, every municipality shall have the rating power granted to it by the law under which it is constituted, provided that Municipalities, Boroughs or Corporate

(1) Applications for loans under Local Works Loans Act, 11, 1882 (p 1835), to be addressed to Colonial Secretary, &c. Act 25, 1904 (p. 4744).

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Towns having a smaller rating power than that granted under the "Municipal Act, 1882," and Village Management Boards, are hereby granted rating powers equal to those granted by the said Act to municipalities.

(4) No rate hereby authorised shall be assessed and made unless at least two-thirds of the Council or Board constituting the local authority shall by resolution approve.

(5) It shall be lawful for the Governor out of moneys already or hereafter received in respect of licences on claims in any digging in the districts of Barkly West, Hay or Herbert, to pay to the local authority a sum not exceeding one shilling out of every sum of ten shillings so received in such district, such payment to be made towards meeting the share of expenditure at any time incurred under the provisions of section thirty-eight, which under this Act devolve upon such local authority.

Local authority may levy rates upon huts or dwellings erected within native locations.

Repealed by 1923 Act 21, Sec 27.(1)

68. In addition to the rates provided for in the last preceding section, and as a portion of any such rate which may hereafter be levied, the local authority may assess and levy, or cause to be assessed and levied, upon all huts or dwellings erected within any native location within its district a rate in the proportion of not exceeding one shilling for each hut or dwelling for every farthing in the pound levied upon the assessed owner of rateable property: Provided that such rate shall be collected by the inspector of such location, or by such other officer as the Governor, in relation to locations on Crown land, or the local authority as to other locations, may appoint, and shall be recovered as though such rate were hut tax payable in respect of such huts or dwellings.

Special rates may be levied for works undertaken for the benefit of a part of the district.

69. When it appears to an urban local authority that any work, improvement, or undertaking which such local authority is authorised by this Act to do or execute is for the special benefit of any particular portion of the district of such local authority, the local authority may, for defraying the expenses incurred in doing or executing such work, improvement or undertaking, by resolution adopted by not less than two-thirds of all the members of such local authority, distinctly defining such portion, make and levy, or cause to be made and levied in the manner hereinbefore mentioned, a rate equally on all rateable property situated within such portion only.

Power of a local authority to borrow on credit of their rates or property.

70. Any urban local authority may, with the sanction of the Governor, for the purpose of defraying any costs, charges and expenses incurred or to be incurred by it in the execution of the provisions of this Act, or for the purpose of discharging any loans contracted under this Act, borrow or re-borrow, and take up at interest, any sums of money necessary for defraying any such costs, charges and expenses, or for discharging any such loans as aforesaid. An urban local authority may borrow or re-borrow any such sums on the credit of all or any rate or rates, revenues or fund, out of which it is authorised to defray expenses incurred

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by it in the execution of this Act, or of any works, land or other property belonging to the local authority under and by virtue of the provisions of any Act; and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, it may mortgage to the person by or on behalf of whom such sums are advanced any such rate or rates, revenues, fund, works, land or other property.

Security for loans.

Application of sections 145 to 155 of "Municipal Act, 1882."

71. The sections numbered one hundred and forty-five to one hundred and fifty-five inclusive of the "Municipal Act, 1882," shall *mutatis mutandis* apply to the exercise of the powers of borrowing conferred by this Act.

Money raised under this Act for certain purposes to be strictly devoted to purposes for which raised.

72. Whenever any local authority has raised a loan, or by means of a rate imposed under this Act has obtained money for, or by any vote has set apart any money to any specific work, improvement, or suppression of disease, under any of the sub-sections 1 (*a*), 1 (*c*), 2 (*a*), 4 (*b*), 4 (*c*), 4 (*d*), 5 (*b*) and 5 (*c*) of section nine, or of the sections eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four and twenty-five of this Act, the said money shall be kept separate from all other money held by the said local authority, and shall be strictly devoted to the said specific work, improvement, or suppression of disease; and any member of any local authority, or any official in its employ, knowingly spending any portion of the said money for any other purpose than as aforesaid, shall be liable upon conviction to a penalty not exceeding five hundred pounds, or to imprisnment with or without hard labour for any period not exceeding five years. Once in every year, or on completing any work if within a year, a detailed account of receipts and expenditure shall be prepared, and placed for a period of not less than fourteen days where it can be read by the public, and an abstract thereof shall be published in some newspaper circulating in the district. If when any account is finally closed any balance remains to its credit, the local authority, upon receiving the sanction of the Governor, may transfer the said balance to some other specific account or to the general revenue of the said local authority.

see note on page 3771

Local authority to be deemed such for purpose of "Local Works Loans Act, 1882."

73. Any urban local authority under this Act shall for the purposes of this Act be deemed to be a "local authority" under the provisions of "The Local Works Loans Act, 1882."

PART VIII.—GENERAL.

Minister may institute inquiries on certain matters.

74. The Minister may from time to time cause to be made such inquiries as he may deem fit concerning any matter in relation to the public health, or any matter in respect of which the sanction, approval or consent of the Governor or the Minister is by this Act required, and for these purposes the Medical Officer of Health for the Colony or any officers appointed by the Minister shall have the same rights and privileges as the Health Officer for the district.

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General penalties.

75. Every person convicted of an offence against this Act or against any bye-law or regulation made and in force under this Act, shall for every such offence be liable to the penalty expressly imposed by this Act, or by the bye-law or regulation, and 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.

Punishment if penalties not paid.

76. Whenever any penalty shall have been imposed under the provisions of this Act or of any bye-law 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.

Extension of jurisdiction of Special Justice of the Peace.

77. Every Special Justice of the Peace appointed under the provisions of "The Better Administration of Justice in Criminal Cases Act, 1876," shall in addition to the jurisdiction conferred by the said Act or by any other Act at the time in force within the Colony, have and enjoy, and be at liberty to exercise within the local limits fixed and determined by any such proclamation as is in the first section of the said Act mentioned, the same jurisdiction, power and authority, and shall be empowered to impose the same penalty as if he were Resident Magistrate of the district in which the offence then under investigation was committed, over and in respect of any such offence as is provided for by this Act or by any bye-law or regulation made and in force thereunder, or by the "Public Health Act, 1883," subject to the provisions of this Act.

Application of penalties recovered.

78. Except where it is herein otherwise expressly directed, one-half of the penalty recovered for an offence against this Act or any bye-law or regulation made thereunder, committed within the district of a local authority or in any way in respect of a local authority shall be paid into the funds of such local authority, and the other half to the person on whose complaint such penalty has been inflicted: Provided that if the local authority or their officer be the complainant, the local authority shall be entitled to the whole of the penalty recovered.

Failing of payment of penalty.

79. Wherever it is provided in this Act that any amount, penalty or expenses shall be recovered from a certain person, and failing payment by him, such amount, penalty or expenses or the balance thereof may be recovered from some other person, the costs legally incurred in attempting to recover such amount, penalty or expenses from such certain person primarily liable may also be recovered from such other person secondarily liable, unless such person secondarily liable shall pay such amount, penalty or expenses before proceedings are taken against the person primarily liable, reasonable notice of which shall be sent to such

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person secondarily liable before such proceedings are taken, and such person secondarily liable shall be entitled to recover the amount, penalty or expenses paid by him from such person primarily liable.

Power of entry upon premises and lands.

80. It shall be lawful for the purpose of making any inspection, performing any works or doing anything required by this Act or by any bye-law or regulation made and in force under this Act to be done, or for the purpose of ascertaining the existence of any contravention of, or of any nuisance or other cause of offence under, any provision of this Act or any bye-law or regulation made or recognised as in force under this Act, for any officer appointed under the provisions of this Act, or for any police officer, constable or other person duly authorised thereto by the local authority or the Minister to enter at all reasonable times into or upon any lands or premises.

See note on page 3741

Penalty for obstruction.

81. Any person wilfully refusing entrance to any of the aforesaid officers or duly authorised persons in the performance of their duty to any premises or land, and any person using foul, violent, or abusive language to any such officer or person while in the execution of his duty under any of the provisions of this Act or of any bye-laws or regulations made and in force under this Act, shall, upon conviction be liable to a penalty not exceeding ten pounds, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months.

Saving rights and powers of specially constituted municipalities.

82. Nothing in this Act shall be taken as limiting any of the powers, rights, duties, capacities, liabilities, and obligations which may be lawfully exercised by any existing municipality, constituted by any special law, anything in section one of this Act notwithstanding.

Certain provisions only of this Act to apply to Borough Council of Kimberley, Municipal Council of Beaconsfield. and Kimberley Board of Health.

83. Nothing in this Act shall be taken to apply to or affect the Borough Council of Kimberley or the Municipal Council of Beaconsfield, save and except the sections numbered four, seven, eight, nine, except sub-section 4 (*a*), (*b*), and (*c*), nine, ten, eleven, twelve, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, forty-four, sixty-five, sixty-six, sixty-seven, except sub-section (2) and (5), sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, seventy-five, seventy-six, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-four, and all the sections included in Part V., Procedure; or to apply to or affect the Kimberley Board of Health constituted under the "Public Health Extension Act, 1884," save and except the sections numbered four, nine, sub-section 4 (*a*), (*b*), and (*c*), eleven, twelve, fifteen, sixteen, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-eight, sixty-five, sixty-six, sixty-eight, seventy-one, seventy-five, seventy-six, seventy-eight, seventy-nine, eighty and eighty-one, and Part V., Procedure: Provided that if at any time the said Board of Health shall cease to exist, then all the provisions of the

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Act and such of the provision of the "Public Health Act, 1883," as at the time applied, to the said Board shall apply, within their respective districts, to the Borough Council of Kimberley and the Municipal Council of Beaconsfield, and so far as the said provisions apply to Divisional Councils generally to the Divisional Council of Kimberley within the whole of its division outside the districts of the said Borough Council and Municipal Council; and that in that event in lieu of the powers of rating provided by this Act the said Borough Council, Municipal Council, and Divisional Council shall have and exercise, *mutatis mutandis*, all the powers of rating provided by the said Public Health Extension Act in regard to all property within their respective districts rateable under the said Act for purposes under Part IV. of this Act, and so much of the Public Health Act, 1883, as at the time applied to the said Board.

"Lands and Arbitration Clauses Act, 1882." to apply.

84. For the purpose of any land or premises taken or any arbitration under the provisions of this Act, the provisions of the "Lands and Arbitration Clauses Act, 1882," are hereby incorporated.

When Act to take effect.

85. The provisions of this Act shall come into operation at such time (1) as the Governor shall by Proclamation declare, being not less than three months from the date of such Proclamation.

Short Title.

86. This Act may be cited for all purposes as "The Public Health Amendment Act, 1897."

THE FIRST SCHEDULE.

First Schedule.

LAWS REPEALED.

Number and Year.	Title.	Extent of Repeal.
Act No. 4 of 1883	The "Public Health Act, 1883"	That portion of Section 2 beginning with "A Board," and ending with "determine," Sections 19, 21, 35, 40, 41, 53, 55, 56 and 63.
Act No. 41 of 1885	An Act to amend the "Public Health Act, 1883"	So much as remains unrepealed.
Act No. 40 of 1889	Divisional Councils Act, 1889"	Section 208.

(1) To come into operation on 1st January, 1898, see Proc. No. 292, 1897

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Second Schedule.

THE SECOND SCHEDULE.

FORM OF DECLARATION OF HEALTH.

Ship's Surgeon.

1. Name of vessel and commander or master.
2. Name of surgeon in medical charge of passengers, officers, crew and others.
3. Have you any sickness on board at present? If so, what is that sickness, and what number of cases have you under treatment?
4. Has any case of small-pox or any form of eruptive skin disease, fever, scarlatina, plague, cholera, leprosy or other infectious or contagious disease occurred on board during the voyage? If so, state the nature of and number of cases of such disease, and the dates of attack and convalescence or termination of such cases.
5. Have the clothes and bedding used by these persons who have suffered from infectious or contagious disease during the voyage been either destroyed or passed through boiling water or otherwise disinfected?
6. What means, if any, were adopted for preventing the spread of any infectious or contagious disease which occurred during the voyage?
7. Are all the passengers, officers, crew or others on board, and the vessel and all articles and things contained therein free from any source of infection or contagion?
8. Have you any lunatic or insane person on board?

I do hereby declare that the several answers to the questions contained in the above Schedule are to the best of my knowledge and belief correct.

Given under my hand this day of 18

Surgeon in charge.

NOTE.—If the above declaration of health contains any wilful false statement or answer to any question therein inserted, the Surgeon signing the same will be liable to a penalty not exceeding £100, or in default of payment, to imprisonment with or without hard labour for a period not exceeding six months, or to both such penalty and such imprisonment.

Third Schedule.

THE THIRD SCHEDULE.

Questions to be asked by the health officer of any passenger or other person on board.

1. Where did you join this ship?
2. Have you left this ship since the time of your first joining her? If so, where and under what circumstances?
3. Have you suffered from sickness or disease of any kind immediately before joining or whilst on board of this ship? If so, what was the nature of such sickness or disease?
4. Have you been vaccinated or re-vaccinated? If so, how long ago?
5. What is your full name, address and destination?

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No. 24—1897.] [June 25, 1897.

ACT (1)

To Amend in certain respects the provisions under which Loans for Irrigation Purposes may be granted.

Preamble.

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 thereof, as follows:—

Treasurer may cause advances for irrigation purposes to be made by way of loan.

1. Notwithstanding anything to the contrary contained in any Act, it shall be lawful for the Treasurer to cause to be made by way of loan for Irrigation purposes, subject to the conditions and provisions of sections 56 and 57 of Act 8 of 1877, any such advance or advances as are therein provided for.

Such loan shall be redeemed by the Irrigation Board.

2. Every such loan as aforesaid shall from and after the date of the promulgation of this Act be redeemed by the payment by the Irrigation Board, as constituted by the said Act No. 8 of 1887, on the 1st day of January and the 1st day of July in each and every year, of one moiety of the annual payment required to redeem such loan, in accordance with a scale to be framed and published in the *Government Gazette* and in such newspapers as the Minister may determine, provided that the basis of calculation of such scale shall be the payment by the said Board of interest at the rate of three pounds and ten shillings (£3 10s. 0d.) sterling per annum upon every one hundred pounds sterling advanced, and in the like proportion upon every fraction of one hundred pounds sterling, together with such amount as shall be necessary to redeem the capital sum within the period of repayment which shall be specified by the Minister, but which shall not, in any case, exceed a maximum period of forty years. Such annual payments shall continue until all the moneys advanced from time to time, together with the interest thereon at the rate specified, shall be repaid.

The Minister shall fix a date for the completion of all works to be constructed in consideration of the loan.

3. Upon the grant of any such loan as aforesaid the Minister shall fix a period ending either the 1st day of January or the 1st day of July in any year, within which shall be completed all works, reservoirs, dams, or the like to be constructed in consideration of the said loan, from which date interest shall accrue in respect thereof, but the first instalment in liquidation of such loan, together with interest thereon, shall become due and payable one year after the date so fixed.

Interest on loans.

4. For and in respect of interest upon such instalments of loans as may from time to time be advanced up to the date of completion of the works undertaken as provided for in the last preceding section, there shall be added to the amount of the loan a sum equal to the interest upon each instalment advanced prior to such date of completion, reckoned from the date of payment of such instalment, and the total sum thus arrived at shall be the amount of the loan to be repaid.

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[1] See Acts 9 and 36, 1899 (pp. 4053, 4205): 9, 1900 (p. 4275). This Act applies also to Village Management Board loans for Irrigation. See Act 17, 1905 (p. 4840).

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Provisions of this Act extended to loans under other Acts.

5. The provisions of this Act shall, *mutatis mutandis*, extend and apply to all loans for Irrigation purposes granted to individual owners, in terms of the Irrigation Act, 1877, as amended by the Acts 7 of 1880 and 10 of 1893, as well as to all loans granted to Municipalities in terms of the Act No. 28 of 1879 as amended by Act 10 of 1893, and shall also extend and apply from a date to be fixed by the Minister to all amounts remaining unpaid on account of loans heretofore issued in terms of any of the said Acts.

Effect and Short Title.

6. This Act shall be read as one with the Irrigation Act, 1877, and the Irrigation Act Amendment Act, and may be cited as the "Irrigation Acts Amendment Act, 1897."

No. 25—1897.] [June 29, 1897.

ACT (1)

To Amend and Add to the Law Regulating the Municipal Corporation and Government of Cape Town.

Preamble.

WHEREAS it is expedient to amend and add to the existing laws regulating the Municipal Corporation and Government of the City of Cape Town, 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 especially with regard to streets, roads, or thoroughfares, the paving thereof, sewerage, drainage and the appointment of officers:—

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:—

Interpretation Clause.

1. In this Act the word "pave" shall mean and include the making, constructing and macadamising or gravelling of the carriage way in streets and roads and the footways thereof in a finished state for traffic and the kerbing and channelling thereof.

The words "new street" shall mean any street or road hereafter shown on any plan of sub-division of a property or any street or road hereafter sanctioned by the Council and a part of any such street or road.

The words "private street" shall mean any street or road which has not been duly paved and the maintenance of the carriage way and footways whereof had not previously to this date been taken into charge and assumed by the Council and a part of any such street or road.

"Owner" means and includes:

(*a*) The person or persons in whom from time to time shall be vested the legal title to any immovable property.

[1] See Act 28, 1902 (p. 4468). So much of this Act as is inconsistent therewith is repealed.

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(*b*) In any case where a property has been leased for a period of fifty years or upwards, the lessee of such property.

(*c*) In cases where the person in whom the legal title is vested is insolvent or dead, the person in whom the administration of such property is vested as trustee, executor, administrator or otherwise.

(*d*) In cases where the owner as above described is absent from the Colony, the agent or person receiving the rent of the property in uestion.

"Sewer" means and includes any sewer or main drain constructed in or under any public street or way, or any sewer or drain which is vested in the Council.

"Drain" means any private drain used or intended to be used for the drainage of any house or premises and the conveyance of such drainage from such house or premises to any sewer.

"Combined drain" means any private drain used or intended to be used for the drainage of two or more houses or premises.

Paving of new streets.

2. If any new street be not paved to the satisfaction of the Council the Council are hereby authorised to well and sufficiently paved the same either throughout the whole breadth of the carriage way and footpaths thereof or any part of such breadth and to duly and sufficiently sewer the same.

Liability of owners for expenses of paving and sewering new streets.

3. When the Council under the powers given them by the last preceding section have paved and sewered any new street the owners of the land bounding or abutting on such street shall be liable to contribute to the expenses of paving and sewering the same, and any expenses including the cost of paving and sewering at the points of intersection of streets and all other incidental costs and charges shall be apportioned by the City Engineer according to the frontages of property abutting on such streets, and the expenses so apportioned shall be recoverable from the respective owners and their successors in title, together with interest thereon at five per centum per annum, in twenty-five annual instalments. The actual amount to be paid annually shall be arrived at by adding the estimated interest payable over the period of twenty-five years on the capital sum and its balance from time to time to the capital sum and dividing the same into twenty-five equal annual instalments, the first of which shall be payable forthwith after the apportionment of expenses has been made. Notice of the amount so apportioned shall be given to each present owner by registered letter or packet. The expenses so apportioned shall be a first claim and charge upon the property abutting on the street against which it is apportioned, and shall be paid in preference to any debt, obligation or mortgage thereon by the owner thereof and his successors in title, and the instalments as they fall due shall be recoverable from the present or any future owner of the property against which they are apportioned in any competent Court. Provided always that if any owner of property

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be desirous at any time of making a present payment of all instalments owing the Council shall grant to him a rebate in respect of the payment of instalments thereafter falling due to the extent of the interest included therein, interest to be reckoned at five per centum per annum.

Paving and sewering of private streets, and owners' liability for expenses.

4. In case the owners of three-fourths (1) part of the property abutting upon any private street shall be desirous of having such street paved and sewered, or paved or sewered, and shall petition the Council to that effect, the Council are hereby authorised to pave and sewer or pave or sewer the same just as if the same were a new street, and should the Council exercise the powers by this section conferred upon them, all the owners of the land bounding or abutting on such street shall be liable to contribute to the expenses incurred by the Council, and any such expenses including the costs of paving and sewering at the points of intersection of streets and all other incidental costs shall be apportioned by the City Engineer, according to the respective frontages abutting on the street, and be recoverable from the owners and their successors in title, together with interest thereon at five per centum per annum, in the same manner, upon the same terms and under the same conditions as is hereinbefore provided with regard to the expenses of paving and sewering new streets, and such expenses as are in this section mentioned, and all interest thereon, shall be a first claim and charge upon the property abutting on the street, and be recoverable in the same manner and to the same extent as is hereinbefore provided with regard to the expenses in new streets. Provided always that in cases where the Council shall agree to pave or sewer private streets they may with the consent of the owners of three-fourths part of the property abutting thereon, require payment to be made in a less period than twenty-five years; and provided that in deciding whether the owners of three-fourths part of the properties abutting on any private street have petitioned as aforesaid, the Council shall calculate the same according to the length of frontages in such street.

Council may contribute towards paving expenses.

5. In any case where the Council is authorised to pave and sewer any new street or private street, and shall do so, the Council shall contribute towards the paving and sewering expenses out of its revenues a sum not less than one-third nor more than one-half of the total cost of such paving.

Vesting of new and private streets in Council.

6. Wherever the Council shall have paved and sewered any new street or any private street, such street shall thereafter be a public street vested in the Council, who shall thereafter keep and maintain the same in good and efficient repair.

Subsoil of streets not to be removed.

7. No company or person shall excavate, remove or take away any sand, gravel, stone, or subsoil from the site of any street or road or thoroughfare as shown upon any plan of sub-

[1] Or any other proportion. See Act 28, 1902, § 28 (p. 4473.)

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division of property within the Municipality which shall have been lodged in the Office of the Registrar of Deeds, provided that the section shall not apply where no more sand, gravel, stone or sub-soil is intended to be excavated, removed or taken away than is necessary to level or form a foundation for the paving, metalling or flagging of any street, road or thoroughfare, and for every offence against the terms of this section, every company or person shall be liable to a penalty not exceeding five pounds and to a further penalty not exceeding twenty shillings for every day after the first during which the offence is continued, or during which excavation shall be permitted to remain without the consent in writing of the Council, and such penalties shall be recoverable by the Council in any Court of competent jurisdiction.

Drainage Works.

8. In case it shall appear to the Council that the owner of any house or building is unable to make a present payment of the amount of the expense connected with the drainage and sewerage of such house or building, and the connection of his private drains with a main sewer, the Council are hereby authorised to execute the necessary works and to accept payment by instalments of the costs thereof, including interest at five per cent. per annum from the day of the completion of the works, and a reasonable amount for expenses of supervision, and if the work is undertaken by the Council without the interposition of a contractor, for the use of tools and plant; the amount of all such expenses shall be duly certified by the City Engineer, whose certificate shall in all cases be final and conclusive, and such instalments shall extend over such a period of time as to the Council may seem reasonable.

Combined Drains

9. In case in the opinion of the Council greater expense would be incurred in connecting the drains of two or more houses or buildings with a main or public sewer pursuant to any Municipal Regulation, than in constructing a combined drain for the use of such houses or buildings collectively, the Council may construct such combined drain from the main sewer and connect the drains of such houses or buildings therewith, and the City Engineer shall apportion as he may deem just the expenses connected with the construction of such combined drain among the owners of the several houses, buildings or vacant land which should in the opinion of the City Engineer properly drain into such combined drain, and the work shall be carried out and the expenses thereof be charged in manner set out in the next succeeding section.

Apportionment of drainage expenses.

10. All expenses incurred by the Council in connection with the drainage of properties as apportioned to the properties or chargeable against the owners thereof respectively, shall be a first claim and charge upon the property in connection with which the private or combined drainage and sewerage is constructed, and shall be paid to the Council in preference to any debt, obligation or mortgage hypothec thereon by the owner thereof, and his successors in title, and in any case where the Council shall agree

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to accept payment by instalments with interest at five per centum per annum the same shall be recoverable from the present or any future owner of the property in any competent Court, by annual instalments arrived at on the principle set forth with regard to the repayment of paving and sewer expenses in the third section of this Act, with a right to lessen the period of time within which the same shall be paid by instalments, as is in the proviso to the said section set forth.

No preference over existing mortgages.

11. Nothing in this Act contained shall be taken to give the Council any preference over existing mortgages for expenses incurred by the Council under the third, fourth and tenth sections of this Act.

Execution of works.

12. All works executed by the Council under the authority of this Act may be executed either by means of its servants or through contractors accepted after public tender.

Appointment of City Engineer.

13. The Council shall from time to time appoint a fit person not a Councillor to be City Engineer to the City of Cape Town, who shall hold office during the pleasure of the Council, and who shall act as City Engineer and Surveyor, and discharge such duties as the Council may from time to time determine.

Appointment of Acting City Engineer.

14. In case of the illness or absence of the City Engineer or in case the office be vacant the Council may appoint an Acting City Engineer to hold office during their pleasure, and all things required or authorised by law to be done by or to the City Engineer may be done by or to the Acting City Engineer aforesaid.

Municipal Act of 1893 amended.

15. From and after this date the Act 26 of 1893, section one hundred and seventy, sub-section five, shall be read and construed as if the word kerb in the said sub-section were deleted, and the words "back line of the footway" inserted in its place.

Council's expenses.

16. All costs, charges and expenses incurred in and about the promotion and passing and carrying into effect of this Act shall be paid out of the Council's revenues or such moneys as the Council may be authorised to borrow.

Separate loan account to be kept.

17. The Council shall cause to be kept with their bankers a loan account separate and apart from the Council's ordinary current accounts, and all moneys forming part of any loan incurred by the Council other than a temporary loan under section 106 of Act 26 of 1893, shall be paid into such account and be applied solely to the purposes for which the same was borrowed: Provided however that the Council shall at any time be entitled to utilise temporarily for other purposes of the municipality, any portion of such moneys not immediately required for use in connection with the purposes for which they were borrowed, if the amount so used temporarily together with any overdraft then existing in terms of section 106 of Act 26 of 1893, shall not exceed the income for the year ending on the last preceding 31st of December, and if the Council by special resolution at a meeting of which not less than two-thirds of the councillors are present shall concur in such temporary use and for reasons to be set forth in such resolution.

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18. Should any councillor or official knowingly act contrary to the terms of the last preceding section he shall be liable upon conviction to a penalty not exceeding one hundred pounds, or to imprisonment with or without hard labour for any period not exceeding one year. Once in every year or on completing any work or improvement authorised under this Act, if within a year, a detailed account of receipts and expenditure shall be prepared and an abstract thereof shall be published in one or more newspapers circulating in the City of Cape Town. If when any account is finally closed any balance remains to its credit the Council upon receiving the sanction of the Governor may transfer the said balance to some other specific account or to the general municipal revenue.

Penalty for contravention of preceding section.

19. After any apportionment made by the City Engineer under this Act, any person affected by such apportionment may within fourteen days after receiving notice thereof, appeal therefrom to the Council, whose decision shall be final.

Appeal from City Engineer to Council.

20. Notwithstanding anything to the contrary contained in the "Cape Town Municipal Act, 1893," the one hundred and fourth section of the said Act shall hereafter read and be construed as if there were inserted therein, after the word "Municipality," the words "present at a duly convened meeting of such voters, or in the event of a poll being duly demanded, then upon obtaining the decision in favour of the borrowing of any such sum or sums as the Council may desire to borrow, of a majority of the votes recorded at such poll."

Section 104 of Act of 1893 amended.

21. Section eighty-three of Act 26 of 1893 is hereby amended by the omission of all the words after "be" in the third line, and the substitution of the following in lieu thereof: "appointed by the Council for this purpose."

Section 83 of Act of 1893 amended.

22. This Act may be cited as the "Cape Town Municipal Act Amendment Act, 1897."

Short title.

No. 26—1897.] [July 1, 1897.

ACT (1)

To Vest certain Lands in the Municipal Council of Kalk Bay and to confer certain Additional Powers upon the Council of the said Municipality.

WHEREAS it is expedient for the better management of the Municipality of Kalk Bay that all vacant Crown lands situate within the said Municipality shall be vested in the Council of the said Municipality and that certain additional powers should be conferred upon the Council of the said Municipality:

Preamble.

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[1] Amended by Act 8, 1904 (p. 4645).

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No. 26—1897.

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:—

All vacant Crown lands in Municipality to be vested in Council thereof.

1. From and after the passing of this Act all vacant Crown lands situate within the Municipality of Kalk 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 Kalk Bay, save and except such land as shall have been set apart for public purposes at the date of the passing of this Act; to wit, the lands set apart for the two police stations and for outspans and the land situated at the toll house and all the land between the railway and the sea from the Muizenberg Railway Station to the southern side of what is known as the Kalk Bay Fishery.

Exceptions.

Governor to have right of entry for afforesting mountain.

2. The Governor shall at all times have the right of entering upon the land on the mountain vesting in the said Council under this Act for the purpose of afforesting such portions thereof as he may consider necessary; the portion so afforested shall be Crown Forest within the meaning of the Act 28 of 1888 and subject to the provisions of the said Act.

Such lands, however, not to be alienated, except under provisions of Municipal Act, 1882.

3. The provisions of sections one hundred and sixty to one hundred and sixty-three, 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.

Governor to have right of resumption

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 the parties concerned, or failing such agreement shall be determined by arbitration.

Rights of access reserved.

5. Nothing in this Act contained shall be deemed, construed, or taken, to deprive the owner of any property situate within the said 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, or to permit or allow the said Municipality to sell, lease, or otherwise alienate any lands situated between the Main Road to Simon's Town and the sea, as from the Muizenberg Railway Station to Kalk Bay Railway Station, or any land situated between the sea and land already sold along the beach front in an easterly direction from the Muizenberg Railway Station to the south-east angle of lot 15 of block G, or any land between that point and the eastern boundary of the Municipality situated within a distance of 500 feet from ordinary high-water mark on the Muizenberg beach, or to erect or permit the erection of any buildings upon such lands other than piers, band pavilions, boat houses, or buildings used exclusively for the purpose of bathing: Provided always

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that nothing herein contained shall prevent the said Municipality from entering into any contract or agreement such as referred to in section 15 of this Act, even if the same be wholly or partly in the nature of a lease of such piers, band pavilions, boat houses, or bathing establishments, and provided further that before the erection upon such lands of any piers, band pavilions, boat houses or bathing establishments be commenced due notice shall be posted at the office of the Municipality for not less than fourteen days of the intention of the Municipality to erect or permit the erection of the same, and provided moreover that sufficient plans and specifications be lodged at the Municipality's office for public inspection during the said fourteen days.

Proviso.

6. The proceeds of the sales of land and the rents received on leases or other agreements having reference to land acquired under the provisions of this Act shall become the property of the Municipality, but the said proceeds shall only be devoted to permanent public works or to the redemption of loans for permanent public works.

Proceeds of sales and rents of such lands to be devoted to Permanent Public Works.

7. The Council of the said Municipality shall be and are hereby empowered to set apart as a commonage for the use of the inhabitants of the said Municipality such portion or portions of land acquired under the provisions of this Act as shall be approved of by the Governor.

Council may set apart portion of such lands as commonage.

8. The Council of the said Municipality shall be and are hereby empowered to carry out all or any of the following works:

Council empowered to carry out certain works.

(1) To erect and construct a breakwater at Kalk Bay at Fishery Point, as a harbour for small vessels, fishing boats and pleasure craft, and to carry out such other works, including the construction and maintenance of a pier and all buildings, wharves, jetties and other erections as may be considered necessary for the protection and convenience of persons (and their property) engaged in connection with such vessels, boats, or craft.

(2) To construct a pier or piers on the Muizenberg Beach and at St. James, with the consent of the Governor.

(3) To erect and maintain bathing-houses, public baths and bathing establishments, within the limits of the said Municipality.

(4) To dredge or otherwise convert the Muizenberg Vlei, otherwise known as Zand Vlei, or any part thereof, at any time situated within the limits of the Municipality into a permanent sheet of water to be used for aquatic pastimes, and to erect, construct and maintain boat and other houses and pavilions, and to provide the necessary equipments in connection therewith, provided that if any such works be at any time constructed the water in the vlei shall not at any time during the months of December, January, February, March and April, in each and every year, be permitted to rise in

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the vlei in consequence of such construction or in consequence of the insufficiency of overflow outlets and channels over and above a level situated eight feet six inches below the upper face of the railway rails at the present time running over the railway culvert in the middle of the vlei, and should the water at any time so rise such fact shall be *primâ facie* evidence that any loss or damage sustained by the owners or occupiers of lands in the vicinity of the vlei and in the vicinity of the streams or watercourses flowing into such vlei through the saturation of their lands has arisen through the neglect of the Council who shall be responsible for all damage sustained thereby.

(5) To construct, erect, and maintain a sea-wall or esplanade along the whole or any portion of the Muizenberg Beach and to reclaim the foreshore adjoining the said Beach and may frame and publish regulations for the protection of the said esplanade or foreshore against injury or nuisance.

(6) To take, within the Municipality and with the consent of the Governor, land, with or without buildings, for the purpose of executing any work or undertaking authorised by this Act, and to make full compensation to the owners and occupiers of any lands so taken.

Council may appoint additional officers and pay salaries.

9. The Council may appoint such other officers to assist in the execution of this Act as may be necessary in addition to the officers authorised to be appointed in terms of section one hundred and six of the said Municipal Act of 1882, and pay such salaries and allowances to such officers, respectively, as the Council may determine. And unless it shall be otherwise stipulated in the contract with, or appointment of, any such officer, the appointment of any such officer shall be subject to the terms and provisions of sections one hundred and six to one hundred and eight, inclusive, of the said Act.

Council may make alter and revoke bye-laws and regulations.

10. The Council shall be and are empowered from time to time to make, alter, add to, amend and revoke bye-laws or regulations for all or any of the following purposes:—

(1) For regulating and controlling fishery stations and markets within the limits of the Municipality, and all matters and things pertaining thereto, and the sites and conduct of places for the sale, disposal, curing, smelting or other treatment of fish landed at any place in the said Municipality and the keeping of such places cleanly and in a proper state and removing fish and offal therefrom and requiring that all such places should be provided with a sufficient supply of water, and prescribing the fees to be paid in connection with the licensing of stands for fishing and other boats and vessels, and with the licensing of fishermen and fish vendors.

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(2) For regulating and controlling bathing and bathing-houses and estalishments, piers, breakwater, Muizenberg Vlei and the beach generally, and prescribing the fees to be paid in connection with the licensing of all such bathing houses and establishments, piers, breakwater and vlei.

"Lands and Arbitrations Clauses Act, 1882," incorporated.

11. For the purpose of any land taken, or any arbitration under the provisions of this Act, the provisions of the "Lands and Arbitrations Clauses Act, 1882," are hereby incorporated.

Certain Sections of Municipal Act of 1882 to apply.

12. The provisions of sections one hundred and sixty-nine to one hundred and seventy-six, inclusive, 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.

Regulations to be posted, advertised and approved by Governor.

13. After any regulation has been passed 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 seven days 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 Municipality.

Copy *Gazette* proof of making of bye-law.

14. 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.

Council may enter into contracts to carry out certain works.

15. The Council may, subject to the consent of the Governor, enter into contracts and agreements with private or public companies, individuals, or others, to carry out any of the works authorised by section eight of this Act, and may, subject to the provisions of sections one hundred and forty-four to one hundred and fifty-five, inclusive, of the said Municipal Act, 1882, raise loans to carry out all or any of the works authorised by this Act

Subject to public notice.

16. The consent of the Governor mentioned in the preceding clause shall not be applied for until a notice in writing of such intended application shall have been posted for general information at the office of the Municipality or some other conspicuous place within the Municipality, for a period of not less than three weeks, and published once at least in each week for three consecutive weeks in some newspaper circulating in the Municipality. Should any objections be lodged within eight days after the last of such notices shall have been published, the same shall be transmitted together with such application when application is made to the Governor for his consent.

Objections.

Application of money raised.

17. Any money borrowed by the Council for any of the purposes of this Act shall be strictly devoted to such purpose, and any councillor or official who shall knowingly spend or authorise the expenditure of any portion of the said money for any other purpose, or of any portion of the proceeds vested in the Municipality by section six of this Act for any purpose other

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than permanent public works, or the redemption of loans for permanent public works, shall be liable upon conviction to a penalty not exceeding £100, or to imprisonment with or without hard labour for any period not exceeding one year. Once in every year or on the completing any work or improvement authorised under this Act, if completed within a year, a detailed account of receipts and expenditure in connection with such work, shall be prepared, and an abstract thereof shall be published in one or more newspapers circulating in the Municipality. If when any such account is finally closed any balance remains to its credit the Council upon receiving the sanction of the Governor, may transfer the said balance to some other specific account or to the general municipal revenue.

Short title.

18. This Act may be cited as "The Kalk Bay Municipal Improvement Act, 1897."

No. 27—1897.] [July 1, 1897.

(1) ACT

To Repeal the Acts No. 14 of 1868, No. 25 of 1873, No. 31 of 1877, No. 8 of 1881, No. 17 of 1883, No. 15 of 1886, and No. 8 of 1890, and to consolidate, amend, and add to the Law regulating the Municipal Corporation and Government of Port Elizabeth.

Preamble.

WHEREAS it is expedient to consolidate, amend, and add to the existing Law regulating the Municipal Corporation and Government of Port Elizabeth, and with that object to repeal the Acts No. 14 of 1868, No. 25 of 1873, No. 31 of 1877, No. 8 of 1881, No. 17 of 1883, No. 15 of 1886, and No. 8 of 1890, 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 town of Port Elizabeth 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, and with regard to the good, cleanly, and healthy order and condition of the Municipality of Port Elizabeth 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, and also to make provision for the removal and establishment of locations for natives within the limits of the said Municipality:

[1] See Act 11, 1905 (p. 4819).

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No. 27—1897.

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:—

PRELIMINARY.

Repeal of present Acts, but Council still responsible.

1. The Municipal Act No. 14 of 1868, the Act No. 25 of 1873, entitled "The Port Elizabeth Municipality Amendment Act," the Act No. 31 of 1877, entitled "The Port Elizabeth Water Supply Act, 1877," the Act No. 8 of 1881, entitled "The Port Elizabeth Town Improvement Act, 1881," the Act No. 17 of 1883, entitled "The Port Elizabeth Native Strangers' Location Act, 1883," the Act No. 15 of 1886, entitled "The Port Elizabeth South End Park Improvement Act, 1886," the Act No. 8 of 1890, entitled "The Port Elizabeth Additional Water Supply Act, 1890," together with so much of any other law as may be repugnant to or inconsistent with any of the provisions of this Act, are hereby repealed: Provided that the Town Council of Port Elizabeth constituted under this Act shall be subject and liable to every contract, engagement, claim, debt, and demand to which the Town Council of Port Elizabeth, constituted under the Act 14 of 1868, 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.

Boundaries of the Municipality.

2. The town of Port Elizabeth, including all lands and property within the area circumscribed by the following boundary line—namely, on the south by a line from the sea, drawn through the Roman Rock beacons to the south-east corner of Walmer farm; from thence in a northerly direction, along the east boundary of the said farm to the north-east corner of the same; from thence westward along the Walmer boundary to the beacon near Harrie's Kraal; thence in a north-easterly direction, along the boundaries of Newcombe's farm and Korsten, to the northward of the north Creek; from thence, following the line of the Deal Party's Grant, to the sea; and from thence, along the sea beach at high water mark, to the first-mentioned point—shall be, and the same is hereby constituted, a Municipality.

Seven Wards in Municipality and their respective boundaries.

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

No. 1. Comprising all immovable property within the Municipal limits south of the Baaken's River.

No. 2. Eastern boundary, the sea; northern boundary, the southern side of Jetty-street, southern side of White's-road, southern side of Western-road in line through Saint George's Park, and southern side of the street between Lots Nos. 24 and 25 Park Lands, from thence northward of the Mill property to the western limits of the Municipality;

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western boundary, the western limits of the Municipality; southern boundary, the Baaken's River.

No. 3. Eastern boundary, the sea; northern boundary, the southern sides of Rodney and Donkin-streets, the southern side of Parliament-street, and along the southern side of the Cape Main road to the western limits of the Municipality; western boundary, the western limits of the Municipality; southern boundary, the boundary on the north of Ward No. 2.

No. 4. Eastern boundary, the sea; northern boundary, the southern side of Saint Andrew's-street, and crossing Main-street, taking the southern side of Russell-road to the Cape Main road; western boundary, a point being the junction of Russell-road with the Cape Main road; southern boundary, the boundary on the north of Ward No. 3.

No. 5. Eastern boundary, the sea; northern boundary, the southern side of Palmerston-street and Palmerston-road, through the Provincial Hospital Lands, from thence northward of the native location, situated at or near Russell-road, originally known as the Native Strangers' Location to the Cape Main road, at the north-west corner of St. George's Park; western boundary, the north-west corner beacon of St. George's Park; southern boundary, the boundary on the north of Ward No. 4.

No. 6. Eastern boundary, the sea; northern boundary, from the sea, taking the southern side of South-street, to Frederick-street, from thence following the water course to Queen-street, the southern side of St. George's-road (formerly Cooper's Kloof), to the Cape Main road; western boundary, a point being the junction of St. George's-road with the Cape Main road; southern boundary, the boundary on the north of Ward No. 5.

No. 7. Eastern boundary, the sea: northern boundary, the limits of the Municipality northward; western boundary, the limits of the Municipality on the west; southern boundary, the boundary on the north of Ward No. 6.

Council may alter boundaries of Wards and increase number of Wards, but must advertise ntention.

4. The said Council shall from time to time, if they shall think fit, alter the boundaries of the said wards, and may increase the number of wards by resolution of a majority consisting of not less than two-thirds of the Council present at a meeting specially called for the purpose: Provided that the Council shall, before making any such alteration, or making such increase, give, in the *Gazette* and one or more of the newspapers published in Port Elizabeth, public notice of the intention to make such alteration, or increase, and of the particular alteration, or increase, 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 same shall be also posted in some conspicuous place upon or near the Town Hall.

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5. There shall be in the said Municipality a body corporate, which shall take and bear the name of "The Town Council of Port Elizabeth," 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.

Corporate name of Council.

6. The Council of the said Municipality shall consist of twenty-one Councillors, one of whom shall be the Mayor, each ward in the Municipality being represented by three Councillors, but should at any time the number of wards be increased in terms of the provisions of this Act then from time to time upon any such increase occurring, the number of Councillors shall be increased by three additional Councillors for each additional ward.

Council to consist of 21 members, with three extra for every additional Ward created.

7. The Councillors in office at the time of the taking effect of this Act shall be the first Councillors under this Act, and each of them shall respectively remain in office for such period as he would have done had the Act No. 14 of 1868 not been repealed, but only so long as he shall be duly qualified and not disqualified under the terms of the said Act No. 14 of 1868.

Present Council to be first cancelled under this Act.

8. For the purpose of the second section of the Act No. 5, 1856, entitled "An Act for regulating the Provincial Hospital for Port Elizabeth," and of the Act No. 14 of 1888, entitled The Port Elizabeth Public Schools Amendment Act, and of any other Act or Ordinance by which any office, duty, power or function has been conferred or imposed upon the Mayor, Municipal Commissioners or Members of the Town Council of Port Elizabeth for the time being, or any of them, the Mayor and Councillors in office for the time being under this Act, or such of them as have any office, duty, power or function conferred or imposed on them, shall be deemed and taken to be persons meant and intended.

Hospital and Grey Institute Acts.

WHO QUALIFIED TO BE A COUNCILLOR.

9. Every male person of full age, qualified to vote at elections of Councillors under this Act, shall be eligible to be elected as a Councillor and qualified to hold office as such, but so long only as he shall continue to possess such qualification and not be disqualified under the terms of this Act or otherwise: Provided, however, that the provisions of this Act shall not in any way affect the status of existing Councillors during their present terms of office.

Who qualified to be a Councillor.

10. No person who is a member of the Council or Board of any Municipality other than that of the town of Port Elizabeth, or is a member of any Village Management Board, no person whose estate shall be in liquidation under assignment in trust for his creditors, no insolvent who shall not have obtained his rehabilitation, no alien who has not been naturalized, no person not qualified to vote at elections under this Act, no person of unsound

Who not qualified to be a Councillor.

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mind and no person who is disqualified under this Act shall be capable of being elected or continuing a Councillor.

Further disqualifications.

11. 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 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 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.

Councillors to receive no remuneration.

12. 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 meeting of the Council held in terms of sections ninety-nine and one hundred and three of this Act.

Vacancies.

13. Any Councillor who shall cease to possess the qualification by this Act provided or become disqualified or shall absent himself from the ordinary meetings of the Council for a period of three calendar months shall *ipso facto* vacate his office, and the Mayor shall at the next meeting of the Council declare any such vacancy which may have occurred subject to review by motion to the Supreme Court or Eastern Districts Court; and in case any Councillor shall die or become disqualified or resign or refuse to accept the office of Councillor, or in the event of any vacancy happening in any manner whatever, then such vacancy shall forthwith be filled up in the manner directed by this Act; but subject nevertheless to the provision hereinafter made as to vacancies occurring within three months of the annual election.

WHO QUALIFIED TO VOTE IN ELECTION OF COUNCILLORS.

Who entitled to vote at election.

14. Every person of full age, who is the owner or occupier of any immovable property in any ward of the Municipality, and whose name appears on the assessment roll shall be entitled to be enrolled on the voters' roll of the Municipality in respect of each ward in which he or she may own or occupy immovable property: Provided also that the assessment roll in existence at the time of the taking effect of this Act, shall until a voters' roll be framed in terms of this Act be deemed and taken to be the voters' roll for the purposes of this Act, and that all municipal rates assessed before the taking effect of this Act, and then due and in arrear, shall be deemed and taken to have been assessed under this Act.

Companies, &c., may vote by manager, &c.

15. Every 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

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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.

When more persons than one jointly liable to be rated, who may vote.

16. When 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 annual 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 ten pounds for each such person.

Who not qualified to vote.

17. The following persons shall not be qualified to vote at any elections held under the provisions of this Act:

(1) Persons who have not paid all sums due from them in respect of any rates payable three months or more before the day of voting.

(2) Persons convicted of treason, murder, rape, theft, perjury, or of bribery, or receiving a bribe, or of any other corrupt practice at any election, or any infamous crime, and who shall not have received a free pardon.

(3) Persons whose names do not appear on the voters' roll for the time being.

MAKING OF VOTERS' ROLL.

List of voters to be made annually.

18. The Council shall annually in the month of September 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.

Notice of objections.

19. The Town Clerk forthwith after the making of such list shall cause the same to be affixed in some conspicuous place in the

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Town Hall and cause 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.

Council to determine on objections.

20. The Council shall hear and determine all claims and objections and may enroll the names of any voters which 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.

Meetings of Council may be adjourned.

21. 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 Port Elizabeth 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.

22. 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.

ELECTION OF COUNCILLORS AND BALLOT.

Annual election of Councillors.

23. An annual election of Councillors shall take place on the second Tuesday in the month of December in every year for the purpose of electing Councillors to replace an equal number of Councillors whose period of office will on the 31st December then following expire by effluxion of time and for the purpose of filling up such casual vacancies as may require to be filled up.

Duration of Council's term of office.

24. The candidate in each ward who shall receive the highest number of votes shall hold office for a period of three years from the 1st day of January next after the day of election and the casual vacancy or vacancies in each ward referred to in the following section shall be filled up by the candidate or candidates having the next highest number of votes or who shall lose election by lot under section forty-six. In the event of there being one Councillor to be elected to fill a casual vacancy in a ward he shall hold office for the remainder of the term for which the Councillor who has vacated office and whom he shall succeed would otherwise have remained in office; and in the event of there being two candidates elected to fill casual vacancies in the same ward, he of them who stands highest at the election shall hold office for the remainder of the term of the vacating Councillor who had the longest period to serve before his term of three years expired, and the next highest candidate shall take the place of the vacating Councillor, with the next longest term to serve.

Casual vacancies.

25. 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

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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 three 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.

Election of Councillors for new wards.

26. In the event of the number of wards in the Municipality being increased at any time three Councillors shall be elected in manner hereinbefore provided for each such further ward, and upon the second Tuesday in the month of December following the constitution of such ward who shall enter upon their office on the 1st of January following, and the candidates elected shall hold office for three, two and one years respectively according to their position at the poll, and if there be not three candidates then as may be decided by lot.

Day for holding election.

27. Should it be 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.

Returning officer.

28. 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.

Nominations for Councillors.

29. 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 a day not being less than seven or more than ten from the date of giving such notice as the day of nomination and shall require all candidates at such elections to be nominated in manner set forth in the next succeeding section.

Candidate for Council must have requisition signed by 25 voters.

30. No person shall be deemed a candidate at any election, nor qualified to be elected a Councillor for any ward, unless he shall have been invited to become such candidate by a requisition signed by at least twenty-five 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, on or before the day appointed for receiving nominations, between the hours of ten a.m. and three p.m. any week day except a Saturday, and between the hours of ten a.m. and one p.m. on a Saturday:

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Provided, however, that no person shall be allowed to accept requisitions for more than one ward at one and the same election.

Procedure in case nominations shall not exceed number to be elected.

31. 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, and the duration of their terms of office shall if necessary be decided by lot. 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 manner aforesaid, and as for casual vacancies.

Notice of taking of poll not less than 6 nor more than 14 days after date of such notice.

32. In the event of the number of nominations exceeding the number of Councillors to be elected, the Town Clerk shall, forthwith after the expiry of the nomination day, inform the returning officer by this Act appointed, of the necessity of an election being held, and such returning officer 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 or more than fourteen days from the date of such notice, the number of vacancies to be filled, and the places where the poll will be taken. And the poll shall take place accordingly, and shall commence at eight o'clock in the forenoon and close at five o'clock in the afternoon.

Polling hours.

Polling stations and arrangements thereat.

33. 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 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.

Presiding officer to keep order and regulate voting.

34. The presiding officer and other officers 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 3 days' notice.

35. 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,

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and such person shall not be capable of being elected at such election.

Candidates may appoint a representative and an agent.

36. 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.

37. 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?

(3) 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.

Penalty for false answers.

38. 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.

Acts of corruption same as in elections for Parliament.

39. 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 under this Act, shall upon conviction incur and be liable to such penalty or punishment as is by such Act provided.

No delay in voting.

40. 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.

Voting by ballot and how carried on.

41. 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 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

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the counterfoil in the voting ticket book, and shall then tear out the ticket corresponding to such counterfoil, and having stamped the same with a perforated 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 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 perforated stamp be visible, and having held up the ticket so that the polling officer can recognise the perforated mark, 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.

Spoilt ballot paper.

42. If a voter inadvertently spoils a ballot paper he may return it to the presiding officer, who will, if satisfied of 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.

Voter physically incapacitated, procedure.

43. 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."

Voter offering to vote in same name as previous voter. Tendered ballot paper.

44. 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

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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, presiding officers and procedure.

45. 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:—

(1) Each ballot box entrusted to any polling officer under his direction 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 presiding officer, and a statement of the number of 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, and the said presiding officer shall deliver the same to the returning officer.

Duty of returning officer on receiving packets from presiding officer.

46. Upon receipt of the aforesaid packets from such presiding officer 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.

Which papers are to be rejected by returning officer.

47. The returning officer shall reject and not count any ballot papers which,—

(*a*) Do not bear the official mark;
(*b*) Give votes to more candidates than the voter is entitled to vote for;

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(*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.

Indorsement ballot papers.

48. 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.

Returning officer closes packets.

49. 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 re-seal 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 may be destroyed in the presence of two Councillors.

Sealed packets not to be opened for six months unless by order.

50. 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 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 regulations *re* ballot.

51. 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 mistake.

52. 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 Port Elizabeth or before any of the Judges of the Supreme Court.

ELECTION OF MAYOR.

On Thursday following every yearly election Councillors to choose from them-

53. On the Thursday following every yearly election, those of the Councillors then in office who shall have to continue in office for the following year, together with the newly-elected Councillors,

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but none others, shall choose from amongst themselves, by a majority of votes, the Mayor of the Municipality, for the following year; and every such Mayor shall enter upon his office on the 1st day of January next after his election, and shall, unless his office be sooner vacated, continue therein for one year, and shall during his year of office be exempt from serving on any jury summoned for the division of Port Elizabeth: Provided in case of an equality of votes at any election of Mayor, the question between the candidates so equal shall be determined by lot.

selves the Mayor. When Mayor shall enter upon office.

54. It shall be lawful for the Mayor to resign his office, provided that he shall give to the Council no less than one calendar month's notice of his intention so to do.

Mayor may resign on one month's notice.

55. If any Mayor shall die, resign, or shall 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 three calendar months, without leave, or shall be convicted of treason, murder, or rape, theft, perjury, or bribery, or receiving a bribe, or of any other corrupt practice at any election, or any infamous crime, and who shall not have received a free pardon, 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.

What shall constitute vacation of office of Mayor.

56. 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 prior to the then elected Mayor, and failing any such Councillor still in office, or in the event of a Deputy Mayor vacating 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.

Deputy Mayor, who shall be.

PROCEEDINGS OF COUNCIL.

57. The Council shall hold ordinary meetings not less than once in each week 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 afterwards, 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.

Council to hold not less than one meeting a week, and notice to be given.

58. The Mayor or any seven 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.

Mayor and seven Councillors may at any time call a special meeting.

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All notices of special or adjourned meetings to be in writing.

59. 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 Municipality, 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.

Councillors may adjourn any meeting.

60. 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 open to public.

61. All meetings of the Council shall be open to the public.

Who shall be chairman at meetings.

62. 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 the Deputy Mayor be present, such Councillor as the members of the Council then present choose shall be chairman.

All questions decided by votes of majority present, seven to constitute quorum.

63. 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 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, which number shall constitute a quorum.

On equality of votes chairman to have a casting vote.

64. 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.

Minutes of meetings to be kept.

65. 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 the 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 extract therefrom, attested by the Mayor and Town Clerk, and sealed with the common seal, shall be received in evidence in proceedings criminal or civil without further proof.

How documents to be executed.

66. 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.

Council may appoint committees and delegate powers to such committees.

67. 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 persons as they think fit, for any purposes which in the opinion of the Council would be better regulated and managed by means of such com-

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mittees, 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. The Mayor to be *ex-officio* member of all committees.

Acts of committee not binding until approved by Council.

68. The acts of a committee shall not be binding upon the Council until submitted to and approved by the Council, except 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.

Majority of votes at committee meeting decides.

69. 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 deemed to be duly qualified unless contrary proved.

70. 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.

Council may make rules or order.

71. 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 Councillor for a period not exceeding one month, and such rules of order shall include the power to remove a Councillor who shall have been asked to retire from the Council, and shall have refused.

Negatived motion cannot be revived within six months.

72. No motion which has been negatived shall be repeated within six months except by the decision of two-thirds of the Council after due notice by a Councillor of his intention to move for the re-opening of the subject matters of such motion.

Defect in election of Mayor, Councillor, &c., not to invalidate acts done.

73. All and any proceedings of the Council or of any person acting as Mayor, Deputy Mayor, Councillor, Town Clerk, or other Municipal Officer, as the case may be, shall, notwithstanding that it be discovered that there was some defect in the election or appointment of any Councillor, officer, or person as aforesaid, or any disqualification, and notwithstanding that there be any vacancy in the body of the Council, be as valid and effectual as if every such Councillor, officer, or person had been duly elected and qualified, and no such act or proceeding shall be questioned, provided in the case of any act or proceeding of the Council a quorum be present.

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OFFICERS.

Council shall appoint Town Clerk.—Town Clerk not required to serve on jury.

74. The Council shall from time to time appoint a fit person not a councillor to be Town Clerk of the town of Port Elizabeth, 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 any deeds, records, and documents of the Council, which shall be kept as the Council may direct; and such person, so long as he shall hold the office of Town Clerk, shall not be required to serve on any jury.

In case of illness of Town Clerk deputy may be appointed.

75. 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 to hold office during their pleasure, and all things required 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, and the record upon the minutes of the Council shall be sufficient evidence and proof of his appointment.

Council may appoint Treasurer.

76. The Council may from time to time appoint a fit person, not being a Councillor, to be Treasurer of the town of Port Elizabeth, who shall hold office during their pleasure.

Council may appoint Town Engineer.

77. The Council may from time to time appoint a fit person, not a Councillor, to be Town Engineer of Port Elizabeth, who shall hold office during the pleasure of the Council and who shall act as Town Engineer and Surveyor and discharge such duties as the Council may from time to time determine.

And Acting Town Engineer.

78. In case of the illness or absence of the Town Engineer, or in case the office be vacant, the Council may appoint an Acting Town Engineer, to hold office during their pleasure, and all things required and authorised by law to be done by or to the Town Engineer may be done by or to the Acting Town Engineer aforesaid.

Council may appoint officers.

79. 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 any such officer upon a notice of not less than one month, or, in case of misconduct, without notice.

Town Clerk and others to give security.

80. 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, and shall allow him such remuneration as they think reasonable.

Officers appointed by Council not to be engaged in other business.

81. 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.

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Treasurer and other officers to account to Council.

82. Every Treasurer and other officer appointed by the Council shall, at such times 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 purposes of this Act, or in connection with the affairs of the Municipality, 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 other such 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 or Eastern Districts 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 and sale of the goods and chattels of such officer, and if no goods or chattels of such officer shall be found sufficient to answer and satisfy the said money and the charges of distraining and selling the said 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 Municipality, 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 such other person

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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.

Prosecution of officer not to release surety.

83. 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.

If Treasurer, &c., become insolvent and moneys due by him to Council not paid by him or his sureties deficiency to be charged to general revenue of Municipality.

84. In case any Treasurer or Collector shall become insolvent, and any sum or sums chargeable against him by the Council shall not have been paid by his sureties, then and in every such case the sum deficient shall be chargeable against and form a burden upon the general revenues of the Municipality.

AUDITORS.

On 1st Wednesday in January in every year auditors appointed.

85. On the first Wednesday in the month of January in every year the Council shall appoint from among the ratepayers two persons not carrying on business in co-partnership to be Auditors of the Municipality, who shall continue in office until the same day in the following year. Voting for same to be by show of hands, or in such other manner as the Council may then and there determine; and the said Council shall give notice of the intention to appoint such Auditors not less than fourteen days before the day fixed for such appointment by advertisement in one or more of the local newspapers. At the same meeting the Mayor shall elect two Councillors to be called the Mayor's Auditors, who shall examine and sign the annual balance sheets.

Who not eligible as auditor.

86. No person shall be eligible as an auditor who shall be a Councillor, Treasurer, Clerk, or other officer of the Municipality.

If auditor die, &c

87. If any auditor shall die, resign, or be declared insolvent, or compound with his creditors, or assign his estate for the benefit of his creditors, another Auditor shall be elected in his stead, on a day to be fixed by the Mayor.

In case of equality of votes at elections of auditors.

88. In case of an equality of votes at any election of Auditors, the Mayor, Deputy Mayor, or Chairman for the time being presiding at such meeting of the Council shall determine by lot which of the persons for whom an equal number of votes shall have been given shall be elected, in case such persons cannot be both or all of them elected.

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AUDIT. No. 27 1897.

Quarterly audit and return.—What return shall show.

89. The Auditors shall once every quarter examine and certify to a return prepared by the Treasurer, showing:—

(*a*) The amounts of moneys voted by the Council during the preceding quarter for specific objects which shall be mentioned, with the date of such votes, and whether the same are payable out of loan account or other revenue;

(*b*) The total amount expended to the last day of the preceding quarter 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 at the commencement of the year in terms of this Act, but also of sources of revenue which have occurred during the year.

Certificate as to vouchers and report on unauthorised expenditure.

90. 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 amounts referred to therein have been correctly entered in the books in accordance with the votes of the Council. They shall further report 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 to conform to instructions of Council

91. 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.

Surprise audit once a quarter.

92. The auditors shall further, not less than once in every quarter, 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.

Proper books to be kept.

93. The Council shall cause books to be provided and kept at the Town Hall in Port Elizabeth, 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 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.

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In January every year account to be made up.

94. 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 before the first day of March following in one or more papers published in Port Elizabeth.

MAKING OF VALUATIONS.

Valuation of all immovable property to be made not less than every three years.

95. In order to ascertain the value of the rateable property within the Municipality for the purpose of assessing landlords' 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 one or more other competent persons duly appointed by the Council for the purpose.

Declaration to be made by valuator.

96. 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 solmenly 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 Port Elizabeth, 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.

What valuation roll shall show.

97. 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 to be stated).

(*c*) Description of the property valued.

(*d*) Name and situation of property.

(*e*) Rateable value.

Valuation roll shall lie for inspection and notice given to call for objections.

98. 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

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the same, and the Council shall by notice published in one or more local newspapers call upon owners and occupiers to lodge in writing with the Town Clerk any objections they may have against the valuation of any property whether owned or occupied by them or not, within a specified time not being less than one month from the first publication of such notice, and such objections must state the values which the persons so objecting consider should be placed upon the properties the valuations of which are objected to.

Appeal against valuation.

99. At any time within one calendar month from and exclusive of the day of the publication of such notice as aforesaid, it shall be lawful for any person who shall think himself aggrieved thereby, to appeal, in writing, against the same to the Council, who shall hold a meeting or meetings, at which not less than five members shall be present, to hear all objections which may be urged against any valuation by any owner or occupier or other person on his behalf, and inquire into the merits of such objections, and shall confirm or correct any valuation objected to as truth and justice shall require: Provided that any such meeting may, if necessary, be adjourned from time to time until all objections be heard, or upon the application of any person objecting who shall show reasonable ground for not being ready with his proofs, or for the purpose of obtaining further evidence in regard to any case which shall be partly heard. The decision of the Council upon any objection to any valuation shall be final and conclusive, and shall not be capable of being reviewed or revised by any Court or proceedings whatsoever: Provided that notice of the holding of any meeting as aforesaid shall be published in one or more of the Port Elizabeth newspapers, and posted in some conspicuous place upon or near the Town Hall fourteen days before the day appointed therein for the holding of any such meeting.

Interim valuation may be made.

100. 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.

Valuator duly authorised may enter on premises.

101. 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

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daytime into and upon any immovable property within the Municipality without being liable to any action on account thereof.

Roll for tenants' ates.

102. In order to ascertain the annual value or rental of the rateable property within the Municipality for the purpose of assessing the tenants' rate, and also to procure the other information required under the provisions of this section, the Council shall, in the month of January in each year, cause a printed schedule to be left at the house of every ratepayer, to be filled up by the occupier, under separate and distinct heads, setting forth the names of the owner, the occupier, and all inmates, also the annual rental, and the ttrm of lease, if there be one, and the date it determines, or, if no rent be paid, the estimated annual value of the property, and such other particulars as the Council may, by any such municipal regulation as they may pass in regard thereto, require; and at the expiration of seven days from the time such schedules were left, the Council shall cause the same to be called for; and all persons failing to return the schedules to the officers so calling, shall return the same, duly completed, to the office of the Council within seven days thereafter, under a penalty of 20s., or, in default of payment, be liable to imprisonment, with or without hard labour, for a period not exceeding twenty-one days. Should a tenant, or other person by whom the schedule must be filled up and sent in, be unable to write, the Council's officer shall be authorised to fill up same, and certify same from information obtained from tenant. From such schedules, the Council shall cause a roll or rolls of assessment to be made within one month from the said date, upon which the tenants' rate or rates of and for the current year shall be levied; and when any schedule shall not have been returned, or no schedule shall have been filled in to the knowledge of the Council, or where any of the schedules shall appear to the Council to misrepresent the value of the properties, or to be in any other respect incorrect, it shall be competent for the Council to cite, by due notice, all persons whom they shall think necessary to appear before them on a certain day, not earlier than three clear days from the service of such notice, in order to afford any evidence or information in regard to any property or other matter relative to any schedule which shall not have been returned or of which the correctness of the return made shall be questioned or disputed, or in any case where no schedule shall to the knowledge of the Council have been filled in; and should it appear to the Council that properties have been let upon leases at low rentals in consideration of repairs to be done by the tenant, or buildings to be erected, or for any other cause, or should it appear that the properties are occupied by the owners thereof, then the Council may cite such owners or occupiers, as is hereinbefore provided, to show cause why they should not be rated for taxation purposes at the market rental value of such properties; and if such persons shall then neglect to attend for the aforesaid purposes, the Council shall fix such annual value on all such

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properties as may appear just and reasonable: Provided that the said roll or rolls shall be drawn up according to the wards, and that the roll or rolls for each ward shall be submitted to the respective Councillors of the ward, who shall go through the same, and within twenty-one days shall report to the Council if they consider any property within such ward has not been properly or sufficiently valued: And provided that thereafter the roll or rolls of assessment aforesaid, together with the reports of the Councillors as aforesaid, shall be open for public inspection, at the office of the Council for the space of one month; and the Council shall give notice, in one or more of the newspapers of the Municipality, that the same lies open for inspection.

Appeal against assessment of annual value.

103. At any time within one calendar month from and exclusive of the day of the publication of such notice as aforesaid it shall be lawful for any person who shall think himself aggrieved at the annual value or rental set against the property owned or occupied by him, to appeal, in writing, against the same to the Council, who shall hold a meeting, or meetings, at which no less than five members shall be present, to hear all objections which may be urged against any such annual value or rental by any owner or occupier or other person on his behalf, and inquire into the merits of such objections, and shall confirm or correct any valuation objected to, as truth and justice shall require: Provided that any such meeting may, if necessary, be adjourned from time to time until all objections be decided upon; or upon the application of any person objecting, who shall show reasonable ground for not being ready with his proofs, or for the purpose of obtaining further evidence in regard to any case which shall be partly heard. The decision of the Council upon any objection to any such annual value or rental shall be final and conclusive, and shall not be capable of being reviewed or revised by any Court or proceeding whatever; and the valuation so fixed at such meeting, as well as the valuations previously made by the Council not objected to, shall be binding upon all concerned, and be incapable of being appealed against: Provided that the notice of the holding of any meeting as aforesaid shall be published in one or more of the Port Elizabeth newspapers, and posted in some conspicuous place upon or near the Town Hall, fourteen days before the day appointed therein for the holding of any such meeting.

If premises unoccupied for three consecutive months Council may refund part of tenant's rates.

104. Should the owner of property become liable for tenants' rates, owing to failure or inability on the part of the tenants to pay, or for any other reason, the Council may, on receipt of a sworn declaration from such owner, or the agent in charge thereof, to the effect that the house has been unlet and unoccupied for the period of three consecutive months or more, make a refund of the tenants' rates for such period as the house may have been unlet or unoccupied.

Annual assessment and levying of rates.

105. The Council shall annually, in the month of February, make an estimate of the amount of money required for municipal

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purposes, and shall assess the landlords' rate and tenants rate accordingly, as soon as conveniently may be after the making of such assessment and give public notice thereof in one or more of the newspapers published in 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 landlords' or tenants' rate, or landlords' rate and tenants' 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 landlords' rate or rates amounting to the aggregate to more than one penny in the pound on the value of the immovable property subject to such rates, nor any tenants' rate or rates amounting in the aggregate to more than sixpence in the pound on the annual value or rental of the immovable property assessed without obtaining the consent of the majority of the enrolled voters present 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 Port Elizabeth newspapers: Provided, also, that the landlords' and tenants' rates to be assessed and levied as aforesaid shall always bear the relative proportion of one penny to sixpence; and all rates assessed under the provisions of this Act shall be and be deemed to be a charge upon the property, and recoverable against the present or any future owner or occupier thereof.

Council may levy special rates.

106. The said Council shall, in addition to any powers to levy rates hereinbefore or hereinafter in this Act conferred, have power to levy special rates for providing the Municipality with an effective police force, or to contribute to the expense of maintaining the Government police force; for providing good and effectual lighting to the streets and public places within the Municipality; and for providing a proper and effective system of sewerage to the town: Provided, however, that no special rate or rates as in this section authorised, shall be levied without the consent of the enrolled voters; and in obtaining the consent of the enrolled voters, all proceedings shall be taken as are set forth in section one hundred and three of this Act; and provided further, should the enrolled voters refuse such consent, then the said Council shall in no wise be responsible for any deficiencies in the good management of the Municipality in regard to police, lighting, or sewerage: Provided further that nothing in this and the preceding section contained shall in any way affect the provisions of the Crown Property Rating Act, 1891, and the "Public Libraries and Museums Relief Act, 1892," nor shall either of the rates hereinbefore mentioned be levied upon any buildings appropriated to public worship, nor upon burial grounds, nor upon any buildings solely appropriated to the purposes of education, nor upon hospitals.

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Rate when payable.

107. As soon as any rate or rates shall have been assessed as aforesaid, the same shall be payable, and the Council shall appoint, under the corporate seal, fit persons to collect such rate or rates, which shall, on non-payment thereof, notwithstanding anything to the contrary in this Act contained, be recoverable at the suit of any collector, by action in the court of the Resident Magistrate of Port Elizabeth, or, in case any person liable for any rate shall not reside within the district of Port Elizabeth, then either in the court of the Resident Magistrate of Port Elizabeth, or in the court of the Resident Magistrate of the district in which such ratepayer shall reside: Provided that as often as any ratepayer not resident in the district of Port Elizabeth shall be proceeded against in the Court of the Resident Magistrate of Port Elizabeth, the summons directed to such ratepayer shall be served upon the person, if any, in occupation of the premises in regard to which the rate alleged to be due is claimed.

Interest on arrear rates at 6 per cent.

108. Should any rates not be paid within three 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 three months from the day on which the same were payable.

Council may sue both owner and occupier for rates.

109. In case by reason of the non-payment of any rate, whether landlords' or tenants', it shall be necessary to sue for the same as in the last preceding section mentioned, the Council may, through its collector, and it is hereby authorised, to sue the owner or the occupier, either separately, or both of them in one and the same action, each for the whole rate: Provided, however, that the occupier of any property who shall not at the same time be the owner thereof, and who shall not have entered into such occupation in pursuance of a contract or agreement for becoming the owner of the same, shall, in the absence of any written agreement to the contrary, be entitled to retain or recover from such owner the amount of any landlords' rate as aforesaid which such occupier shall have paid; and the owner of any such property shall in like manner be entitled to recover from the tenant thereof the amount of any tenants' rate levied during the occupancy of such tenant, which such owner may have paid.

Council's books, &c., evidence.

110. In any proceeding to levy or recover rates, or consequent on the levying or recovering of any rate as well as in all other legal proceedings under the provisions of this Act, the valuation rolls, rate books and records of the Council, and all entries made therein, and extracts or certified copies thereof signed by the Town Clerk and sealed with the seal of the Council, and also all copies of any newspaper containing any notice necessary to be proved, shall upon production thereof alone, be *primâ facie* evidence of such rate and of the contents thereof without any evidence that the notices required by or other requirements of this

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Act have been complied with; provided that it shall be competent for any party to any such proceeding to offer evidence to prove the contrary.

—Misnomer, &c., not prejudice action.

111. No misnomer, mistake, or informality committed in any proceedings for recovery of any assessment, rate, charge, or expenses under this Act, shall prejudice the recovery thereof, nor shall such proceedings fall, lapse, cease, or abate by the death, resignation, or removal of the collector instituting the same, or by any change in the persons holding office as Councillors, but it shall be lawful for the collector for the time to prosecute and follow forth procedure commenced and carried on in the name of any previous collector in all respects as if such procedure had been taken by himself.

Council to publish arrear rates.

112. The Council shall, 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 and the person from whom the same is due.

LOANS. [1]

Council may borrow on security of rates, with consent of voters.

113. It shall be lawful and competent for the Council to borrow at any time, on security of the rates, 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.

114. 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 Port Elizabeth.

(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 insure 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.

[1] See Act 11, 1904 (p. 4646), making provision for a sinking fund.

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(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 Port Elizabeth 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.

Council may obtain overdraft at bank for temporary accommodation.

115. 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.

"Public Bodies' Debts Act" to apply.

116. The "Act No. 11 of 1867," known as the "Public Bodies' Debts Act, 1867," shall apply in the case of all [1] debts due, or which may hereafter become due, by the Council, anything in this Act to the contrary notwithstanding.

CONTRACTS.

Council may carry out Municipal works departmentally or by contract.

117. 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 material 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 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 Coun-

[1] T e Act 11, 1904) p. 4649), providing for a sinking fund does not affect this section.

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cillors authorised by resolution of the Council. No contract above the value of fifty pounds shall be entered into, unless fourteen days' notice be 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 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.

Councillor cannot contract.

Councillor being a shareholder in company contracting not affected.

118. No Councillor shall be deemed or taken to have vacated his office of Councillor 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, nor shall any shareholder or person 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 to 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, to be recovered at the suit of the Town Clerk in the Resident Magistrate's Court for the District of Port Elizabeth, which Court shall have jurisdiction, or in any of the higher courts of this Colony: 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.

MUNICIPAL PROPERTY.

Property vested in Council under new Act.

119. All property which shall at the time of the taking effect of this Act be vested in the Council of Port Elizabeth for the time being, under any Act whatever, shall become and be vested

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in the Council elected under this Act, upon the like trust and purposes for which the same was originally granted or transferred.

Streets, &c., vested in Town Council.

120. The property of and in the streets, roads, public lanes, thoroughfares, foot pavements, footpaths, sidewalks, squares, and open spaces, to which the inhabitants of the Municipality shall at any time have or acquire a common right shall be vested in the Town Council:

Wilful damage to Municipal property.

121. If any person shall lawfully break, throw down, spoil, or damage any lamp, lamp-iron, lamp-post, pail, 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 water-course, sewer, drain, pipe or ditch within the Municipality, 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 Port Elizabeth, 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 two 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 paid into the general funds of the Council; and in case any such offender shall not on conviction pay the said forfeiture, and make full satisfaction for such damage as may be adjudged, 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: Provvided nothing herein contained shall prevent the Council from electing to bring any civil action for damages against such offender before any Superior Court of this Colony having jurisdiction, should they consider the amount of such damages to exceed the jurisdiction of the said Magistrate.

Accidental damage to Municipal property.

122. If any person shall carelessly or accidentally do any such damage or injury as hereinbefore mentioned, and shall not upon demand make satisfaction to the Council for the damage or injury so done, it shall and may be lawful for the said Resident Magistrate, and he is hereby required, upon the application or complaint of the Council, to summons the party complained of, and upon hearing the parties on both sides, or on the non-appearance of the party complained of to examine the matter of complaint and award such sum of money, by way of satisfaction, to the Council for such damages as such Resident Magistrate shall think reasonable; and in case of neglect or refusal forthwith to pay such money,

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then the same, and all expenses attending the recovery thereof, may be levied and recovered by the Messenger of the Court of the Resident Magistrate in like manner as is provided for the recovery or ordinary debts by the issue of a writ: Provided, however, that nothing herein contained shall prevent the Council from bringing any civil action for damages against such offender before the Superior Court should they consider the amount of such damages to exceed the jurisdiction of the said Magistrate.

POWERS AND DUTIES OF COUNCIL.

Council may sell landed property, with consent of Governor.

123. The Council may, with the consent of the Governor, sell by public sale any of the land or property vested in the Council 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 to the said Governor for his consent, give public notice, once a week 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 extent 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, and to none other; anything contained in the original grant of such land or property to the contrary notwithstanding: 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.

Council may lease lands, but must put leases up to auction

124. 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, and they shall contain a power of re-entry for non-payment of rent or non-performance of covenants.

Power to Council to make and repair roads, &c., &c.

125. The Council shall also 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 watercourses, 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; also to assize weights and measures, and appoint an officer for

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that purpose; to grant permits and licences, and to levy toll and dues as hereinafter provided; to regulate the time and place for slaughtering cattle, and the state and condition of slaughter-houses, tanneries, and wool-washing establishments; 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 establish and provide for the management of 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 or regulations which the Council is hereby authorised to frame and publish.

Laying on of water.

126. The Council, so far as practicable, is hereby required to maintain an adequate supply of water to every public fountain erected by or with the consent of the Council, and to every fire plug, to the cisterns from which the shipping in the harbour of Algoa Bay is supplied, and to all dwelling-houses and private water leadings; the said Council shall also have the power to lay water leadings into and on the premises of all private property situate within the Municipality, and the said Council shall have power and authority by their servants, or by contractors to enter upon private property for that purpose, and the owners of such private property shall be bound to pay the just charges of the Council or their contractors for laying such water leadings. 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 water leadings on to private property, such owner, occupier, or person shall be liable to a penalty not exceeding £5, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Council to abate nuisances.

127. The Council is hereby authorised and required to remove, put down, and abate all nuisances of a public nature within the said Municipality, or which may tend either to injure the health or in any way affect the safety, reasonable comfort, peace and quiet, or the rights of the inhabitants at large, and if need be, to proceed at law before the Resident Magistrate's or Superior 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, water-courses, drains, roads, and places within the said Municipality to be kept clean and free from dirt, filth, or rubbish; and any person convicted upon the complaint made by the Council to the Resident Magistrate, of throwing dirt, filth, or rubbish into any such street, road, water-course, drain, or place as aforesaid, shall forfeit and pay any sum of money not exceeding five pounds; and in default of payment thereof to be imprisoned for any period not exceeding two months with or without hard labour unless such fine shall be sooner paid.

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Public streets to be kept in repair.

128. The Council shall cause the public streets, roads, and places within the Municipality, to be at all times kept in good and efficient repair as far as the funds of the Municipality shall permit.

Lighting the public places.

129. It shall be lawful for the Council to make provision for the lighting [1] in a suitable manner the whole streets, lanes, squares public passages, thoroughfares and public places within the town, 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 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 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 and connection with drains.

130. 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 £5, and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

[1] See Act 11. 1905 (p. 4819) Electric Lighting Power.

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Buildings not to be erected over drains without notice to Council.

131. 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.

No person to open drains, &c., without consent of Council.

132. 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.

Establishment of markets.

133. The Council may from time to time as occasion may require, keep up and establish within the Municipality, 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 they may deem advisable, and may also frame and make such regulations and impose such fines as they shall think necessary for ensuring order and cleanliness, and for the disposal of produce therein, and for regulating and restricting bids thereat within the said market or markets, and may discontinue such market or markets, and alter the site or sites of the same.

Assizing of weights and measures and inspection of food for sale.

134. 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 of milk of all kinds; and may empower any person, at all times, to visit and enter into the shops or places where bread, meat, fish and other eatables, and milk of all kinds 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, and milk of all kinds therein sold are good and wholesome, and to seize, confiscate, remove, and destroy all bad or unwholesome bread, meat, fish and other eatables, or milk.

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Medical officers to notify Council of certain diseases.

135. Every medical practitioner in the Municipality shall, upon becoming aware, or being of opinion that any person attended on by him is suffering from an infectious disease, shall forthwith send a certificate to the health officer of the Council, or such other officer as the Council may appoint, disclosing the name and residence of the patient, and the disease he believes him to be suffering from, and for every certificate truly reporting the occurrence of an infectious disease the Council shall, after receiving the certificate, pay to the medical practitioner a fee of 2s. 6d. if the case occurs in his private practice. Any medical officer not complying with the terms of this section shall be deemed to have contravened a provision of this Act. The infectious diseases, of which notice must be given, shall include small-pox, cholera, diphtheria, membraneous croup, erysipelas, scarlatina or scarlet fever, and typhoid, typhus, enteric, relapsing, continued, yellow and puerperal fevers, and such other diseases as may at any time be declared by the Medical Council to be infectious.

Preventing infectious diseases,

136. 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, 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, or purify the same as the case may require. If the person to whom notice is so 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 continues to make default, and the Council may, if they think fit, cause such house, or part thereof, to be whitewashed, cleansed or purified, and may recover in a summary manner the expenses incurred by them 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.

Council may contribute annually to certain institutions.

137. The Council may contribute annually, out of the municipal revenue, sums of money and may make grants of land in aid of the following institutions: Port Elizabeth Libraries, Provincial Hospital, Port Elizabeth Museum, Port Elizabeth Athenæum, and Prince Alfred's Volunteer Guard, and such other institutions or objects as the Town Council may from time to time determine.

Council may contribute to public functions.

138. 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 to 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

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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 five hundred pounds sterling, anything to the contrary in this Act contained notwithstanding.

Council may grant pensions.

139. 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.

Power to establish public baths &c.

140. The Council may from time to time make, establish, construct, and maintain public baths, abattoirs, refuse destructors, urinals, latrines, cabmen's shelters, coffee stalls, and washhouses, with or without drying grounds, and public bathing places for the use and accommodation of the inhabitants of Port Elizabeth, and for any such purposes may expropriate, purchase, and acquire lands and buildings, and may utilise municipal property, and may from time to time fit up, furnish, and supply the same respectively with all requisite furniture, fittings, requirements and conveniences, and from time to time alter, enlarge, repair, renew, and improve the same respectively, and afford the use thereof respectively to such inhabitants and others, at such reasonable charges, and under and subject to such regulations as the Council may deem expedient.

Power to do away with same.

141. Whenever any of such 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 unnecessary or too expensive to be kept up, or for other reasons 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; and in the event of such sale being resolved upon as aforesaid, it shall not be necessary to obtain the consent of the Governor thereto, anything in this Act contained to the contrary notwithstanding.

Power to keep up public gardens, &c.

142. 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 other conveniences in connection therewith, for the use of the inhabitants of Port Elizabeth, 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, who may, from time to time, determine the charges, if any, to be made for the use thereof, and may let out the same,

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and authorise the persons hiring the same to make a charge for admission thereto.

Power to fit up buildings and lease them.

143. The Council may, from time to time, erect and construct buildings, 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.

Power to expropriate land, buildings for, &c., town improvement.

144. 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 upon 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, or appropriate or make use of any springs, streams, or other supplies of water, belonging to any person or persons who shall not be bound in law to allow the Council to do so; and may take stone, gravel, or materials for road making or other purposes: Provided that if any person or persons from whom any water or right of water, buildings, land, or any stone, gravel, or other material may be required to be taken 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, offering as recompense or compensation whatever sum of money they shall deem sufficient, and requiring such person or persons 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 or they are willing to accept the sum therein mentioned or not,—and if such person or persons should refuse the sum offered, or neglect to reply to the said notice, then the said Council or other person aforesaid 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 or other person aforesaid, and for that purpose to transmit to the said Council or other person aforesaid, within a reasonable time to be specified in the last mentioned notice, the name of such person whom he shall select to be an arbitrator,—and the said Council or other person 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 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 as aforesaid, and by the person claiming such compensation or recompense as aforesaid, and which shall clearly

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set forth the matter to be determined by the said arbitrators, and the award of the said arbitrators or a majority of them 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 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 said 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 and entitled 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 person aforesaid a sufficient title to the use of the property in the land or materials as aforesaid had been duly done and performed.

If owner minor, &c.

145. In case the said Council shall require to take or use any land, or to dig 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 may be, shall be authorised, in his capacity as such guardian or curator, to treat and agree with the said Council for the purchase or hire of the land or materials required, or water or right of water, 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 by 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 Guardians' 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 aforesaid, 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 by 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 payable 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

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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 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 any water or right of water, as in the last preceding sections 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 authorised, to cause a notice to be inserted in the *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 or owners of the said land or materials, or water or right 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, 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, that 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, or water or right of water, 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 whatever sum such person shall have valued the land or materials, or water or right of water 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 said Council, upon so paying the said sum, shall be authorised and

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entitled 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 sufficient title to the use of or property in the land or materials, or water or right of water as aforesaid had been duly done and performed.

Land and Arbitrations Clauses Act, 1882.

146. For the purposes of any arbitration under the provisions of this Act, when the mode of arbitration is not set forth, the "Land and Arbitration Clauses Act, 1882," are hereby incorporated.

Where property acquired both sides of a street Council may close street.

147. Should any property acquired by the Council under the terms of this Act include or constitute the whole of the properties on both sides of any street, lane or thoroughfare, the Council is hereby invested with authority to close such street, lane or thoroughfare: Provided always that if the Council decide to close any such street, lane or thoroughfare, they shall not less than one month prior to so doing advertise their intention in two or more local newspapers, during which time any person feeling aggrieved by such contemplated closing may apply to any competent court for relief, and upon any such application being made within such period of one month the court shall be entitled to restrain the Council from such closing unless they shall satisfy the court that no real or substantial damage will be occasioned to the applicant or until they have expressed their willingness to make compensation for such damage as may be found by arbitration to have been caused to such applicant.

Council may close any street after notice upon paying compensation.

148. Notwithstanding that the Council shall not have acquired the whole of the properties on both sides of any street, throughfare or lane, the Council is hereby invested with authority to close or divert for public purposes any street, thoroughfare or lane, the property in which is vested in the Council, and may from time to time dispose of the property in any such street, thoroughfare or lane, which may be closed or diverted: Provided that notice shall be served on the persons interested in the street, thoroughfare or lane intended to be close or diverted, and on the owners and reputed owners, lessees or reputed lessees, and occupiers of all properties abutting upon and adjoining the street, thoroughfare or lane which it is proposed to close or divert, who shall, *mutatis mutandis*, have the rights in the one hundred and forty-fourth and one hundred and forty-fifth sections given to the persons interested in land intended to be expropriated.

Value of improvement by closing, &., to be taken into account in arbitration.

149. In any case of the closing or diversion of any street, thoroughfare or lane, in the event of arbitration to decide the sum payable by way of compensation to any person, the arbitrators shall estimate and deduct the benefit or advantage derived by such person by reason of such closing or diversion.

Power *re* cemeteries.

150. The Council shall have power to establish, lay out and control cemeteries and to sell plots therein, and to make charges for burials therein; also to make regulations regarding burials

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therein as regards the number of bodies to be buried within any area, and as to the depth at which such bodies must be buried and otherwise; also to build chapels and mortuaries in connection with cemeteries. When and as often as it shall be decided by the votes of two-thirds of the Council present at any meeting that any cemetery or burial ground within the limits of the Municipality, whether municipal, private or church burial ground, is dangerous to the public health, the Council shall be empowered to give six months' notice that burial therein shall cease, and that 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, and in default of payment of any such fine shall be liable to imprisonments with or without hard labour for a period not exceeding six months.

Position of pipes to be altered if Council see fit.—Compensation to be made.

151. If the Council deem it necessary to raise, sink, or otherwise alter the situation of any water pipe or gas pipe, or other water works or gas works, laid in any such streets, they may from time to time, by notice in writing, require the person to whom any such pipes or works belong to cause forthwith any such pipes or works 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 permanently to 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 assessments, as the case may be, as well as to the persons to whom such pipes or works belong as to all other persons.

On failure to alter pipes Council may do work.

152. If the person to whom any such pipes or works belong do not proceed forthwith, after the receipt of such notice, to cause the same to be raised, sunk, or altered, in such manner as the Council require, the Council may themselves cause such pipes or works to be raised, sunk, or altered, as they think fit: Provided that such works be not permanently injured thereby, or the water or gas prevented from flowing as freely and conveniently as before.

WATER.

Water supplies vested in Council.

153. All dams, springs, fountains, and other sources of water supply situate within the limits of the Municipality, whether situate on the waste lands or commonage of the Municipality, or upon lands granted to the said Council or otherwise, provided the same be not on private property, shall be vested in and belong to the said Council, who shall have entire control thereover, and the said Council shall have power to make such regulations with regard to the use and the restriction of such use of the water supplies as they may deem advisable.

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Issue of debentures for money raised for water supply.

154. Notwithstanding anything to the contrary contained in section one hundred and thirteen of this Act, it shall be lawful for the said Council, from time to time, in any case which they may deem one of emergency, to borrow and to take up at interest such sums of money, not exceeding in the aggregate the sum of five thousand pounds, as may be required in connection with water supply, and to charge the Municipal rates of the said Municipality as security for any such sum to be borrowed by the said Council, and to issue debenture bonds therefor.

Power to take water from Van Staaden's River.

155. The said Council shall be empowered to take, impound, divert, expropriate, and convey from the Van Staaden's River, in the district of Uitenhage, such a supply of water of the said river as they may require for the purposes of this Act. And for the purpose of enabling them so to do, it shall and may be lawful for the Governor of this Colony, and he is hereby authorised to give and grant to the said Council in full and free property all Government land on which the said Van Staaden's River takes its rise, or all such Government land as is situate 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 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 Van Staaden's 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 in the one hundred and forty-fourth section of this Act provided.

Power to make the necessary works.

156. The said 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, 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 of Port Elizabeth and for the shipping visiting that port.

Power to construct line of telegraph, &c., to source of water supply.

157. The said Council is hereby further empowered to construct and maintain a line of telegraph or telephone between Port Elizabeth and the source of the said water supply in such manner as the said Council may determine, and to enter into any contract or contracts with any joint stock company or co-partnerships of individuals, or an individual, for the performance of the whole or any portion of the works in this and the preceding section mentioned and set forth.

Power to enter upon and take Crown and other lands and make compensation.

158. The Council is hereby empowered to enter upon, occupy, enclose, take, and use for the purposes of this Act any land belonging to Her Majesty the Queen, commonly called "Crown Lands," or any land set apart for church purposes, commonly called "Glebe

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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 purposes 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 purpose of the said water 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 laying down, repairing, inspecting, maintaining, or removing any reservoir or reservoirs, pipe or pipes, or other works, and may either compensate the owners of such lands as hereinbefore 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 land to protect source of water.

159. It shall be lawful for the said Council to acquire and take possession in the manner hereinbefore and hereinafter provided of any land, whether belonging to Her Majesty the Queen, commonly called "Crown Lands," or land belonging to private persons, that may be required for the purpose of protecting the sources of the said Van Staaden's River, or 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 water of the said river.

Power to lay pipes in thoroughfares.

160. The said Council are hereby further empowered to lay down pipes or construct conduits along or under 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.

Right of access along works.

161. It shall be lawful for the said Council at all times, by themselves, their engineers, contractors or workmen, and with carts or carriages, 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 or vested in them by 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.

Any person wilfully damaging works liable to penalty.

162. Any person who shall wilfully injure, damage, disturb, obstruct, or interrupt any building or line of telegraph, erection, conduit, reservoir, dam, watercourse, drain, ditch, pipe or pipes, or work or works, or shall obstruct, hinder, or prevent the forming, constructing, completing, or maintaining the works authorised by this Act, 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

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had not been passed, but no person shall be prosecuted both under this Act and any other law for or in regard to one and the same act.

Penalties for washing in, defiling, &c., water.

163. Any person who shall bathe or wash himself in any dam or reservoir belonging to the 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 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 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.

Power to publish tariff and power to inspect water leadings.

164. The Council are hereby empowered from time to time to make and publish a tariff of charges for the supply of water. The said Council, or any person duly authorised by them, shall have access at all reasonable times to inspect and regulate all water-leadings.

Power to make bye-laws and restrict use of water.

165. It shall be lawful for the said Council, at any meeting at which a majority of the members shall be present, to frame from time to time such bye-laws as they shall deem necessary for regulating the system of water supply to the town of Port Elizabeth, and may, in such bye-laws, direct that where the Council may deem it advisable they may direct that all or any consumers of water shall be bound to receive their water supply through meters, and the said Council may, at any time, when there is danger of the water running short, put such restrictions on the use of the water as they may think fit, and provide penalties for the non-observance of such restrictions and bye-laws, such bye-laws to be submitted for the approval of the Governor.

Power to levy water rate.

166. In order to pay the interest and to establish the sinking fund hereinafter mentioned, and to provide for all claims arising in connection with the supplying water to the town, 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 annual rental, or, if no rental be paid, then upon the estimated annual value of the whole of the immovable property within the limits of the said Municipality. 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 be recoverable against the present or 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 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.

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Tenants' Roll to be basis on which rate levied.

167. The amounts for assessment entered 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, and for all properties not liable to assessment under this or any other Act, 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 newspapers published within the said Municipality that the same lies open for inspection, and the provisions of the one hundred and third section of this Act shall apply to the hearing and deciding upon objections to such valuation.

Rate due on date fixed by Council.

168. 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 and of the amount of the rate or assesment 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 to some conspicuous place in or near the Town Hall.

Council to appoint collector of rate.

169. As soon as any rate shall be assessed as aforesaid, the Council shall appoint under the corporate seal a person to collect the same, and which rate shall, on non-payment thereof, be recoverable as a separate and distinct rate at the suit of such collector by action in the Resident Magistrate's Court having jurisdiction within the said Municipality, or in any Resident Magistrate's Court in which such defaulter shall reside.

Separate account to be kept.

170. The Council shall keep, or cause to be kept, a separate and distinct account of all moneys borrowed for the supply of water, and of the expenditure of such moneys and of all revenues arising from waterwarks, distinguishing sums received for rates imposed under the provisions of section one hundred and sixty-six of this Act, and of moneys expended upon the construction and maintenance of waterworks: 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 for the inspection at all reasonable times of any householder of the Municipality an account showing the particulars aforesaid, and giving any other information which the said Council shall deem necessary or expedient to impart: Provided that every such account shall be made up to the 31st December in each and every year.

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Sinking fund to be established.

171. In order to provide a (1) fund for the payment of all moneys borrowed under the provisions of the (2) Act No. 31 of 1877 and of sections one hundred and thirteen and one hundred and fifty-four of this Act, for water supply and for the gradual extinction of the debt thus incurred there shall be set apart an annual sum equal to the interest of the whole amount of such debentures or loans as shall have been issued under the said Act 31 of 1877 and under authority of the said sections hereinbefore mentioned, and a further sum of not less than one pound sterling per centum on the total amount of the principal or capital sum which has been raised, and such last-mentioned sum, together with any surplus interest, 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 and unextinguished.

SURVEYS AND PLANS.

Council may have plan of underground works of town and tram lines made.

172. The Council may procure a survey and map or maps of the town on a scale of not less than sixty inches to a mile, and may cause to be marked thereon the course of all the existing sewers and drains belonging to them or under their care or management, and, as far as can be ascertained, the lines of pipes or conduits for the collection and distribution of water, the course of the pipes for the distribution of gas, and such other works, with such other particulars as may be necessary in order to show the underground works within the town, as also lines of railway or tramway, or other surface constructions, upon the streets and roads of the Municipality, or the commonage or waste lands, and may cause the said map to be, from time to time corrected, and such additions to be made thereto as may show the sewers and drains for the time being belonging to the Council, and such other pipes and underground works as aforesaid, as also the lines of railway, tramway, &c.; and such map and plan, or a copy thereof, with the date expressed thereon of the last time when it was so corrected, shall be kept in the office of the Council, and shall be open at all reasonable hours to the inspection of the owners or occupiers of any lands or premises within the town.

Power to appoint street keepers and police.

173. The said Council are hereby empowered, from time to time, to appoint and employ such number of able-bodied street-keepers and policemen 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 street-keepers and policemen with such clothing, arms, ammunition and weapons, and shall appoint to them such duties and hours or times of duty, and shall also make such rules, orders and regulations relative to such street-keepers and policemen, and their duties as shall be deemed fit.

[1] See Act 11, 1904 (p. 4647) providing for a sinking fund in place of the one provided for in this section.

[2] Repealed by this Act.

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TOWN IMPROVEMENT FUND.

Existing rights and obligations protected.

174. All rights which the Council of the Municipality of Port Elizabeth and the Mayor as trustee thereof have to the Town Improvement Fund authorised to be established under the Act No. 8 of 1881, and all obligations in connection with such fund imposed upon or due by the said Council and the Mayor, are hereby invested in or imposed upon, as the case may be, the Council constituted under this Act and the Mayor for the time being.

Town Improvement Fund vested in Mayor as Trustee.

175. The said Town Improvement Fund, as existing from time to time shall be vested in the Mayor of the Municipality of Port Elizabeth for the time being as trustee, and all the accounts thereof shall be kept separate and distinct from any other funds of the Municipality.

Power to place a sum on estimates, to be invested in fund.

176. The said Council is hereby authorised to place on the estimates of any year any sum of money to be invested in the said Town Improvement Fund, and on the same being duly voted by the Council shall pay over such sum out of the revenues of the Municipality to the said trustee.

Account of fund to be published annually.

177. The said Council shall cause to be published in one or more of the local papers, during the month of January in each year, an audited account made up to the 31st December, showing the details of income and expenditure; and also annually, in the month of January, a statement of the assets and liabilities of the said fund.

Notice of motion to deal with property must be given.

178. When the Council desire to sell, let, or lease, or otherwise deal with any property acquired by them under this Act, including any street, lane, or passage, or to erect any building thereon, notice of motion shall be given by a Councillor, stating the precise manner in which it is proposed to act.

Transfers and mortgages to be made in favour of or by Mayor.

179. All transfers to and from the said Council, and all mortgages passed by them under the provisions of this Act, shall be made in favour of or by the Mayor for the time being as trustee.

Mayor to take instructions of Council.

180. The said Mayor as trustee shall, in all matters relating to the Town Improvement Fund, or any property acquired under this Act, obey the instructions of the Council as expressed and recorded from time to time in the minutes of the said Council, and copies of all such minutes shall be forwarded to the Mayor, in writing, by the Town Clerk immediately after the same have been passed.

No personal responsibility upon Mayor.

181. The Mayor as such trustee shall not, by acting on any minutes or instructions so received from the Council through the Town Clerk, incur any personal responsibility whatever, nor shall he be answerable for any irregularity or error in the passing or recording of such minutes, nor for any act, negligence, or omission on the part of the Council or its officers.

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No subdivisional transfer of land to be passed without approval of Council

182. 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-divisions, 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.

Council to see to drainage in plans.

183. It shall be the duty of the said Council to see that due provision is made in every plan so submitted for the efficient drainage thereof; that the streets and passages reserved are of sufficient width to accommodate the traffic that may be expected thereon, and that all streets or thoroughfares shall be clear throughout and open into existing streets or thoroughfares.

Owners subdividing must level streets.

184. The owners of such porepty 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.

Plans of buildings to be submitted to Council, who may disapprove thereof.

185. 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 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 whatever, 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.

Ratepayers requiring extra work, &c., in ward may agree with Council for same on extra payment.

186. When the ratepayers in any ward, district, or street desire to have special paving or other works effected therein, or to have a larger proportion of police, sanitary or other officers employed therein, or a larger supply of gas or other light, or water or other service than can be allotted to such ward, district or street out of the general rates of any year, such ratepayers or any number of them may propose and conclude any agreement with the said Council whereby, in consideration of certain additional payments over and above the ordinary rates, such work or services may be supplied.

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Where owners in any ward, district &c., of two-thirds of assessed value in ward decide for additional works Council may levy extra rate binding on all owners.

187. In the event of any of the owners of property in any such ward, district, or street desiring such special works or services of a nature chargeable on the landlords' rate, the said Council shall on requisition of not less than ten of such owners call a meeting of all the owners of rateable property in such ward, district, or street by notice to be published in one or more local papers for not less than twice a week during two successive weeks immediately preceding the day appointed to such meeting; and if it be decided at such meeting by the owners who are entered in the valuation roll of the Municipality as owners of not less than two-thirds of the aggregate value of the assessed property in such ward, district, or street, such decision being previously obtained in writing, that a rate shall be passed for the purpose of defraying the cost of such work or services, such rate as they may agree upon, not exceeding one penny in the pound on the assessed value of the property in the said ward, district, or street, shall be binding upon the whole of the owners of such property, and shall be levied as provided for the levying and collection of the landlords' rate.

Meaning of term "district" in last two sections.

188. The word "district" in the last two preceding sections of this Act shall mean any group of streets or thoroughfares, the principal owners or tenants whereof may desire to co-operate in the demand for such extra works or services, and on application from such persons it shall be the duty of the Council to define in any agreement the precise boundaries of such district.

Wilful displacement of paving, &c.

189. Every person who wilfully displaces, takes up or makes any alteration in the pavement, flags or other materials of any street, without the consent of the Council, in writing, or without other lawful authority, shall be liable to a penalty not exceeding five pounds, and, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding one month, and also a further sum, not exceeding five shillings, for every square foot, or part of a square foot, of the paved flags or other materials of the street exceeding one square foot so displaced, taken up or altered; and any persons having authority to take up the pavement, flags or other materials of any street shall be bound to restore the same in a substantial manner, and to the satisfaction of the Council; failing which, the Council shall have power to restore the pavement, flags or other materials at the expense of such persons, and to enforce payment thereof.

Owners to make footways before their properties.

190. The owners of all lands or premises fronting or abutting on any street shall, at their own expense, when required by the Council, cause footways before their property respectively on the sides of such streets to be made, and to be well and sufficiently paved with flat hewn or other stones, or to be constructed in such other manner and form and of such breadth as the Council shall direct, and shall thereafter, from time to time, as occasion may require, repair and uphold such footways: Provided always that where the lands or premises of any owner front or abut on any street for a continuous length exceeding one hundred yards, and such lands

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or premises are unfenced or unbuilt on, it shall not be lawful to the Council to require such owner to construct such footway, but the Council may themselves cause such footway to be constructed in so far as they think proper, and shall be entitled forthwith to recover from such owner one-third of the expense thereof, and the remaining two-thirds thereof whenever the lands fronting or abutting on the footing so constructed by them are actually fenced or built upon, or laid out or used as a garden or pleasure ground or pertinent to a house.

Doors and gates must open inwards, save of buildings used for public entertainments.

191. All doors, gates, and bars which now open upon any street shall be hung or placed so as not to open outwards, except when, in the case of public buildings, the Council allow such doors, gates, or bars to be otherwise hung or placed; and if, except as aforesaid, any such door, gate, or bar be hung or placed so as to open outwards on any street, the owner of the premises to which such door, gate, or bar is attached shall, within eight days after notice from the Council to that effect, cause the same to be altered so as not to open outwards; and in case he neglects to do so the Council may make such alteration, and the expenses of such alteration shall be paid to the Council by such owner, and shall be recoverable from him, and he shall in addition be liable to a penalty not exceeding forty shillings, which may be recovered by civil process simultaneously with any process for the recovery of the expense of such alteration.

Existing doors opening outward may be altered by Council.

192. If any such door, gate or bar was, before the promulgation of this Act, hung so as to open outwards upon any street, the Council may alter the same, at the expense of the Council, so that no part thereof when open shall project over any public way.

Openings in pavement to get to cellars must be covered with proper door.—Consent of Council must be obtained to make opening.

193. When any opening is made in any pavement or footpath within the town as an entrance into any vault or cellar, a door or covering shall be made by the owner of such vault or cellar, of iron or such other materials and in such manner as the Council may direct, and such door or covering shall from time to time be kept in good repair by the owner of such vault or cellar: Provided always that before such opening is made the consent of the Council thereto shall be obtained in writing; and if such owner do not within a reasonable time make such door or covering, or if he make any such door or covering contrary to the direction of the Council, or if he do not keep the same when properly made in good repair, he shall for every such offence be liable to a penalty not exceeding five pounds.

FIRE.

Appointment of Municipal Fire Brigade.

194. 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 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

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horses, and for the accommodation of the persons charged with the management thereof, and shall employ a force of firemen, to be called "The Port Elizabeth 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.

Superintendent of Fire Brigade to take control at fires.

195. 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 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 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 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 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 or the officer in charge shall have power to dispense with the services of any of them at any time.

Police to aid Fire Brigade.

196. 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.

All persons acting under superintendent at a fire indemnified.

197. 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

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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.

Council may charge for services of Brigade.

198. 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 the fire engines and appliances, and also the sum of 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 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 from the municipal water-works 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 fire upon such buildings.

Amount of charges of Council payable by owners and occupiers in equitable proportion.

199. 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 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 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.

Council may pull down buildings, &c., and need not rebuild.

200. 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

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caused to any person or any buildings or other erections so dealt with.

Council may sue for charges, &c., and have lien on goods saved and in their possession.

201. The Council shall be entitled to sue for and recover all expenses incurred by them, the superintendent and officer in charge, 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 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 two or more newspapers published in Port Elizabeth, 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 fire.

202. The superintendent or the officer in charge shall make a report in writing to the Council on every fire he attends.

Charges to come under loss by fire within meaning of insurance policy.

203. 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 one hundred and ninety-nine, 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.

LOCATIONS.

Power to establish and remove locations and to remove existing locations.

Repealed by 1923 Act 21, Sec. 27(1)

204. The Council are 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 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 weeks, and until they shall have obtained such consent; and the Council are 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

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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.

No. 27—1897. Repealed by 1923 Act 21, Sec. 27(1)

Compensation to owners of huts, &c.

205. The Council shall make compensation to the owners of any huts, dwelling houses, or other buildings on sites or locations which shall be pulled down or removed by the said Council, for the value of the same, to be ascertained by a competent appraiser, to be approved of by the Civil Commissioner of the division, which compensation shall be equal to the cost of erection of such houses, dwelling-places or other buildings of the same description on any new site or location, and in case the owners of such huts, dwelling-houses or other buildings shall refuse to accept payment of the value so ascertained, the amount of compensation to be paid to such owners shall be settled by arbitration.

Compensation for churches.

206. Should it happen, by reason of the enforced removal of any of the natives authorised by this Act, that, in the opinion of the trustees or other proprietary body owning any church or school building to which such natives may have been attached, any loss or damage may accrue, such trustees or other proprietary body may, if they think fit, claim compensation therefor from the Council, and unless the amount of such compensation be mutually agreed upon, it shall be ascertained by arbitration, on the basis provided in the last preceding section of this Act.

Land of Municipal locations removed can be sold by Council.

207. In case the Council shall exercise the authority by this Act bestowed on them, and remove any native location from any municipal land, the said Council shall thenceforth hold the said piece of land free and unencumbered, and may sell and alienate the same, or any part thereof, as if no condition contained in the grant of the said piece of land had ever existed.

Proceeds to go to general revenue.

208. The proceeds arising from the sale of any portion of the said land, after payment of the amount of compensation aforesaid, shall be applied and paid into the general revenue of the Council.

Council may borrow moneys to compensate for removal of locations

209. Should the Council at any time resolve to remove any location and require moneys for such removal, and to pay compensation to the owners of huts and other buildings and for churches, as provided in sections two hundred and four and two hundred and five of this Act, then the Council shall be at liberty to borrow moneys for the purpose and to pass debenture bonds therefor upon security of the municipal rates or of municipal property, or both.

RULES AND REGULATIONS.

Two-thirds of Councillors must be present when regulations framed.

210. The Council may, at any meeting at which two-thirds of the members shall be present, repeal, alter, or amend any of the municipal rules or 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

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amend the same: Provided that all municipal regulations in force in the Municipality of Port Elizabeth 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.

211. 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 made by the Council or 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 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 regulating with respect to the closing of buildings or parts of buildings unfit for human habitations, and the prohibition of their use for such habitation.

(8) For prohibiting brothels, 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 level of buildings, 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

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which has been sub-divided 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 to 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 live stock which each inhabitant 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 washhouses, 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 or near any of the quays or piers.

(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.

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(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, rejoicings, 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 the 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 re-numbering 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 butcher's meat, the establishment and locality of slaughter houses and meat shops and their maintenance in a cleanly and proper state, and removing the filth therefrom, and requiring that all such places 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.

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(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 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.

(31) 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.

(32) 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 perambulators, bicycles, tricycles, wheel-barrows, and similar vehicles on any sidewalk or foot pavement, except for the purpose of crossing the same to or from any house or building.

(33) For preventing persons marking, putting posters, bills, or any form of advertisement or marking buildings, pavements, walls, fences, steps, paths, posts, lamp posts, &c.

(34) For preventing persons from congregating with others, 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.

(35) For regulating the width, kerbing, paving, guttering, gravelling, cleansing and watering of roads and streets.

(36) 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.

(37) For licensing and supervising coolies and arranging tariff of charges for same.

(38) For compelling persons owning houses and premises not being portion of locations occupied by natives to register the said houses and premises at the Town Office with the names of all the inmates thereof and the rents paid by them, and charging a fee for such registration, and on failure to make such registration for payment and recovery of penalties for such failure.

(39) For regulating, supervising and licensing hackney carriages, cabs, jinrickshas, wagons, carts and conveyances drawn by any horse, mule, donkey or ox, kept

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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 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.

(41) 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.

(42) For regulating, restricting and licensing the use of bicycles, tricycle 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 signboards or sky signs in the streets or over buildings.

(48) 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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212. 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 all 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 provide penalties for breach.

213. After any rule, regulation or bye-law has been passed by the Council a copy of the same shall be posted in or near the Town Hall and a notice published in one or more local newspapers calling attention thereon, 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 Municipality.

Regulations when passed to be posted at Town Hall, advertised in *Gazette*, &c.

214. 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 the contents thereof.

Copy of *Gazette* to be evidence.

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

After publication proof that two-thirds of Council present not necessary.

MISCELLANEOUS.

216. 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.

Person keeping dog or other animal a nuisance to neighbourhood liable to penalty.

217. 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 ten pounds:

Person 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.

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Person selling adulterated articles.

218. Every person who knowingly sells or exposes for sale, or keeps for the purpose of sale any adulterated butter, meal, bread, or other article of food, adulterated by the admixture of any foreign article, matter or substance whatsoever, unless the said adulterated article be expressly sold and labelled as a compounded article, shall be liable to a penalty not exceeding five pounds.

Charges of Council for work done preferent to any mortgage, &c.

219. In all cases, where by this Act or any rule or regulation at any time in force, the Council is authorised to do any work upon any private property, the expenses to which the Council may be put in doing such work and defraying the costs of materials in connection therewith, shall be a first claim and charge upon such property, and be paid in preference to any debt, obligation or mortgage thereon by the owner thereof.

Powers to sue, &c., to be signed by Mayor and Town Clerk, and corporate seal attached.

220. In any action or suit which shall or may be brought for the recovery of any penalty or sum of money due or payable by virtue of this Act, or for or in respect of any other matter or thing relating to this Act, by or against the Council, the warrant of attorney to sue or defend shall be deemed to be duly executed if issued under the common seal of the Council and signed by the Mayor or Deputy Mayor and Town Clerk; and all such costs, charges, and expenses as the Council shall be put to or become chargeable with by reason of bringing or defending such action or suit, or under any judgment of the Court, shall be paid out of the funds of the Council, and no Councillor shall be personally answerable or liable for the payment of the same, or any part thereof, unless such action or suit shall arise in consequence of his own wilful neglect or default.

Service on Town Clerk good.

221. Any summons or notice or any writ or other proceeding at law which any person may desire to serve or have served upon the Council may be served by being given personally to the Town Clerk, or by being left at his office with one of the officers of the Council.

How notices to be published.

222. 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 be so published by causing a copy thereof to be inserted in one or more of the newspapers of the town, and a copy of the same shall also be affixed in some conspicuous place upon or near the Town Hall.

Council to appoint at least one newspaper to be medium for Municipal notices.

223. In all cases on which any matter or thing is by this Act required to be advertised or printed in one or more newspapers published in Port Elizabeth, the Council shall from time to time appoint at least one newspaper which may be regarded as its medium for such purposes.

Power to enter buildings, &c.

224. 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

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Council's rules and regulations without being liable to any legal proceedings on account thereof.

Persons obstructing servants of Council liable to a penalty.

225. Every person who shall at any time obstruct the Council in 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 contravening sections of Act or any regulation liable to a penalty specially provided.—Also general penalty clause where no provision.

226. Every person who shall contravene any provision of this 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 be imposed to a penalty not exceeding ten 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 a 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.

All fines recovered to go to Council.

227. All fines or 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, by the name of "The Town Council of Port Elizabeth," and shall, when recovered, be paid to the Treasurer of the Municipality for municipal purposes: Provided that no such prosecution as aforesaid shall be commenced later than three months from and after the date of the act or omission upon which such prosecution shall be grounded.

Prosecution in Resident Magistrate's Court of Port Elizabeth unless otherwise provided.

228. All offences committed in contravention of this Act, or of any municipal rule or regulation, may lawfully be prosecuted in the Court of the Resident Magistrate for Port Elizabeth, unless otherwise specially provided for.

Expenses of Act &c., to be paid out of general funds of Council.

229. All costs, charges and expenses incurred in and about the promotion and passing and carrying the provisions of this Act and the Municipal Regulations into effect, shall be paid out of the general funds of the Council.

Separate loan account to be kept.

230. The Council shall cause to be kept with their bankers a loan account separate and apart from the Council's ordinary current accounts, and all moneys forming part of any loan incurred by the Council other than a temporary loan under this Act shall be paid into such account and be applied solely to the purposes for which the same was borrowed: Provided however that the Council shall at any time be entitled to utilise temporarily for other purposes of the Municipality, any portion of such moneys not immediately required for use in connection with the purposes for which they were borrowed, if the amount so used temporarily together with any over-draft then existing in terms of section one hundred and

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fifteen of this Act shall not exceed the income for the year ending on the last preceding 31st of December, and if the Council by special resolution at a meeting of which not less than two-thirds of the councillors are present shall concur in such temporary use and for reasons to be set forth in such resolution.

Penalty for contravention of Act.

231. Should any Councillor or official knowingly act contrary to the terms of the last preceding section he shall be liable, upon conviction, to a penalty not exceeding £100, or to imprisonment with or without hard labour for any period not exceeding one year. Once in every year, or on the completing any work or improvements authorised under this Act, if completed within a year, a detailed account of receipts and expenditure in connection with such work shall be prepared, and an abstract thereof shall be published in one or more newspapers circulating in the Municipality. If when any such account is finally closed a balance remains to its credit the Council, upon receiving the sanction of the Governor, may transfer the said balance to some other specific account, or to the general municipal revenue.

Interpretation clause.

232. 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 Port Elizabeth as constituted and defined by this Act.

"Council" means the Town Council of Port Elizabeth as constituted and defined by this Act, or as it may hereafter be differently constituted in terms of this Act.

"Mayor" is the Mayor for the time being of the Municipality of Port Elizabeth, and wherever the term Mayor shall appear in this Act, the same shall include the Deputy Mayor and the Chairman for the time being.

Short title.

233. This Act may be cited for all purposes as the "Port Elizabeth Municipal Act, 1897."

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SCHEDULE.

No. 28—1897.
Schedule.

FORM OF FRONT OF BALLOT PAPER.

Counterfoil No.		
	1	Brown. (John Brown, of 21, Main Street, Port Elizabeth, Merchant.)
	2	Jones. (Henry Jones, of 45, Queen Street, Port Elizabeth, attorney.)
Note. *The Counterfoil is to have a number to correspond with that on the back of the ballot paper.*	3	Smith. (Frederick Smith, of 51, Russell Road, Port Elizabeth, broker.)
	4	Robinson. (George Robinson, of 33, White's Road, Port Elizabeth, draper.)

FORM OF BACK OF BALLOT PAPER.

No.....

Election for Town Council of Port Elizabeth,

.....18

NOTE.—The number on the ballot paper is to correspond with that on the counterfoil.

No. 28—1897.] [July 1, 1897.

ACT [1]

To Amend the Law relating to Marriage by Banns.

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:—

Banns published in different places in this Colony, or in a place in the Colony and a place elsewhere.

1. In cases where 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, 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 solemnise the marriage between the parties whose banns have been so duly published, notwithstanding

[1] Extended by Proclamations 161 and 241, 1902, to all Native Territories.

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anything to the contrary in the Marriage [1] Order in Council of the 7th of September, 1838.

No. 29—1897.

Short title.

2. This Act may be cited for all purposes as "The Marriage Law Amendment Act, 1897."

No. 29—1897.] [Nov. 23, 1897.

ACT

To declare the Powers of the Governor with reference to the Proclamation of Laws in the Transkeian Territories, Tembuland and Pondoland.

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 proclaim new Laws in the Transkeian Territories, Tembuland and Pondoland

1. Notwithstanding anything to the contrary contained in the "Transkeian Annexation Act, 1877," the "Tembuland Annexation Act, 1885," and the "Pondoland Annexation Act, 1894," or any other Law, the second section of each of the said Acts shall be read and construed as if the Governor were thereby authorised, by Proclamation, to repeal, alter, amend and modify the Laws, Statutes and Ordinances now in force within the Transkeian Territories, Tembuland, and the territory of Pondoland, or which may hereafter be put in force and to make new laws applicable to the said territories, and to repeal, alter, amend and modify the same: Provided that by any such Proclamation the Governor may authorise the summary arrest and detention in such place and subject to such conditions as the Governor may appoint of any person whom he shall be satisfied to be dangerous to the public peace if left at large; provided, however, that any person so arrested or detained may after the lapse of three months from his arrest under such Proclamation apply to the Supreme Court of this Colony for his release, which shall be thereupon granted by the said Court, unless such person shall then be detained either under any lawful warrant, other than such Proclamation, or under the operation of any Act of Parliament legalising the further detention of such person in accordance with the provisions of such Act.

Proviso.

Proclamations heretofore issued to be deemed to have been legally issued.

2. All Proclamations heretofore issued by the Governor and purporting to be issued under and by virtue of the provisions of the said Acts, shall be deemed to have been lawfully so issued, and all things done or liabilities incurred under and by virtue of any Proclamation so issued as aforesaid shall be deemed to have been lawfully done or incurred: provided that nothing herein shall be deemed to give validity to the Proclamation whereunder in the year 1895 the Pondo chief Sigcau was arrested and detained.

Proviso.

Effect and Short Title.

3. This Act shall be read as one with the said Act and may be cited as "The Transkeian Territories, Tembuland and Pondoland Laws Act, 1897."

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[1] Page 231.

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No. 1—1898.] [June 29, 1898.

ACT

To Apply a Sum not exceeding One Million Pounds Sterling towards the Service of the year ending the 30th day of June, 1899.

[Spent.]

Repealed by Act. 25 of 1934

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No. 2—1898.] [October 29, 1898.

ACT

To Apply a further Sum not exceeding One Million Two Hundred and Fifty Thousand Pounds Sterling towards the Service of the Year ending the 30th day of June, 1899.

Preamble. [Spent.]

Revenue charged with £1,250,000.

No. 3—1898.] [November 4, 1898.

ACT

To Apply a further Sum not exceeding Six Hundred and Eighty Thousand Four Hundred and Seventy-two Pounds Sterling for the Service of the Year ended the 30th June, 1898.

Short title.

[Spent.]

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No. 4—1898.] [November 18, 1898.

ACT (1)

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.

Preamble.

WHEREAS the Managers of the Public Schools of East London East (formerly Panmure) Undenominational have 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 by Act No. 23 of 1880, for the purpose of

[1] See Act 13, 1902 (p. 4381).

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erecting thereon certain buildings, intended to be used as a Public School, which the said Mayor, Councillors and Townsmen are willing to do, subject to the conditions hereinafter mentioned;

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

And whereas doubts exist whether such proposed grant or alienation can legally be made, which doubts it is expedient to remove and to empower the said Mayor, Councillors and Townsmen of East London to effect the said grant or alienation; 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 Managers of East London Public Schools.

1. It shall be lawful for the Mayor, Councillors and Townsmen of East London to transfer to the Managers or Trustees of the East London East (formerly Panmure) Undenominational Public Schools for the time being, and their successors, a certain piece of ground situate on the Eastern side of Oxford Street in the Municipality of East London, North of the Railway Crossing in the said Street, bounded on the North by vacant land, on the East by proposed street 66 ft. wide, on the South by proposed street 66 ft. wide, and on the West by Oxford Street aforesaid, comprising in extent by actual measurement 5·9125 Acres, and being in Ward No. 4 of the Township of East London. Provided that the said land be used for the purpose of erecting buildings thereon to be used for the purpose of an Undenominational School for imparting instruction under the provisions of the existing or any future Acts of parliament relating to public education. [1]

2. [Repealed by Act 13, 1902.]

[1] Printed as amended by Act 13, 1902 (p. 4381).

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Interpretation and power to provide for succession.

3. In the interpretation of this Act, the term "Managers or Trustees of the East London East (formerly Panmure) Undenominational Public Schools," shall mean the Committee of persons selected for the time being by Guarantors for the management of the East London East Public Undenominational Schools and their successors in office. (1)

Repeal of conflicting laws.

4. So much of 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.

Short title.

5. This Act may be cited for all purposes as the "East London East (formerly Panmure) Undenominational School Transfer Act (1898)."

No. 5—1898.] [November 25, 1898.

ACT

To Amend the "Excise Duty Act, 1887."

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:—

Repeal of Act No. 16 of 1897.

1. The "Excise Duty Amendment Act, 1897," is hereby repealed, save as to rights vested or liabilities incurred before the taking effect of this Act.

Duty on Spirits distilled from other material than wine &c., increased to 10s. per gallon.

2. Notwithstanding anything to the contrary in any Law "The Excise Duty Act, 1887," shall in respect of the Excise Duty upon every gallon of spirits, of the strength of proof, distilled or manufactured from materials other than wine, grape, juice grapes, husks of grapes or raisins, the produce of this Colony, be read and construed as if the words "two shillings per gallon" in the second section were omitted therefrom and the words "ten (2) shillings per gallon" inserted in their stead.

Taking effect and Short Title.

3. This Act shall take effect on a date to be fixed by Proclamation and shall be read as one with the said Act, and may be cited for all purposes as "The Excise Duty Amendment Act, 1898."

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[1] Printed as amended by Act 13, 1902.

[2] Ten Shillings substituted for Four. See Act 35, 1904, § 1 (p. 4765). The duty on spirits distilled from wine is Six Shillings a Gallon. See § 3, Act 35, 1904. As to "Foreign Spirits" see Act 26, 1905 (p. 4856). Extended to all Native Territories by Proclamation 300, 1899.

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No. 6—1898.] [November 25, 1898.

ACT (1)

To Amend the Customs Amendment Act of 1897, and to effect certain other alterations in the Customs Laws.

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. [Sections 1-3 repealed by Act 5, 1903.]

The word "overland" where it appears in certain Acts expunged.

4. The word "overland" shall be expunged where it occurs in section one of Act No. 18 of 1890, and section four (2) of Act No. 8 of 1897.

How value of goods to be ascertained.

5. 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 current value of the articles mentioned in this entry, and contained in the packages specified, at the place where the same were purchased is.....

.....

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 Collector 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, at the place where the same were

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[1] See Act 23, 1898 (p. 3919) empowering suspension of duties on imported meat and slaughter stock. Act 21, 1900 (p. 4347) legalising temporary suspension of certain duties. Extended to all Native Territories by Proclamation 363, 1898.

[2] § 4, Act 8, 1897, repealed by Act 5, 1903 (p. 4550).

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purchased, then and in such case the Collector or other proper Officer may, if he deem it fitting so to do, require the importer, or his agent, to declare on oath before him 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 Collector 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 at the place where the same were purchased, the articles shall, in such case, be examined by two competent persons, one to be nominated and appointed by the Collector or other Principal Officer of Customs, and the other by the importer; and such two persons shall, before entering into the enquiry, appoint an umpire, and shall then declare on oath, before the Collector or proper Officer of Customs, what is the current value of such articles at the place where the same were purchased, and in case such person 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 hereinbefore 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 persons to be appointed as aforesaid by the Collector 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, 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.

see act 9 of 1913 see 120

Meaning of term "current value."

6. The term "current value," in the preceding section referred to, shall be taken to be the true current value in the open market for such goods at the place of purchase, by the importer or his agent, including the cost of packing and packages; but not including agents' commission, if it does not exceed five 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.

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Entry and collection of duty on goods imported by parcel post.

7. For the purposes of the entry for Customs and collection of duty on goods, wares and merchandise, imported into the Colony by parcels post, the form or lable affixed to the parcel under the Postal Regulations shall be deemed to be an entry made under the provisions of Customs Act, 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 five of this Act for the purpose of ascertaining the value of articles on importation into the Colony. And all goods, wares or merchandise contained in any packets imported by parcels post and found not to agree with the value entered on the abovementioned form or label, shall be liable to forfeiture as if an entry and a declaration had been made.

8. [Repealed by Act 5, 1903.]

Short title and taking effect of Act.

9. This Act may be cited for all purposes as "The Customs Amendment and Tariff Act, 1898," 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, State 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 other Colony, State or Territory in South Africa having a civilized Government.

Schedule A.

SCHEDULE A.

Laws Repealed.

No. and Year.	Title.	Extent of repeal.
Act No. 10 of 1872 ...	Customs Act, 1872 ...	Section 26 as amended by Section 4 of Act No. 6 of 1885, and Section 8 of Act No. 8 of 1897.
Act No. 1 of 1889	Customs Union Tariff Act, 1889	Section 1 and 3
Act No. 17 of 1895	Post Office Act Amendment Act, 1895	Section 2.
Act No. 8 of 1897	Customs Amendment Act, 1897	Sections 1, 2 and 8.

[Schedule B to this Act repealed by Act 5, 1903.]

[Pages 3855—3864.]

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No. 7—1898.] [November 25, 1898.

ACT

To Authorise the handing over to the Town Council of Kokstad of sums paid into the Public Revenue of the Colony, as Quitrents leviable under certain Title Deeds to erven situated within the limits of the Municipality of Kokstad.

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

2. From and after the 1st day of January, 1898, the proceeds of the quitrents leviable under title deeds, issued to the claimants under title deeds granted by the late Captain Adam Kok, on behalf of the late Griqua Government, to erven situated within the limits of the municipality of Kokstad, shall be [1] paid direct to and collected by the Municipal Council, for the time being, of Kokstad, who shall grant a receipt for the same: and the amount so received shall be held by the Town Council of Kokstad and devoted to the maintenance of the streets in and the provision of a water supply for the said municipality. Proceeds of certain quitrents on erven in Kokstad to be handed over to the municipality of Kokstad.

3. This Act shall be cited as the "Kokstad Quitrents Act, 1898." Short Title.

No. 8—1898.] [November 25, 1898.

ACT

To Empower the Borough Council of Kimberley to supply Electricity for Lighting and other purposes within the Municipality.

WHEREAS it is expedient that the Kimberley Borough Council incorporated under Act No. 11 of 1883, as subsequently amended, 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 Preamble.

[1] Printed as amended by Act 17, 1899 (p. 4099).

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electricity, except for telegraphs, telephones or other electric signals, or for electric traction, within the Municipality of Kimberley:

And whereas a plan has been lodged with the Treasurer of the Colony, showing the area within which the said supply is to be furnished:

And whereas it is necessary that the said Council should have power and authority to borrow and take up at interest by debentures or otherwise a sum not exceeding twenty-five thousand pounds for the said works:

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:—

Council authorised to borrow a sum not exceeding £25,000.

1. The Kimberley Borough Council shall have power and authority from time to time to borrow and take up at interest on debentures or otherwise upon such conditions as to payment of interest and repayment of principal as the said Council may by resolution determine, a sum not exceeding twenty-five thousand pounds for the purpose of supplying electricity for the uses and purposes hereinafter specified 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."

Power of Council to impose rates.

2. It shall be lawful for the said Council to impose for the purpose of providing for the payment of the interest and also for the payment of an annual contribution in repayment of the principal, a special rate or rates upon the immovable property situate within the Municipality and liable to be rated for municipal purposes, and every rate or tax so imposed shall be of the same force and effect and be levied in the same manner as if it had been a tax or rate imposed under the provisions of the Kimberley Borough Council Act, 1883, as amended by any Acts subsequently passed.

Payment of interest.

3. There shall be charged and chargeable upon and set apart out of the special rate or rates as aforesaid an annual sum sufficient to pay the interest on the amount of such loan or the balance thereof.

Gradual extinction of loan.

4. It shall be lawful for the said Council to fix the date at which the repayment of the principal sum borrowed as aforesaid shall commence, and the conditions whereunder and manner wherein the said repayment shall be made, and to charge upon the special rate or rates aforesaid such sum to be devoted to the above purposes as the said Council may by resolution determine.

Application of moneys.

5. It shall be lawful for the said Council to apply to the payment of the interest and principal or interest or principal of the money or 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.

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Accounts of all moneys to be kept.

6. The said 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 for the purposes aforesaid, and the said Council shall yearly prepare and deposit in the town office of Kimberley for the inspection at all reasonable times, not later than the last day of March in every year, an annual statement of accounts showing the particulars aforesaid, made up to the thirty-first day of December then next preceding, and such statement shall be in such a form and shall contain particulars, and shall be published in such manner as may from time to time be prescribed in that behalf by the Governor. The Council shall keep copies of such annual statement at their office, and sell the same to any applicant at a price not exceeding one shilling per copy. In case the Council make default in complying with the provisions of this section, they shall be liable to a penalty not exceeding two pounds for each day during which such default continues. The Council shall further publish annually upon the 31st day of March a statement made up to the 31st day of December preceding, showing the revenue during the year from the sale of electric power and the expenditure during the same period in maintaining the plant and works.

All moneys borrowed to be subject to provisions of "Public Bodies Debts Act, 1867."

7. All moneys borrowed for the purposes of this Act shall be subject to the provisions of the "Public Bodies' Debts Act, 1867": provided, however, that it shall be lawful for the High Court of Griqualand in case any petition shall be presented to such Court under the provisions of the said Act, for enforcing payment of any judgment for the recovery of money borrowed under the provisions of this Act, to assess and impose such rate exceeding one penny in the pound as to such Court shall seem fit, anything in the third section of the "Public Bodies' Debts Act, 1867," notwithstanding.

Costs and expenses.

8. 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.

Purposes of supply.

9. 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, 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 electric signals, or for electric traction, within the area afore-mentioned.

Laying of wires.

10. The said Council shall have full power and authority to do all things necessary for the laying of main and branch wires, in

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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 twelfth section hereinafter referred to.

Area of operations.

Agreements for supply.

11. 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.

12. 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.

13. 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.

Power to alter position of pipes, lines and wires.

14. 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 streets and entering on private lands without consent.

15. 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.

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16. 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.

17. 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.

18. 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 one hundred pounds or to be imprisoned with or without hard labour for any period not exceeding two years.

Injuring works with intent to cut off supply of electricity.

19. 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.

20. 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.

21. 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, &c.

22. The provisions of "The Lands and Arbitration Clauses Act, 1882," shall apply to any arbitration under this Act.

Arbitration.

23. 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

Governor's approval of works and plant.

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this Act contained shall exempt the Borough 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 9, 10 and 11 of Act 42, 1895.

24. The said Council shall have full power to do all things authorised by this Act, notwithstanding that the conditions mentioned in the ninth, tenth and eleventh 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.

Short Title.

25. This Act may be cited as "The Kimberley Borough Council Electric Lighting and Power Act, 1898."

Repealed by Act 23 of 1911 Sec 11 (a)

No. 9—1898.] [November 25, 1898.]

ACT

To Amend in certain respects the Ordinance No. 7 of 1843, entituled :—"An Ordinance for Repealing the Church Regulations of the 25th July, 1804, and enacting others in their stead."

Preamble.

WHEREAS the Ordinance No. 7 of 1843, entituled "An Ordinance for Repealing the Church Regulations of the 25th July, 1804, and enacting others in their stead," was thereafter revived by Ordinance No. 2 of 1851, and is now of legal force in this Colony.

And whereas it has become and is expedient to amend in certain respects the provisions of the said Ordinance No. 7 of 1843, and more particularly so to amend the same as:—

(*a*) To remove all doubt as to whether the Dutch Reformed Church may be extended beyond the limits of this Colony, and to provide for such extension, and for the representation in the Synod of the said Church of Congregations beyond the said limits, and for the government of such congregations so represented by the Constitution, Laws and Regulations of the said Church;

(*b*) To substitute the true and correct confessions of the Church for certain confessions incorrectly cited in Section 6 of the said Ordinance;

(*c*) To give the Synod of the said Church power from time to time to alter or amend Section 7 of the said Ordinance, in similar manner as the said Synod is empowered by Section 4 of the said Ordinance to alter or amend the Schedule annexed to the said Ordinance.

And whereas it is expedient to make provision for the taking effect of this Act on and after a date to be fixed by the Governor

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by Proclamation after being thereunto requested by the Synod of the said Church in accordance with a petition of not less than two-thirds of those who are members of the Synod at its meeting next after the passing 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:—

The Dutch Reformed Church may be extended beyond the limits of this Colony, and Congregations beyond the said limits may be represented in the Synod, and shall be governed by the Laws and Regulations of the Church.

1. Notwithstanding anything to the contrary contained in the said Ordinance, the said Church shall not be deemed to be confined to the limits of this Colony but may by Laws and Regulations lawfully made from time to time in manner provided in the said Ordinance extend beyond the said limits, and may for securing and controlling such extension by such Laws and Regulations provide for the admission to its Synods of Representatives of Congregations worshipping beyond the said limits but conforming to the doctrines and confessions of the said Church, provided that every Congregation so represented, and every member or representative thereof, shall in all respects in like manner be amenable and conform to and abide by the Constitution, Laws and Regulations of the said Church as though such Congregation were one worshipping within the said limits.

Doctrines of the Church.

2. From and after the taking effect of this Act, Section 6 of the said Ordinance shall be read and construed as though, instead of the words "the doctrines contained in the Confession of the Synod of Dort and in the Heidelberg Catechism" the words following had been originally inserted in the said Section, to wit, "the doctrines contained in the Confessions of Faith and Formularies of Uniformity, namely, the Netherlands Confession of Faith (Confessio Belgica), the Heidelberg Catechism and the Canons of Dort approved and confirmed by the Synod of Dordrecht in 1618 and 1619."

General Assembly may alter its Constitution.

3. From and after the passing of this Act, Section 7 of the said Ordinance may from time to time be amended by Laws and Regulations of the said Church lawfully made in manner provided by Section 4 of the said Ordinance, as though the said Section 7 had been originally included in the Schedule to the said Ordinance.

Time of taking effect.

4. This Act shall take effect on and after a date to be fixed by the Governor by Proclamation which may be made at any time after the Synod of the said Church shall have requested the Governor to give effect thereto, and shall have forwarded to the Governor a certificate under the hand of the Moderator of the said Synod setting forth that a petition in favour of the taking effect of this Act has been signed by not less than two-thirds of those who shall be members of the Synod at its Meeting next after the passing of this Act.

Short Title.

5. This Act may be cited as "The Dutch Reformed Church Ordinance Amendment Act, 1898."

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No. 10—1898.] [December 2, 1898.

ACT

To Enable the Town Council of East London, and the Frere Hospital Board, respectively, to alienate to the Trustees of the "Victoria Home," East London, certain property vested in the said bodies.

Preamble.

WHEREAS, at a Public Meeting of the Townsmen of East London, duly convened in accordance with the provisions of Sections 63 and 64 of Act 23 of 1880, held in the Mutual Hall, East London, on the 13th May, 1897, a Committee of Townsmen was duly appointed, with power to act, to provide a permanent memorial of the 60th Year of Her Majesty's reign;

And whereas the said Committee, with the approval of the Mayor, Councillors and Townsmen of East London, have decided that the permanent memorial should take the form of a Home for the Invalid Aged and Infirm;

And whereas a site for the erection of the said Home has been selected, partly on the land belonging to the Frere Hospital Board, and partly to the Town Council of East London;

And whereas three trustees as hereafter appearing have been selected and approved by all concerned, as the persons to whom transfer of the site shall be passed, and the Town Council and the said Board are willing to transfer the land comprising the site aforesaid to the said three trustees, subject to such trusts as are hereafter mentioned;

And whereas doubts exist whether such grant or transfer can legally be made by the said Mayor, Councillors and Townsmen and the said Frere Hospital Board, which doubts it is expedient to remove by empowering the Mayor, Councillors and Townsmen and the Frere Hospital Board for the time being to effect such grant or alienation;

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:—

Municipality of East London and Frere Hospital Board empowered to transfer certain land to Trustees of Victoria Home, East London.

1. It shall be lawful for the Mayor, Councillors and Townsmen of East London for the time being and for the Frere Hospital Board respectively to transfer to the trustees of the Victoria Home, East London, the two several pieces of land hereinafter described, which said pieces of land are vested in the said Mayor, Councillors and Townsmen and the Frere Hospital Board, respectively and particularly, to wit:

All that piece of ground having a frontage on the North-east to Beaconsfield Road, measuring 250 links, bounded on the South-east by Frere Hospital Ground, and measuring on that side 348 links, bounded on the South-west by a portion of the Queen's Park and measuring

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on that side about 193 links, and bounded on the North-west by a portion of the Queen's Park and measuring on that side about 348 links, which piece of ground at present forms part of the Queen's Park and is situated in Ward 3 of the Municipality of East London, and measures in extent about 4,000 square yards; which said piece of ground is vested in the Mayor, Councillors and Townsmen of East London by virtue of the provisions of Act 23 of 1880.

And also all that piece of ground having a frontage to Beaconsfield Road, East London, on the East, measuring 162 links or thereabouts, bounded on the South by Frere Hospital Ground and measuring on that side 310 links, and bounded on the West by a portion of the Frere Hospital Ground and measuring on that side about 50 links, and bounded on the North by the Queen's Park and measuring on that side 348 links, which piece of ground at present forms part of the Frere Hospital Ground, and is situated in Ward 3 of the Municipality: which said piece of ground is vested in the Frere Hospital Board by the provisions of Act 6 of 1892.

Purposes for which the said land shall be used.

Provided that the two pieces of ground shall be used together for the purpose of erecting thereon a building in commemoration of the 60th year of Her Majesty's Reign, to be called "The Victoria Home for the Invalid Aged and Infirm," and to be used for the purpose described by the said title; and provided also that the said transfer shall be subject to such trusts and conditions as the Mayor, Councillors and Townsmen of East London may from time to time and at any time appoint, and to the condition that no sale, exchange, transfer or hypothecation of the said pieces of ground, or either of them, shall be made at any time, without the consent of the said Trustees, and of the Mayor, Councillors, and Townsmen of East London first given in writing.

Trustees.

2. The three Trustees before mentioned shall be the Mayor of East London, the Chairman of the Chamber of Commerce, and the Civil Commissioner of East London, for the time being, and their successors in Office.

Provisions as to alteration or hypothecation.

3. As often as any (1) sale, exchange, alienation, transfer or hypothecation of either or both of the said pieces of land shall be about to be made by the Trustees for the time being or their successors, a certificate in writing under the hand and seal of the Mayor, Councillors and Townsmen of East London or their successors, addressed to the Registrar of Deeds, certifying that the said Mayor, Councillors and Townsmen have consented to such sale, exchange, alienation, transfer or hypothecation, shall be

[1] See also § 10, Act 39, 1905 (p. 4949).

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sufficient proof of such consent for the purpose of the Deeds Registry, and thereupon the proposed transfer shall be passed.

Repeal of inconsistent laws.

4. So much of Acts No. 23 of 1880, No. 6 of 1892, No. 11 of 1895, and of any other Act or Law which may be inconsistent with the provisions of this Act, is hereby repealed.

Short Title.

5. This Act may be cited for all purposes as the "Victoria Home (East London) Act, 1898."

No. 11—1898.] [December 2, 1898.

ACT

To Re-enact Act No. 26 of 1892, commonly called "The Exhibition Act, 1892."

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:—

Exhibition Act, 1892, re-enacted with amendment.

1. The Act No. 5 of 1893 is hereby repealed, and the provisions of "The Exhibition Act, 1892," save and except the proviso to section seven, are hereby specially re-enacted, provided that the buildings and grounds of any Exhibition shall be closed to the public on Sundays.

Short Title.

2. This Act may be cited as "The Exhibition Act, 1898."

No. 12—1898.] [December 9, 1898.

ACT

To Provide for a Grant to the Kimberley Public Undenominational Schools of certain Piece of Land situate within the Municipality of Kimberley.

Preamble.

WHEREAS it is expedient that the Kimberley Public Undenominational Schools should be granted a certain piece of land situate in the Municipality of Kimberley known as portion of Villiers Street, in extent 167 square roods and 102 square feet or thereabouts, for the purpose of enabling the Board of Management of the said Kimberley Public Undenominational Schools to erect thereon suitable buildings and erections in connection with the educational purposes carried on by the said Board of Management.

And whereas a plan has been lodged with the Clerk of the House of Assembly shewing the area of the said piece of land together with the boundaries thereof.

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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:—

Issue of Title authorised.

1. That notwithstanding anything contained in any Act to the contrary, it shall and may be lawful for His Excellency the Governor to grant, and issue title to the Trustees for the time being of the Kimberley Public Undenominational Schools of the said piece of land, in extent 167 square roods and 102 square feet or thereabouts, known as portion of Villiers Street, situate within the Municipality of Kimberley, on such terms and conditions as His Excellency the Governor may deem advisable.

Short Title.

2. This Act may be cited as the "Kimberley Public Undenominational Schools Act, 1898."

No. 13—1898.] [December 13, 1898.

ACT

To vest in and confer upon the Robertson Municipal Council certain rights, powers and privileges for the purpose of securing a supply of water for the use of the inhabitants of Robertson.

Preamble.

WHEREAS it is desirable that the inhabitants of the Village of Robertson should be provided with a supply of pure water.

And whereas on December 22nd, 1884, an agreement was entered into between the proprietors of the farms "De Hoop in het land van Waveren" (hereinafter called "De Hoop"), "De Roode Hoogte aan de Hoop's River" (hereinafter called "Roode Hoogte"), and "Over het Roode Zand" (of which farm the Municipality of Robertson was formerly a portion), and the Commissioners of the said Municipality, whereunder it was agreed to divide the water of the "Hoop's River," a stream rising on and running through the said farms, in certain proportions set forth in the said agreement, which is registered in the office of the Registrar of Deeds at Cape Town.

And whereas on April 16th, 1898, an agreement was entered into between the said Commissioners and the proprietors of the farm "Over het Roode Zand," whereunder the said proprietors ceded to the Commissioners all the said proprietors' right, title and interest in and to the water supply accruing to them under the above mentioned agreement of December 22nd, 1884, on condition that the said Commissioners introduced into Parliament a Bill for the purpose of bringing down in pipes from the highest practicable point in the said river the water supply to which the Municipality and the farm "Over het Roode Zand" were entitled, and carried out the scheme in the said agreement set forth upon the conditions contained in the said agreement a copy whereof forms a Schedule hereto.

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And whereas it is expedient that the said Commissioners should have power and authority conferred upon them to take, impound, divert and convey in iron pipes from the highest practicable point in the said river, across the farms "De Hoop" and "Roode Hoogte," to the farm "Over het Roode Zand" and the Municipality of Robertson the share of water to which the said farm "Over het Roode Zand" and the Municipality of Robertson are entitled, and to construct, equip and maintain all necessary works and do all things necessary for carrying out the water scheme above referred to.

And whereas plans and sections of the works proposed to be constructed have been lodged with the Clerk of the House of Assembly.

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:—

Management of Waterworks and all right and property in materials, stock, &c., vested in Council.

1. The general management of all matters connected with or relating or incidental to the construction, maintenance and working of the waterworks constructed by the Robertson Municipal 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 shall be vested in the said Council.

Powers of acquisition, diversion, &c., of water.

2. The said Council shall be empowered to take, impound, divert, appropriate and convey from the De Hoop's River in the Division of Robertson at the highest practicable points near its sources, to wit, at certain spots in the Drinkwater Kloof and the Meulskloof on the farm "De Hoop" shown upon the plans aforesaid, the share of water to which the said Municipality and the proprietors of the farm "Over het Roode Zand" are entitled under the said agreement of December 22nd, 1884, the said water to be conveyed across the said farms "De Hoop" and "Roode Hoogte" and on to the said farm "Over het Roode Zand" and the Municipality according to the route shown upon the aforesaid plans: Provided that it shall be lawful for the Council to deviate from the route as laid down upon the said plans on either side thereof to the extent of three yards, but no further deviation shall be permitted save with the written consent of the owner of the land whereupon such deviation is made; and provided, further, that whenever the line of the said pipes shall pass through vineyards or any cultivated or improved lands compensation shall be paid to the owner thereof, the amount of such compensation to be determined by agreement or failing agreement by arbitration.

Council to carry out agreement with "Over Het Roode Zand."

3. The said Council shall be bound and obliged to carry out and perform all the conditions of the agreement entered into with the proprietors of the farm "Over het Roode Zand," dated April 16th, 1898, forming a Schedule hereto: Provided that it shall be lawful for the said Council to deviate from and vary any of the conditions of the said agreement with the consent in writing of the proprietors of the said farm.

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Council's power 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 Municipal limits, all such works as may, in the opinion of the said Council, and as provided for by the said plans, be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking or conveying the said water: Provided that it shall be lawful for the Council at any time hereafter should it deem expedient, to lay down along the route described as aforesaid pipes of a larger size than those to be laid down originally, but no pipes of greater diameter than twelve inches shall be so laid.

Powers of upon and taking of lands; powers of purchase hire or agreement.

5. The said Council is hereby empowered to enter upon, occupy, take and use for the purpose of laying the said pipes and constructing any of the works provided for by the said plans, any land the private property of any person which may be required for the construction or maintenance of any of the works aforesaid and may take, carry away or use for the purposes of any 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 laying down, repairing, inspecting, maintaining or removing any reservoir or reservoirs, pipe or pipes or other works, and may either compensate the owners of such private lands or enter into any contract for 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 upon.

Powers to lay down pipes, &c., along public ways, subject to restoration of convenient access.

6. The said Council is hereby empowered beyond as well as within the limits of the Municipality to lay down and construct pipes, conduits, or any other appliances for the conveyance of the said water under, across or along any public road, street or thoroughfare, or under, across or along any ground set apart in the diagram or conditions of sale of land as a public road, street or thoroughfare without making or becoming liable to make any compensation: Provided that if the said Council shall in any way disturb the surface or otherwise interfere with the free and accustomed use of any such road, street, thoroughfare or ground, the said Council shall so soon as may be make provision either to restore such road, street, thoroughfare or ground to its former condition, or for the safe, free and convenient use thereof by all persons entitled to such use.

Rights of access.

7. It shall at all times be lawful for the said Council and its engineers, contractors, or workmen, and with carts or carriages, to have free access and right of way to, over and along the works constructed or to be constructed, and to and from all property of the said Council, acquired or to be acquired under the provisions of this Act, for the purpose of constructing, repairing, relaying, or supervising the said works or for any other purpose whatsoever incidental to carrying out the purposes of this Act: Provided that the pipes and other material be conveyed to such places along the route thereof as may be necessary over the property of the adjoining owners, with the least possible damage to the owner of the land

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over which the same shall be carried, and that compensation be paid by the said Council for any damage caused thereby.

No cattle enclosures, &c., to be erected near the intakes.

8. No cattle enclosures, kraals or pig-styes or the like enclosures, erections or buildings, whereby the water supply conveyed under the provisions of this Act may be polluted, defiled, contaminated or injured shall be permitted within five hundred yards of the intakes of the said water supply situated in the Drinkwater Kloof and the Meulskloof: any person contravening this section shall be liable upon conviction to a fine not exceeding Twenty Pounds or in default of payment thereof to imprisonment for a period not exceeding three months.

Council to have right to use river bed of Hoop's River in event of breakage or leakage of pipes.

9. The said Council shall have the right at any time, in the event of any breakage or leakage or obstruction of the pipes constructed under the provisions of this Act, to make use of the river-bed of the De Hoop's River and of the water leadings as at present in use therefrom for the purpose of carrying down to the farm "Over het Roode Zand" and the Municipality of Robertson the share of water to which the said farm and Municipality are entitled, during the time necessarily employed in repairing or clearing the said pipes: the said share of water shall be turned into the said river-bed at the most convenient spot near to the said breakage, leakage or obstruction as the case may be, and shall be allowed to run down in the said river bed for a reasonable time until the said repairs are completed.

Compensation and disputes settled by arbitration under provisions of Lands and arbitrations Clauses Act, 1882.

10. Whenever compensation shall be claimed from the said Council under and by virtue of any of the provisions of this Act, by any person, the amount of such compensation shall, in the absence of agreement, be determined by arbitration, and with reference to every such arbitration, the provisions of the Lands and Arbitrations Clauses Act, 1882, shall, *mutatis mutandis*, apply.

Penalties for injuring Council's property and works.

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 the said works, 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 such 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 for defiling water.

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

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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 things whatsoever, shall for every offence be liable to a fine not exceeding five pounds sterling, and in default of payment of such fine, to be imprisoned with or without hard labour for any period not exceeding twenty-one days.

Offences how prosecuted.

13. The offences defined in the last two preceding sections of this Act may be prosecuted in the Court of Resident Magistrate at Robertson.

Costs, &c., of obtaining Act may be paid out of Municipal revenue or moneys borrowed.

14. The costs, charges and expenses of obtaining the passing of this Act may be paid by the said Council out of any revenues accruing to the Council, or out of any moneys lawfully borrowed by the Council for the purposes of this Act.

Interpretation Clause.

15. In this Act the following terms shall have the meanings herein assigned to them:

The words "the Council" shall mean the Council of the Municipality of Robertson.

The words "the Municipality" shall mean the Municipality of Robertson.

Short Title.

16. This Act may be cited for all purposes as "The Robertson Municipal Water Supply Act, 1898."

SCHEDULE.

Schedule.

Memorandum of Agreement made and entered into this 16th day of April, 1898, by and between Jan Adam Neethling, Johan Jacob Preiss, Jonathan Willem Groenwald Minnaar, Johan Andries Kok and Daniel Nicolas During in their capacity as Commissioners of the Municipality of Robertson, and as such representing the said Municipality, of the one part, and Johannes Petrus de Wet, Pieter Daniel du Toit, Louis Jacobus Burger, Pieter Daniel Jacobus de Wet, Johan Daniel Preiss, Schalk Willem Cloete and Andrew McGregor in his capacity as Chairman of the Consistory of the Dutch Reformed Church at Robertson, as Owners of certain portions of the farm "Over het Roode Zand" in the Division of Robertson, of the other part,

WITNESSETH:—

That whereas the parties hereto are jointly entitled to one half share of certain waters flowing down from the farm De Hoop in the Division of Robertson, as secured to them under a certain Notarial Deed entered into before the notary H. M. Arderne on the 22nd December, 1884, by the said Municipality and the owners of the above referred to portions of the farm "Over het Roode Zand" together with others, of which half-share of the above-mentioned waters the said party of the first part is entitled to two-thirds and the said party of the second to one-third.

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And whereas it is desired to bring the full share of water belonging to the parties hereto from the highest practicable point on the farm "De Hoop" in iron pipes down to the said portions of the farm "Over Het Roode Zand" and to the village of Robertson over the intervening farms, and in order to carry out such desire it is necessary that a Bill should be introduced into Parliament for that purpose.

And whereas it has been agreed upon by and between the parties hereto that such Bill shall be introduced into Parliament, and there promoted by the party of the first part acting solely, and that for that purpose it is necessary that rights of the parties of the second part in the said water should be ceded to the party of the first part, the party of the first part guaranteeing to secure the rights of the parties of the second part in the said Bill.

Now therefore these presents witness that for and in consideration of the party of the first part introducing into Parliament during the next ensuing Session and there promoting a Bill to enable them to take out at certain spots in the Drinkwater and Meuls Kloof on the farm De Hoop, and bring down to the farm Over Het Roode Zand and the village of Robertson in iron pipes, all water abovementioned as appertaining to the parties hereto, and the said parties of the second part do hereby jointly as well as severally cede and transfer to the said Municipality of Robertson all their right, title and interest in and to the said one-third of the said water appertaining to them the parties of the second part, upon the following conditions and stipulations, namely:—

I. The said water shall be brought down by means of pipes of not more than 12 inches in diameter, laid under the ground or along the bed of the Hoop's River to the spot where the said parties hereto at present divide their water by means of sluices, at which spot the water shall run into a cistern dam, and be there divided between the said parties of the first part and the said parties of the second part, by means of sluices, in the same proportions as the water is now held by them respectively, the said Municipality being however allowed to lay a pipe of not more than three inches in diameter out of such dam to convey water to the Municipal water tanks, situate at the South Reservoir of the Village of Robertson, such amount of water (less one-half an inch to compensate for the drinking water rights in paragraph 4 hereinafter mentioned as given to the said parties of the second part) to be deducted from the share of water belonging to the Municipality.

II. That the following parties of the second part, or the future proprietors of those portions of the farm Over Het Roode Zand at present held by them, shall contribute in the following proportions to the cost of the said pipes, the laying down of same, and the constructions of the necessary works, namely:—

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Johannes Petrus de Wet a yearly sum of Six pounds Sterling, Pieter Jacobus Daniel De Wet a yearly sum of Five pounds Sterling, Johan Daniel Preiss a yearly sum of Five pounds Sterling, Pieter Daniel du Toit a yearly sum of Two pounds Sterling, Louis Jacobus Burger a yearly sum of Two pounds Sterling, and the said Dutch Reformed Church a yearly sum of Four pounds Sterling for the costs as far up as the drift where it was intended to take out the water, and each to pay an additional yearly sum in the same proportion for the costs from the intakes in the two kloofs down to the aforesaid drift.

The said sums to be paid to the said Municipality on the 31st day of December in each and every year commencing from the 31st December next following the completion of the said works, for the term of 40 years, subject however to the condition that they or any one of them shall have the right at any time before the expiration of the said 40 years to pay the full capital sum, or any balance then unpaid and still to be paid by any one of them, in one sum.

III. That any damage done to any of the land over which the pipes are laid shall be made good by, and any compensation which may have to be paid shall be paid by, the said Municipality and the said parties of the second part in the same proportion as they respectively contribute to the said Scheme as in the last preceding paragraph set forth.

IV. That each of the above-mentioned Six owners of Over Het Roode Zand who contribute to the cost as above-mentioned shall have the right at his own expense to have water, strictly for household purposes, laid on from the Municipal main water pipe, leading from the tank at the South Reservoir to the Village of Robertson, to the dwelling house situate on his property, by means of water leadings not exceeding $\frac{1}{2}$ inch in size, with proper self-adjusting stop-cocks of a pattern to the satisfaction of the Commissioners of the Municipality, attached thereto, and shall be entitled to keep a cask or tank of not exceeding 200 gallons for the purpose of receiving such water: the said water leadings to be taken from the main at such places as the several owners shall, subject to the approval of the said Commissioners, decide upon, the water so obtained to be used in the same manner as provided under paragraph 3 of the 113th Municipal Regulation of 1894 or such Regulations in lieu thereof as may subsequently be lawfully proclaimed in force, all such pipes and connections to be kept in proper order and repair by the several owners: and the Commissioners of the Municipality or any Municipal Officer to have the right at any time to inspect the said pipes, connections, stop-cocks and tanks.

V. That so much of the aforegoing as shall be necessary in order to secure the parties of the second part in their rights shall be embodied in the said Bill to be introduced into Parliament by the said Municipality, and that the said parties of the second

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part shall contribute one-third of the costs of the said Bill and the said Municipality the remaining two-thirds.

VI. That so much of this agreement as relates to the distribution of water between the parties hereto as to the payment of monies as compensation or otherwise as set forth in paragraphs 2 and 3 hereof shall be embodied in an agreement to be registered as a servitude against the title deeds of the properties owned by the parties of the second part.

And the said parties of the first part, acting for and on behalf of the said Municipality, do hereby consent to the above-mentioned conditions and stipulations, and for the consideration therein mentioned do hereby undertake to carry this Contract and Agreement into effect, and to do all that is required of them in the premises.

In Witness whereof we have hereunto set our hands at Robertson this 16th day of April, 1898, in the presence of the subscribed witnesses:

As Witnesses:—

J. J. DE WITT.
BASIL JONES.

L. J. BURGER.
P. D. J. DE WET.
S. W. CLOETE.
J. D. PREISS.
J. P. DE WET.
P. D. DU TOIT.
J. A. NEETHLING.
J. W. G. MINNAAR.
J. J. PREISS.
J. A. KOK.
D. N. DURING.

ANDREW McGREGOR,
Voorzitter der Kerkeraad den N. G. Kerk.

No. 14—1898.] [December 13, 1898.

ACT [1]

To Vest in and Confer upon the Council of the Oudtshoorn Municipality certain rights, powers and privileges for the purpose of securing a supply of water for the use of the inhabitants of the said Municipality.

Preamble.

WHEREAS it is desirable that the inhabitants of the town of Oudtshoorn residing within the limits of the Oudtshoorn Municipality should be supplied with good water;

And whereas it appears from surveys made and measurements taken that the water of the Groot River, a river rising upon certain Government land called "Spitzkop," in the division of Oudtshoorn, and intersecting the farm "Rust en Vrede," in the said Division, can be utilised for that purpose;

[1] See Acts 9, 1899 (p. 4053); 9, 1902 (p. 4365), and 12, 1904 (p. 4648).

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And whereas it is expedient for the above purpose to confer upon the Council of the Oudtshoorn Municipality the power and authority to acquire by purchase or otherwise such portions of the farms "Rust en Vrede" and "De Cango," situated in the Field-cornetcy of Cango East in the said Division, together with such water rights appertaining to the said farms or portions thereof as may be expedient, and similarly to acquire such other lands as may have rights to the water supply herein referred to, or as may be necessary for the laying down of pipes and other appliances used for or in connection with the waterworks required, or as may be necessary for the protection of the source of the said water supply, and to do all things necessary for the efficient construction and maintenance of the said waterworks and the laying of the pipes and other appliances from the said farm "Spitzkop" to the Town of Oudtshoorn;

And whereas it is expedient to authorise and empower the said Council to borrow a sum of money not exceeding £60,000 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 to do so;

And whereas plans and sections of the works proposed to be constructed have been lodged 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 of the Legislative Council and House of Assembly thereof, as follows:—

Management of waterworks and all right and property in materials, stock, &c., vested in Council.

1. The general 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, land and everything appertaining to the said waterworks shall be vested in the said Council.

Powers of acquisition, diversion, &c., of water.

2. The said Council shall be empowered to take, impound, divert, appropriate and convey from the "Groot River," rising in the farm "Spitzkop," in the division of Oudtshoorn, and from its tributaries, such a supply of water as the Council may from time to time require: provided that if such taking, impounding, diversion, appropriation, or conveyance shall deprive any person of any right of or to any water now or hereafter 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: And provided also that the Council shall not be entitled to take on any one day from the said water supply a greater amount of water than 500,000

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gallons, such water to be taken on the farm Spitzkop as near as practicable to the intake shown on the plans lodged with the Clerk of the House, and to be gauged at or near the place where the water is taken out, and any surplus over the said quantity of 500,000 gallons shall be returned to the Groot River, and nothing in this Act contained shall empower the Council to take any water from the river known as the Le Roux River.

Position of the waterworks.

3. The said works shall commence at a point on the portion of Crown Land called "Spitzkop," shown upon the plan lodged as aforesaid, and after passing over the said land the line of pipes shall run through and over portions of the farms "Rust en Vrede," "De Cango," "Kombuis," "Riet Kloof," "Oliekraal," "Schoemansdorp," (or "Roodewal,") "Buffelsdrift," "Rotterdam," and "Amsterdam," all situated in the division of Oudtshoorn, and shall have its terminus on the town commonage of the Oudtshoorn Municipality as shown upon the said plan.

Council's power 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 Oudtshoorn Municipality all such works as may in the opinion of the said Council be expedient and necessary 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, wells 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 on and taking of Crown lands and private lands; powers of purchase hire and agreement.

5. The said Council is hereby empowered to enter upon, occupy, enclose, take and use for the purposes of this Act any land belonging to Her Majesty the Queen commonly called Crown Lands, and also to enter upon, occupy, enclose, take and use such portions of the farms "Rust en Vrede," and "De Cango," situated in the Field-cornetcy of Cango East, in the division of Oudtshoorn, and any other lands which may be required for the construction and maintenance 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 for the purpose of laying down, repairing, inspecting, maintaining, or removing any reservoir or reservoirs, pipe or pipes or other works, and may either compensate the owners of such private lands or enter into any contract relative to obtaining such lands, together with the water-rights appertaining thereto, or materials, or for the laying down any pipe or pipes or other works upon such terms and conditions as may be or have been mutually agreed upon.

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In case of lands belonging to minors and persons under curatorship.

6. In case the Council shall require to take or use any land or to dig out or carry away any materials belonging to any minor or other person under guardianship or curatorship, then the guardian or curator as the case may be shall be authorised to treat and agree with the said Council for the purchase or hire of the land or materials required, and to execute any Contract which may be necessary for carrying out any agreement which may be made, and in case of non-agreement to refer the matter in difference to arbitration. And all moneys which shall be payable whether by agreement or arbitration by the said Council for or on account of any such land or materials, shall be paid by the Council to the Master of the Supreme Court administering the Guardian's Fund, who is hereby authorised to recover 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 limitation of a like nature be entitled to a life or other limited interest in such land in which a minor or other such person aforesaid 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 by 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 shall be entitled to draw the interest payable 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 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 the like manner as moneys in the Guardian's Fund, the property of minors or persons under disability, are administered.

In case of lands belonging to absent persons,

7. And in case the Council shall require to take or use any land or materials as in the fifth section of this Act 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 Council, and it is hereby authorised, to cause a notice to be inserted in the *Gazette* and in one or more local papers for four successive weeks, describing as accurately as may be the land or materials which are required to be used or taken, and calling by name 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 compensation to be made by the Council for the said land and 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 Council, stating the compensation claimed, and

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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 compensation to be respectively given and received shall in all respects be had and taken, as 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 Council within the said period, it shall be lawful for the 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 has to the best of his judgment fairly appraised such value, and thereupon it shall be lawful for the Council to pay the value so appraised into the Guardian's Fund to the credit of the person or persons entitled thereto, subject to the provisions of the Ordinance No. 105 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 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 Council sufficient title to the use of or property in the land or materials as aforesaid had been duly done and performed.

Powers to lay down pipes, etc., along public ways, subject to restoration of convenient areas.

8. The said Council is hereby empowered, beyond as well as within the limits of the Oudtshoorn Municipality, to lay down and construct pipes, conduits or any other appliances for the conveyance of water under, across or along any public road, street or thoroughfare, or under, across, or along any ground set apart in the diagram or conditions of sale as a public road, street or thoroughfare, without making or becoming liable to make any compensation; provided that if the said Council shall in any way disturb the surface or otherwise interfere with the free and accustomed use of any such road, street, or thoroughfare or ground, the said Council shall, as soon as may be, make provision either to restore such road, street, thoroughfare, or ground to its former condition, or for the safe, free and convenient use thereof by all persons entitled to such use.

Rights of access.

9. It shall at all times be lawful for the said Council and its engineers, contractors or workmen, to have free access and right of way, with carts or carriages if necessary, to, over and along the works constructed or to be constructed, 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 aiding, repairing, relaying or supervising the said works, or for any other purpose whatsoever incidental to carrying out the purposes of this Act.

Compensation and disputes settled by arbitration under provision of Lands and Arbitration Clauses Act, 1882.

10. Whenever compensation shall be claimed from the said Council under and by virtue of any of the provisions of this Act by any person, the amount of such compensation shall, in the

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absence of agreement, be determined by arbitration, and with regard to every such arbitration, the provisions of the Lands and Arbitration Clauses Act, 1882, shall, *mutatis mutandis*, apply.

Penalties for injuring Council's property and works.

11. 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 work 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 defiling water.

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 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.

Offences, how prosecuted.

13. The offences defined in the two last preceding sections of this Act may be prosecuted in the Court of Resident Magistrate of Oudtshoorn.

Provision for service reservoir.

14. All water secured or obtained by the said Council under the provisions of this Act shall be conducted to, flow into and be collected and stored in such reservoir or reservoirs, as the said Council may hereafter erect on the Town Commonage of the Oudtshoorn Municipality or elsewhere for the purpose of being thence distributed or divided in pursuance of the provisions of this Act.

Tariff of charges.

15. 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 deem suitable.

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Right to enter and cut off supply in order to effect inspection and repair.

16. 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.

17. 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.

18. 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.

Borrowing power to limit of £60,000.

19. The said Council is hereby authorised and empowered to take up on loan by debenture or (1) otherwise for the purposes of this Act, a sum or sums not exceeding in all sixty 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.

Public Bodies Debts Act, 1867, to apply.

Fund for payment of borrowed moneys.

20. 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 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 one pound sterling *per centum* on the capital sum so borrowed, and such sum of not less than one pound sterling *per centum* 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.

Acknowledgement to be given to lenders of moneys as in schedule.

21. The Council shall grant to the party or parties, or company, society or co-partnership from whom it shall borrow such moneys as aforesaid, a written acknowledgment for the said moneys not

[1] See Act 9, 1899 (p. 4053).

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exceeding in the whole the aforesaid sum of sixty 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.

Accounts to be kept of revenue and expenditure.

22. 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 30th of June of each year, and shall be deposited and lie at the Municipal office for inspection at all reasonable times by any ratepayer of the Municipality.

Rate to be levied for payment of interest and principal of loan.

23. In order to pay the interest on the said loan and to establish the sinking fund hereinbefore mentioned and to provide for all other claims arising under this Act, the Council shall be empowered to impose, levy, and collect a sufficient annual rate or assessment over and above what the said Council are already empowered to impose and levy upon the immovable property within the limits of the Municipality; and every rate or assessment so imposed and made by the said Commissioners 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 interest and principal of the moneys aforesaid any funds or moneys coming to the said Council from any source whatever and not specifically appropriated or required for any other object.

Amended Ord No 14/1926

Amounts on which rates shall be levied.

24. The amounts for assessment entered on the assessment roll in force within the Municipality of Oudtshoorn 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, but for any or all properties not included in such assessment roll, and for all properties not liable to assessment under the provisions of the Municipal Act, 1882, the value shall be made and determined annually by some competent person 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 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 for inspection, and the provisions of Section 122, 123, and 124 of the said Municipal Act, 1882, shall apply to the hearing and deciding upon objections to such valuation.

Amended by Ord No 14/1926

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When rate shall become payable.

25. 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 and 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 newspapers circulating within the Municipality and causing a copy of the same to be affixed in some conspicuous place in or near the town hall.

How rates recoverable.

26. As soon as any rate shall be assessed as aforesaid, the Council shall appoint a person to collect the same, and such rate shall on non-payment thereof, be recoverable as a separate and distinct rate at the suit of such collector by action in the Resident Magistrate's Court having jurisdiction within the said Municipality, or in any Resident Magistrate's Court within the jurisdiction of which such defaulter shall reside.

Act not to affect borrowing powers under Act No. 45 of 1882.

27. Nothing in this Act contained shall affect the borrowing powers of the said Council under the provisions of the 144th to 155th sections of the Municipal Act, 1882.

Costs, &c., of obtaining Act may be paid out of moneys borrowed.

28. The costs, charges, and expenses of obtaining the passing of this Act may, if the said Council deem it expedient so to do, be paid by such Council out of the moneys borrowed under the provisions of this Act.

Interpretation Clause.

29. The word "Municipality" used in this Act shall mean the Municipality of Oudtshoorn, and the words "the Council" shall mean the Municipal Council of the said Municipality.

Short title.

30. This Act may be cited as "The Oudtshoorn Municipality Water Supply Act, 1898."

SCHEDULE.

Schedule.

We, the undersigned Councillors of the Municipality of Oudtshoorn, 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 "Oudtshoorn Municipality Water Supply Act, 1898," 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 Oudtshoorn, this ———— day of ———— 18——

A. B., Chairman of the Municipality.
C. D. } Councillors.
E. F. }

Witness { G. H.
I. J.

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No. 15—1898.] [December 13, 1898.

ACT (1)

To Amend the Law relating to the Granting of Loans for School Purposes.

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:—

Loans to School Committees having perpetual lease.

1. Notwithstanding anything to the contrary contained in the fourteenth section of the Act No. XI. of 1882, commonly called the "The Local Works Loans Act, 1882," the second section of the Act No. 14 of 1895, commonly called "The Local Works Loans Amendment Act of 1895," or any other Law, it shall be lawful for the Governor to grant loans under the said Acts to any School Committee holding as such immovable property upon a lease in perpetuity: provided that (*a*) such loan shall be secured by the transfer to the Treasurer of the lease under which the immovable property is held; (*b*) in case the School Committee shall neglect to pay any moneys required by the said "Local Works Loans Act, 1882," to be paid, or any rent, rates, or taxes at any time before or after such transfer due on the said property, and which must in every case be paid by the lessee thereof, for a period of sixty days and upwards after the same shall have become due and payable, the Treasurer may take possession of the property held under such lease.

Effect and short title.

2. This Act shall be read as one with the said Acts, and may be cited as "The Local Works Loans Amendment Act, 1898."

No. 16—1898.] [December 23, 1898.

ACT (2)

To Authorise a Company styled "The Milnerton Estates (Limited)," to construct and work a Line of Railway from a point on the Cape Government Railways in the Woodstock Municipality to Milnerton; and to make certain improvements in and to the course and channel of the Diep River.

Preamble.

WHEREAS a Company styled the "Milnerton Estates (Limited)," and registered under the "Companies Act, 1892," has been formed for the purpose, amongst others, of constructing, equipping, maintaining and working a line of railway from a point upon the Cape Government Railways within the Woodstock Municipality to the "Milnerton Estates," a property belonging to the said Company, situate within the Cape Division and partly within the area of the Maitland Village Board of Management;

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[1] See also § 2, Act 25, 1904 (p. 4749).
[2] Amended by Act 16, 1902 (p. 4383).

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And whereas plans and sections of the said railway line 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 lines of telegraph and telephone along or near thereto in accordance with the provisions of this Act:

And whereas a certain backwater, or channel wherein water from time to time stands or flows, exists in the neighbourhood of the said line of railway along the south-eastern boundary of the "Milnerton Estates," the same being caused partly by the silting up of the mouth of the river styled the Diep River, which flows through and past the property of the said Company. and partly by entrance of tidal water from the sea at Salt River Mouth:

And whereas during a considerable portion of the year the said channel is in the condition of a marshy and offensive swamp, and it is expedient that the same should be drained and closed up:

And whereas it is also expedient that the level of the Diep River near its mouth should be raised by the erection of a weir or dam across the said river so as to improve the channel of the same; and that a bridge be constructed upon the said weir:

And whereas the position of the above-mentioned works and the nature of the same are shown upon plans and sections deposited in the office of the Clerk of the House of Assembly:

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:—

Name of Company.
Authority to construct, &c., a line of railway.

1. The Company styled the "Milnerton Estates (Limited)," shall be and is hereby authorised and empowered to construct, equip, maintain and work a line of railway similar to railway lines already constructed in this Colony, on a gauge of three feet six inches, with steel rails in weight not less than forty-five pounds to each yeard, at a gradient of not more than one in eighty, from a point on the northern boundary of the Western Line of railway at or near Craig's Crossing, within the Woodstock Municipality and thence in a north-easterly direction across the Salt River on to the property of the said Company to a termius at or near the homestead of the farm "Jan Biesjes Kraal," the property of the said Company, 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 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 to be laid and maintained by the Government at the cost of the Company.

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Line of railway defined.

2. The said railway shall commence at such a convenient junction point with the Western Railway System, in the Municipality of Woodstock, at or near Craig's Crossing, as may hereafter be agreed upon between the Government and the Directors of the said Company: thence across land the property of the Cape Town and District Gas Light and Coke Company (Limited), thence in a north-easterly direction over land the property of the Woodstock Municipality, thence across vacant Crown Lands vested in the Woodstock Municipality, under and by virtue of Act No. 13 of 1893, and across waste Crown lands to the Salt River, thence across the Salt River to and over vacant lands styled the "Milnerton Estates," the property of the said Company, and over Crown land to a terminal point at or near the homestead of the farm "Jan Biesjes Kraal" upon the said "Milnerton Estates": provided that notwithstanding anything to the contrary in this Act contained, the land of the said Cape Town and District Gas Light and Coke Company, Limited, shall not be entered upon until the "Milnerton Estates (Limited)" at its cost shall have transferred or cause to be transferred to the former Company a piece of land measuring three hundred and twenty-six square roods or thereabouts, in situation adjacent to the Works of such Company, and including certain road running from Railway Street to the Gas Works, and upon such transfer being effected, the former Company shall transfer to the "Milnerton Estates (Limited)," at its cost the lot of ground transferred to them on the 27th day of May, 1891, by Skead, Cowling and Company, subject to this reservation and servitude however, that the said Cape Town and District Gas Light and Coke Company (Limited), and their successors in title, shall in perpetuity have the right to a railway siding thereon in its present situation; and provided that with the consent of the said Government it shall be lawful for the Directors to deviate from, vary, or extend the line of the said railway after it has crossed Salt River and entered upon the said "Milnerton Estates" to any extent that may be deemed necessary, provided that the said line remains within the boundaries of the properties owned by the said Company; and provided that full, proper and sufficient plans shall be submitted for the approval of the said Government showing the proposed deviations or extensions with all such reasonable particulars and information as the said Government may require; and provided that, in so far as land vested in the Woodstock Municipality is required for the said railway, the acquisition of such land by the said Company known as the "Milnerton Estates (Limited)" shall be subject to a Deed of Agreement bearing date the twentieth day of June, 1898, and annexed as a Schedule to this Act.

Deviations where authorised.

Powers of entry on land subject to compensation to occupier.

3. The Directors 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

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railway, making full compensation to the occupier of the said land for any damage thereby occasioned, such damage to be recovertble, in the absence of agreement, by arbitration under the Lands and Arbitration 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, 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 purposes relating to the execution of this Act, and also enter upon any waste Crown land situate 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

(*a*) 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 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 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, or to land which has been or may be reclaimed from the sea.

Powers of directors as to taking, &c., 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 Directors, 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 thirty 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.

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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.

Method to be adopted in crossing street or road.

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 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, 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.

(*c*) To fence the approaches to all such crossings, viaducts, embankments, &c.: or to provide otherwise for the due protection of the public safety thereat, and at all other places throughout the line in such manner as the Government may require.

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 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.

Powers may be exercised by an agent.

9. 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.

For railway purposes telegraph and telephone may be constructed, &c.

10. 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, 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."

Company to make provisions for conveyance of mails.

11. The Company shall make provisions 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 obey and observe all such regulations respecting the taking up and delivery of the same as the Postmaster-General shall reasonably make.

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Officers to have free access to all stations.
For conveyance of mails annual sum not exceeding £7 10s. for each mile of railway open for traffic.

12. The officers of the Postmaster-General shall have free access to the principal and all other stations of the Company for the purpose of delivering and receiving such mails. For the conveyance of such mails and the delivery thereof at any station of the Company such annual sum shall be paid as may be agreed upon not exceeding seven pounds ten shillings sterling per annum for each mile of railway open for traffic dating form the date upon which the mails shall be first conveyed.

Provisions for arbitration.

13. In the event of any difference arising between the Postmaster-General and the Company, the matter shall be decided by arbitration.

Construction of embankments to close channel.

14. It shall be lawful for the Directors to construct and maintain two embankments or walls upon waste Crown land being the bed of the channel or estuary hereinafter described upon the sites shown upon the plans lodged with the Clerk of the House of Assembly, across the channel or estuary existing along the south-eastern boundary of the Company's said property "The Milnerton Estates," so as to drain and block up the portion of the said channel between the two walls or embankments aforesaid : provided that all works of whatever nature relating to the proposed railway; the embankments, training walls, weirs or dams, banks or other similar undertakings, shall be subject to the approval of the Commissioner of Public Works upon such detailed plans and specifications as he may require to be submitted before such works or undertakings are commenced or entered upon, and shall be constructed to the satisfaction of the Government, and under the supervision of such officer as the Government may appoint for the purpose; the said Directors may enter upon any lands abutting upon or adjacent to the said channel for the purposes of the said construction and maintenance, and may perform all works and take all steps necessary for the same.

Construction of weir, &c.

15. It shall be lawful for the Directors to construct and maintain a weir or dam wall across the stream known as the Diep River, flowing through the Company's property at a point upon the Company's said property about six hundred yards from the mouth of the said river, as shown upon the plans lodged with the Clerk of the House of Assembly; and a bridge of sufficient width for vehicles to be constructed across the said weir; provided that the said works be constructed and completed as in the last section set forth to the satisfaction of the Commissioner of Public Works.

Works not to interfere with foreshore and rights of Harbour Board.

16. None of the works undertaken by the Company shall in any way injure or affect the foreshore of Tabe Bay or interfere directly or indirectly with the flow of the currents of the Bay or with the rights and interests of the Table Bay Harbour Board.

Liability for damages.

17. In the event of damage resulting to adjoining or adjacent land or properties by reason of inundations of floodings caused by any of the proposed works or undertakings either during construction or after completion, the Company shall be liable for all costs, injuries, or damages sustained by the owner or occupier

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of such lands or properties, and shall provide all necessary remedial measures and protective works to the satisfaction of the Commissioner of Public Works, as in the manner provided for in section fourteen.

Directors may issue debentures.

18. The Directors may from time to time as occasion may require take up by way of loan to be secured by debentures for the purposes of the said railway and other works provided for in this Act, 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 on the property, undertaking, and assets of whatsoever nature of the Company, and shall be subject to such terms and conditions as to interest and to repayment of capital as the Directors shall determine.

Railway when to be opened for traffic.

19. 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; provided that in the event of any difference or dispute arising between the officer as appointed and the Company, such difference or dispute shall be settled by arbitration, to which arbitration the Lands and Arbitration Clauses Act, 1882, shall, so far as applicable, apply.

After four years Governor may require railway to be completed in twelve months.

20. If four 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.

Application of Act No. 19 of 1861 to Railway when completed.

21. Upon the completion of the said railway, or any portion thereof as aforesaid, the Directors shall enjoy all the privileges and be subject to all the conditions conferred by and contained in the Act No. 19 of 1861, entitled "The Regulation of Railways Act, 1861," or any general Act hereafter passed for the regulation of railways.

Company how sued and process how served.

22. The Company shall and may be sued within this Colony by the name or style of the "Milnerton Estates (Limited)," and the service of process upon the Secretary for the time being 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.

Right of Government to purchase railway.

23. At any time after the date of opening for public traffic the said railway, the Government shall have the right to purchase from the Directors, on giving six months' notice to this effect, in three consecutive issues in the *Government Gazette*, and the Directors shall be bound six months after the date of the first publication of the said notice, to sell to the 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

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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. The price to be paid by the Government to the Directors shall not exceed the cost price thereof, together with an amount equal to five per cent. per annum thereon reckoned from the date of the said opening for public traffic until the date of purchase, but deducting therefrom the amount of any dividends earned by the Company, accruing from the working of the said railway and allotted to the shareholders previously to the date of the said purchase. Should the Government exercise the said option and purchase the said railway, it shall be bound to continue to provide a train service suitable to the requirements of the persons residing upon the said "Milnerton Estates" along the said railway line. In the event of any difference arising between the Directors and the Government as to the price to be paid as aforesaid by the Government for the property of the Company the same shall be settled by arbitration in manner provided under the "Lands and Arbitration Clauses Act, 1882."

Meaning of terms.

24. 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 "Milnerton Estates (Limited)."

(*b*) The Directors shall mean the Directors for the time being of the said Company.

Short title.

25. This Act may be cited for all purposes as the "Milnerton Railway Act, 1898."

[A.]

SCHEDULE.

Schedule.

This Memorandum of an Agreement witnesseth the terms and conditions upon which the Woodstock Municipality have resolved and agreed to alienate to the Milnerton Estates Company certain land vested in the Municipality and to concede running powers for a proposed Railway across the Municipality.

(1) In consideration of the sum of £1,500 sterling the Woodstock Municipality have resolved to sell to the Milnerton Estates Company an extent of land measuring 51,181 square feet adjoining the Gas Works, including the roadway leading thereto from Railway Street.

(2) In consideration of a further sum of £2,000 sterling the Woodstock Municipality have agreed to sell to the Milnerton Estates Company certain land required for the construction of a Railway, being a strip measuring about 60 feet in width and 18 chains or thereabouts in length and already pointed out.

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(3) The foregoing alienations are subject to the following conditions namely, that the Woodstock Municipality shall have and retain the right to construct and from time to time repair culverts and drains under and across the line of railway which it is proposed to build upon the land now being disposed of to the Milnerton Estates Company, and further that all existing drains, culverts and outlets shall be allowed to remain for general use as at present.

In witness whereof we have set our hands, this 20th day of June, 1898, in confirmation of an agreement come to on the 17th June, 1898.

W. E. MOORE,
Parliamentary Agent for the
Municipal Council of Woodstock.
VAN ZYL & BUISSINNE,
Parliamentary Agents for the
Milnerton Estates, (Ltd.).

As Witnesses:
C. NEWMARK.
E. J. MOORE.

Sections 9-20 inclusive repealed by Act 25 of 1934

No. 17—1898.] [December 23, 1898.

ACT (1)

To Authorise a Company, styled "The Cape Flats and Suburban Railway Syndicate, Limited," to construct a Line of Railway over the Cape Flats.

Preamble.

WHEREAS a Company with limited liability, styled "The Cape Flats and Suburban Railway Syndicate, Ltd.," 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 over the Cape Flats from a point on the Cape Government Line of Railways at or near Maitland Station to a point on land the property of the Suburban Land and Building Company adjoining Ottery Road: 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:

Name of Company.
Authority to construct, &c., a line of railway.

1. The Company styled "The Cape Flats and Suburban Railway Syndicate, Ltd." shall be and are hereby authorised and

[1] See Acts 4, 1900 (p. 4250) and 14, 1904 (p. 4661).

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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, at a gradient of not more than one foot in forty feet, commencing from a point at or near Maitland Station on the Cape Government Railways line to be agreed upon between the Commissioner of Public Works and the Directors of the said Company, and thence across the Cape Flats to a point on land the property of the Suburban Land and Building Company to be agreed upon between owners of the said land and the Directors of the said Company 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.

Line of railway defined.

2. The said railway shall commence at such a convenient junction point with the Cape Government Railway at or near Maitland Station as may be hereafter agreed upon between the Commissioner of Public Works and the Directors; thence in a south-easterly direction over certain property belonging to the Colonial Government and A. R. McKenzie; thence over Crown Lands, property belonging to A. R. McKenzie, Crown Land styled "Uitvlugt," land vested in the Mowbray Municipality styled "Raapenburg," and property belonging to Tregidga and Company, to a point on "Haredale," the property of Mr. Kotzé, within the Mowbray Municipality; thence in a southerly direction along a seventy-two foot road belonging to the Suburban Land and Building Company, crossed by the Duinefontein Road belonging to the Divisional Council, along another road the property of the Suburban Land and Building Company, along another road the property of the Company, across the Lansdowne Road, and property belonging to Messrs. Barron and Searle, thence across a road on belonging to Messrs. Barron and Searle, thence across a road on the Estate "Rompe Vlei," and thence over property belonging to Mrs. T. J. Anderson, thence across the Wetton Road to a point on the farm "Bamboos Vlei," the property of Dr. Rutherford Harris, and across the said farm, thence over a road leading from the Wetton Road, and thence in a southerly direction over Crown Lands being the old Rifle range, and thence across a Divisional Council Road called the Ottery Road, and over Crown Land to a point on land the property of the Suburban Land and Building Company to be hereafter agreed upon between the owners of the said land and the Company; 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 the Commissioner of Public Works upon the request of the Directors.

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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 Public Works.

4. The Directors may, with the permission of the Commissioner of Public Works, 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:

(*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.

Powers of Directors as to taking, &c., of lands and materials, subject to conditions as to extent to be taken and method of calculating compensation.

5. For the purposes of construction, maintenance, and working of the said line of railway the Directors shall have all the rights and powers and be subject to all the duties and obligations which a Divisional Council by the law of the Colony of the Cape of Good Hope has and exercises or is subject to under the provisions of Sections one hundred and forty-six and one hundred and forty-seven of the Divisional Councils Act, 1889, for the purposes of Section one hundred and forty-one of the said Act: provided that the publication of notice in the *Gazette* shall be deemed to be sufficient notice to any proprietor who shall be absent or whose place of residence shall be unknown: and provided further:—

(*a*) (1) 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

[1] Printed as amended by Act 14, 1904 (p. 4663).

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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 Maitland 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.

(*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.

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 street or road.

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.

Powers may be exercised by agent.

9. 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.

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Directors may issue debentures.

10. 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 exceding 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.

Repealed.

Railway: when to be opened for traffic.

11. 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, and that sufficient land has been acquired to permit of the construction of bridges over the said railway at the crossing of divisional roads; provided that in the event of any difference or dispute arising between the officer appointed and the Company, such difference or dispute shall be settled by arbitration, to which arbitration the Lands and Arbitrations Clauses Act, 1882, shall, sa far as applicable, apply.

Application of Act No. 19 of 1861 to Railway when completed.

12. 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 Regulation of Railways Act, 1861," or any general Act now in force or hereafter passed for the regulation of railways; provided that the powers by the 29th section of the said Act conferred upon the Colonial Engineer, or other person appointed by the Governor, may be exercised in respect of the said Railway by any person appointed for the purpose by the Divisional Council of the Cape.

Powers of Colonial Engineer may be exercised by person appointed by D.C. of Cape.

Two years for completion of railway from date of commencement.

13. The (1) Directors shall be bound and are hereby required to finish and complete the railway within two years, reckoned from the date of the first commencement of the works thereof, so that the said railway may be opened for the public conveyance of goods; provided that, unless the said Company shall commence the said railway not later than two years from and after the taking effect of this Act, all and singular the power and authorities conferred by this Act, shall cease and determine.

Commencement within two years.

For railway purposes, telegraph and telephone may be constructed.

14. 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."

Company to make provision for conveyance of mails.

15. The Company shall make provision for the conveyance to or from any station by any of the ordinary or special trains of the

[1] Amended by Act 4, 1900.

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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.

Officers to have free access to all stations.

16. The officers of the Postmaster-General shall have free access to the principal and all other stations of the Company, for the purpose of delivering and receiving such mails.

Charge for conveyance of mails.

17. For the conveyance of such mails and the delivery thereof at any station of the Company, such annual sum shall be charged as may be agreed upon, not exceeding seven pounds ten shillings sterling per annum for each mile of railway open for traffic, dating from the date upon which the mails shall first be conveyed.

Provision for arbitration.

18. In the event of any difference arising between the Postmaster-General and the Company, the matter shall be decided by arbitration.

Company, how sued, and process, how served.

19. The Company shall and may be sued within this Colony by the name or style of "The Cape Flats and Suburban Railway Syndicate (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.

Repealed by Act 25 of 1934

Right of Government to purchase railway.

20. (1) 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 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:—

(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:

[1] Printed as amended by Act 14, 1904 (p. 4666).

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(*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.

Meanings of terms.

21. 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 Cape Flats and Suburban Railway Syndicate (Limited)":

(*b*) "The Directors" shall mean the Directors for the time being of the said Company.

Short Title.

22. This Act may be cited for all purposes as "The Cape Flats and Suburban Railway Syndicate's Act, 1898."

No. 18—1898.] [December 23, 1898.

ACT

To Amend Act No. 40 of 1889, commonly called "The Divisional Councils Act, 1889."

Preamble.

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

Repeal of sections 233 and 234 of Act 40 of 1889.

1. The two hundred and thirty-third and the two hundred and thirty-fourth sections of Act No. 40 of 1889, commonly called "The Divisional Councils Act, 1889," are hereby repealed, but such repeal shall not affect anything duly done or any proceedings duly taken under the said sections.

Divisional Council to publish notices warning persons against neglecting to extirpate Xanthium Spinosum or burr weed. Special exemption of river beds, if Governor see fit.

2. The Divisional Council of each division of the Colony shall, on the taking effect of this Act, issue a public notice, in the English and Dutch languages, warning all owners and occupiers of landed property within the division of the liability they will incur by neglecting to eradicate and destroy any of the burr-weed, called Xanthium Spinosum, declared under the Act aforesaid to be a noxious weed or plant, which may exist upon their land, which notice shall be published in one or more of the newspapers circulating in the division, and shall be posted at or

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near the court-house of every Resident Magistrate in such division, and at or near the residence or office of every field-cornet therein, and thereupon every owner and every occupier of land within any division shall be bound to eradicate and, if required by the Council, destroy any of the said weed growing or being upon the land owned or occupied by him: Provided that it shall be lawful for the Governor if he shall in any special case deem fit, and if he shall be requested so to do by the Council of the division, to declare by notice in the *Gazette* that the bed of any public river within such limits as he shall fix shall be exempted from the operation of this Act. No. 19—1898.

Penalty for neglecting to eradicate and destroy noxious weeds and plants.

3. Every Divisional Council, receiving information after the giving of the notice aforesaid that any owner or occupier is failing to obey the provisions of this Act, may if it think fit summon such owner or occupier before the Court of the Resident Magistrate to answer for his neglect to eradicate and destroy the said weed, and upon proof of such neglect such owner or occupier shall be liable to a fine of not exceeding two pounds for the first offence and not exceeding five pounds for any subsequent offence.

Effect and Short Title.

4. This Act shall be read as one with "The Divisional Councils Act, 1889," and may be cited as "The Divisional Councils Act Amendment Act, 1898."

So much as is unrepealed is repealed by Act 25 of 1934

No. 19—1898.] [December 20, 1898.

ACT (1)

To Provide for the Better Representation of the People in Parliament.

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:

PRELIMINARY.

Act to take effect notwithstanding repugnant Laws.

I. The provisions of this Act shall take effect notwithstanding anything to the contrary contained in the Constitution Ordinance or in any other Law.

[1] Additional representation provided by Act 5, 1904 (p. 4638).

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No. 19—1898.

PART I.

NEW ELECTORAL DIVISIONS.

New Electoral Divisions.

2. From and after the promulgation of this Act there shall be constituted in this Colony the following new Electoral Divisions:

(*a*) 1. Cathcart,
2. Humansdorp,
3. Middelburg,
4. Prieska,
5. Simon's Town,

the voters in and for each of which shall be entitled to return one member to the House of Assembly, and

(*b*) 1. Jansenville,
2. Woodstock,
3. Wynberg,

the voters in and for each of which shall, subject as to Woodstock and Wynberg to the provisions of Sections thirteen and fourteen of this Act, be entitled to return two members to the House of Assembly.

Areas of New Electoral Divisions as defined in first Schedule.

3. The said new electoral divisions shall respectively consist of and comprise the areas defined in the First Schedule to this Act.

PART II.

ADDITIONAL REPRESENTATION IN EXISTING ELECTORAL DIVISIONS.

Additional representation in existing Divisions.

4. From and after the promulgation of this Act the voters in and for the following Electoral Divisions shall be entitled to return to the House of Assembly in addition to the members at present so returned by them:

(*a*) 1. Cape Town,
2. George,
3. Griqualand East.
4. Tembuland,
5. Worcester,

each one member, and

(*b*) Port Elizabeth,

two members.

Areas of same as defined in second Schedule.

5. The said Electoral Divisions shall respectively consist of and comprise the areas defined in the Second Schedule to this Act.

PART III.

DEFINITION OF BOUNDARIES OF EXISTING ELECTORAL DIVISIONS.

Areas of certain Electoral Divisions defined as set forth in third Schedule.

6. From and after the promulgation of this Act the Electoral Divisions set forth in the Third Schedule to this Act shall respectively consist of and comprise the areas defined in the said Schedule.

Certain boundaries to remain unaltered.

7. The boundaries of each existing Electoral Division not mentioned in any of the beforementioned Schedules shall remain unchanged.

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PART IV.

ELECTORAL PROVINCES.

Electoral Provinces to consist of Electoral Divisions as set forth in 4th Schedule.

8. From and after the promulgation of this Act, the several Electoral Provinces into which this Colony is divided for the purpose of returning members to the Legislative Council shall respectively consist of and comprise the Electoral Divisions set forth in the Fourth Schedule to this Act.

PART V.

ELECTION OF MEMBERS OF PROVINCES AND DIVISIONS.

Provisions of existing Law to apply in certain respects.

9. All and singular the provisions of the Law of this Colony relative to—

(*a*) The registration and qualification or disqualification of voters:

(*b*) The making out of the lists of voters and the proceedings consequent thereon:

(*c*) The nomination, election, and qualification or disqualification of members of the Legislative Council and House of Assembly:

(*d*) The taking of polls and the procedure relating to Parliamentary Elections generally:

(*e*) Election Petitions and corrupt practices at Elections:

shall, when not repugnant to or inconsistent with the provisions of this Act, apply to every Electoral Division and Electoral Province; provided that the Governor may as occasion may require appoint any person to perform under the said law, or under this Act, the duties and functions of a Civil Commissioner in regard to any of the Electoral Divisions of Woodstock, Wynberg, Simon's Town, Griqualand East or Tembuland, and the Resident Magistrate or such other person as the Governor may appoint may in any of the said Divisions or in any Field-cornetcy or other duly proclaimed portion thereof, perform the duties and functions of a Field-cornet under the said law.

Repealed by Act 12/1918, Sect. 147

Framing of lists of registered voters for new and altered Electoral Divisions.

10. As soon as may be after the taking effect of this Act a list of the registered voters for each Electoral Division which shall be constituted or altered by any provision of this Act shall be framed from the existing lists of registered voters in manner following, that is to say:—

(*a*) Every Civil Commissioner or other officer having custody of the list of persons registered as voters in any existing Electoral Division which shall have had a portion of such division cut off and added to another Electoral Division shall make out and transmit to the Returning Officer of such other Electoral Division a list of voters registered in the portion so cut off.

(*b*) The list of registered voters from which the lastmentioned list was taken, as it shall stand after the deduction of the names contained in the list transmitted, shall form the

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registered voters' list for the time being for the Electoral Division from which a portion shall have been cut off.

(*c*) The list or lists, if more than one, received by the Returning Officer as aforesaid of every new Electoral Division constituted under this Act from any other Returning Officer as aforesaid shall form the list of registered voters for the time being for such new Electoral Division.

(*d*) The list or lists, if more than one, received by the Returning Officer of any existing Electoral Division shall together with the list of voters registered in such division form the list of registered voters for the time being for such division.

Elections for members of new Divisions and for additional members of existing Divisions to take place before the next ordinary Session of Parliament.

11. The members to be returned for new Electoral Divisions and the additional members to be returned for existing Electoral Divisions in accordance with the provisions of this Act shall be so returned before the next ordinary session of Parliament. Before the election of an additional member for Cape Town the registration of voters for that Electoral Division shall be completed so as to include the persons entitled to be registered at Robben Island; and before the election of additional members for Griqualand East and Tembuland, the registration of voters for those Electoral Divisions shall be completed so as to include the persons entitled to be registered in Eastern and Western Pondoland, respectively: Provided that, for the purposes of the first election of members for Cape Town, Griqualand East and Tembuland respectively, it shall be lawful for the Governor to take the necessary proceedings, *mutatis mutandis*, in accordance with law, for a special registration of the persons entitled to be registered at Robben Island, Eastern and Western Pondoland respectively. And provided further that the duties of preparing and revising the list of voters for Robben Island shall be respectively performed by such persons and at such place or places as the Governor may from time to time appoint, in accordance with the ordinary law and not in manner specially provided for Cape Town, and that a polling place shall be appointed in and for Robben Island as though the said Island were an additional District of Cape Town for the purposes of Section 31 of Act No. 14 of 1874.

After this Parliament the Cape Division to cease to be an Electoral Division.

12. The members at present returned for the Cape Division shall be entitled to sit as such members during the present Parliament; but at no election after the passing of this Act shall any member be returned for the Cape Division.

Electoral Divisions of Wynberg and Woodstock.

13. The voters in and for the divisions of Wynberg and Woodstock respectively shall in accordance with the terms of Section eleven of this Act, during the present Parliament, be entitled to return and be represented in the House of Assembly by one member.

In case of vacancy in Cape Division how the same to be filled.

14. In case either of the members of the Cape Division should during the present Parliament vacate his seat, the vacancy so created shall be filled by the election of a member for the

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Electoral Division of Wynberg, and in the event of the other of the said members similarly vacating his seat, the vacancy so subsequently created shall be filled by the election of a member for the Electoral Division of Woodstock.

Performance of duties of Civil Commissioner, under sections 21 to 25 of Act 9 of 1892.

15. Notwithstanding anything contained in Sections twenty-one to twenty-five of Act No. 9 of 1892, it shall be lawful for any Civil Commissioner or any such person appointed by the Governor under the 9th Section of this Act to perform under the law mentioned in the said section the duties and functions of a Civil Commissioner in regard to any of the Electoral Divisions of Woodstock, Wynberg, Simon's Town, Griqualand East or Tembuland, to fix any place within the division other than the Court Room for the holding of the Court for revising, amending and settling the voters' list for the division; provided that the place so fixed shall be notified in the notices mentioned in Sections twenty-one and twenty-two of the said Act No. 9 of 1892: Provided further that a copy of the list and notice mentioned in Section twenty-three of the said Act shall be posted at such other place as may be fixed under this Section for the holding of the Revision Court aforesaid as well as at or near the Court Room, if any, in such division, as required in the said Section.

Governor may appoint any place in a Division as a place for the nomination of Candidates.

16. Anything contained in section 48 of the Constitution Ordinance notwithstanding, the Governor may from time to time appoint any place within an Electoral Division for the holding of the Court for the nomination of persons proposed as members of the House of Assembly for such Electoral Division.

Death of Candidate after date for sending accepted requisitions to the Colonial Secretary, in the case of Legislative Council Election, and after nomination in the case of Assembly Elections.

17. If after the date fixed by Proclamation for sending to the Colonial Secretary or other officer the requisitions accepted by the candidates for the Legislative Council, or after all candidates in any Electoral Division shall have been duly nominated for election to the House of Assembly any such candidates shall die before the poll has commenced, the Governor shall, upon being satisfied of the fact of such death, countermand the notice of the poll, and all proceedings relating to such election shall be commenced afresh in precisely the same manner as if a vacancy had been duly notified to the Governor in conformity with section seventy-three of the Constitution Ordinance; provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

PART VI.

MISCELLANEOUS.

Prohibition of plural registration and voting.

18. Notwithstanding anything to the contrary contained in the last proviso to the 8th section of the Constitution Ordinance, it shall not be lawful for any person to be registered as a voter for more than one Electoral Division or to vote for more than one Electoral Division or Province in the election of a member or members of the House of Assembly or the Legislative Council.

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Plural registration a ground of objection.

19. (1) At every future biennial registration of voters, it shall be lawful for any person to object to the right of any other person whose name is inserted in the Provisional List of Voters for any Electoral (1) Division, to have his name so inserted, on the ground that such person's name appeared on the provisional or final list of registered voters of some other Electoral (1) Division, and all the provisions of the law relating to objections to provisional lists of voters, shall, when not inconsistent apply to objections on the above ground: Provided that if any Registering Officer upon hearing such objection shall be satisfied that the name of the person regarding whom such objection is made, appears also on the provisional or final list of registered voters for some other division, it shall be the duty of such Registering Officer to expunge the name of such person from such aforesaid provisional list unless such last-mentioned person shall then and there intimate his choice to be registered only on the list objected to, in which event such Registering Officer shall forthwith in writing communicate such choice to the Registering or other Officer having the custody of such provisional or final list of registered voters for such other division, whereupon such Registering or other Officer having such custody shall forthwith expunge the name of such person from such provisional or final list, which shall for all legal purposes thereafter be deemed to be amended accordingly.

Procedure in case of any person's name appearing upon more than one final list.

20. (1) If the name of any person shall, in contravention of the provisions of this Act, appear as a registered voter upon the final lists of more than one Electoral (1) Division, any other person may by summons issued from the Court of Resident Magistrate of the district in which such registered voter resides, or by motion to a Superior Court having jurisdiction, call upon such registered voter to show cause why his name shall not be removed from all but one of such final lists, and such Resident Magistrate or Court shall after hearing the matter order that the name of such registered voter shall be expunged from all of such final lists, save and except such one list as such registered voter shall choose, and such judgment shall by the Clerk or Registrar of the Court be forthwith transmitted to the Returning or other Officer having custody of any such final list from which such name is by such judgment ordered to be expunged, whereupon the same proceedings shall be taken as are provided by the last preceding section of this Act.

Penalty for procuring registration of name on more than one list.

21. Any person who shall by himself or any other person instigate, procure or attempt to procure or take part in procuring the registration of himself or any other person as a voter in or for more than one Electoral Division shall be deemed to be guilty of the offence of personation and shall be liable to punishment accordingly.

[1] Sections 19 and 20 apply to every Field Cornetcy. See § 30, Act 48, 1899 (p. 4238).

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Penalty for voting in more than one Electoral Division.

22. Any person who, being registered contrary to the provisions of this Act in more than one Electoral Division, shall vote in one of such Divisions after he shall have voted in any other of such Divisions, either at the same or any other election since the preceding biennial registration of voters, shall be deemed to be guilty of the offence of personation and shall be liable to punishment accordingly.

At General Elections, all the elections to be on the same day, save in the case of Elections for Cape Town and Graham's Town.

23. For the purposes of any General Election of Members for the House of Assembly after the promulgation of this Act, the Governor shall by Proclamation fix one and the same day for the taking of polls in all Electoral Divisions, save and except Cape Town and Graham's Town, in which such polls shall have been duly demanded, provided that such day shall not be less than twenty-one nor more than thirty clear days next after the day of nomination, and provided that nothing herein contained shall alter or affect the existing law with regard to elections other than General Elections, or with regard to polls to be taken in the Electoral Divisions of Cape Town [1] and Graham's Town.

Short title.

24. This Act shall be known and may be cited as the "Parliamentary Representation Act, 1898."

First Schedule.

FIRST SCHEDULE.

Electoral Divisions.	Areas.
Cathcart	Fiscal Divisions of Cathcart and Stutterheim.
Humansdorp	Fiscal Division of Humansdorp.
Middelburg	Fiscal Division of Middelburg, and Field-cornetcies of Steynsburg, Brak River and Strydpoort in the Fiscal Division of Steynsburg.
Prieska	The Fiscal Divisions of Prieska, Kenhardt and Gordonia.
Simon's Town	Field-cornetcies of Simon's Town Nos. 1 and 2, Wildschutzbrand, Elsjes River, Noordhoek, Kalk Bay, Diep River, and Constantia in the Fiscal Division of the Cape.
Jansenville	The Fiscal Divisions of Jansenville and Willowmore.
Woodstock	The Field-cornetcies of Papendorp and Liesbeek River, Palen en Rietvley, Tygerberg and Kuils River, Durban, Koeberg Nos. 1 and 2, and Blaauwberg, in the Fiscal Division of the Cape.

[1] As to Cape Town, see § 1, Act 48, 1899 (p. 4232).

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Electoral Divisions.		Areas.
Wynberg	The	Field-cornetcies of Wynberg, Newlands, Rondebosch, Downs No. 1 and No. 2, in the Fiscal Division of the Cape.

Second Schedule.

SECOND SCHEDULE.

Electoral Divisions.		Areas.
Cape Town	The	Municipalities of Cape Town and of Green Point and Sea Point, together with the Island known as Robben Island.
George	The	Fiscal Divisions of George, Mossel Bay and Knysna, and the Field-Cornetcies of Uniondale, Avontuur, Middle Long Kloof, Lower Long Kloof, and Anthoniesberg in the Fiscal Division of Uniondale.
Griqualand East ...	The	Territories known as Griqualand East, Eastern Pondoland and Port St. John's.
Tembuland	The	Territories known as the Transkei (including Gealekaland), Tembuland (including Emigrant Tembuland and Bomvanaland), and Western Pondoland.
Worcester...	The	Fiscal Divisions of Worcester, Tulbagh and Ceres and the Field-cornetcies of Klein Roggeveld and Moordenaar's Karroo in the Fiscal Division of Sutherland, together with those parts of the Field-cornetcies of Robertson and Middle Bosjesveld in Fiscal Division of Robertson, which are now included in the Electoral Division of Worcester.
Port Elizabeth ...	The	Field-cornetcies of Port Elizabeth and Bushy Park.

Third Schedule.

THIRD SCHEDULE.

Electoral Divisions.		Areas.
Albany	The	Fiscal Division of Albany (excluding Grahamstown), Bathurst and Alexandria.
Albert	The	Fiscal Division of Albert and the Field-cornetcies of Blesbok, Brandspruit and Zuurberg, in the Fiscal Division of Steynsburg.

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THIRD SCHEDULE—(*continued*). No. 19—1898.

Electoral Divisions.	Areas.
Beaufort West... ...	The Fiscal Divisions of Beaufort West, and Prince Albert.
Clanwilliam	The Fiscal Divisions of Clanwilliam and Calvinia.
Colesberg	The Fiscal Divisions of Colesberg, Hanover and Philipstown.
Cradock	The Fiscal Division of Cradock and the Field-cornetcies of Tarka ,Vlekpoort and Winterberg, and that part of the Field-cornetcy of Mostertshoek (at present in the Electoral Division of Cradock), in the Fiscal Division of Tarka.
Graaff-Reinet	The Fiscal Divisions of Graaff-Reinet Murraysburg and Aberdeen.
King William's Town	The Fiscal Divisions of King William's Town, with the Field-cornetcies 1, 2 and 3 of the Fiscal Division of Komgha and the Field-cornetcy of Ncera, and that part of the Field-cornetcy of Alice in the Fiscal Division of Victoria East which is at present included in the Electoral Division of King William's Town.
Namaqualand	The Fiscal Divisions of Namaqualand and Van Rhyn's Dorp.
Queen's Town	The Fiscal Division of Queen's Town and those parts of the Fiscal Divisions of Tarka and Glen Grey which are at present included in the Electoral Division of Queen's Town.
Richmond	The Fiscal Divisions of Richmond, Hope Town and Britstown.
Uitenhage	The Fiscal Division of Uitenhage.
Victoria West... ...	The Fiscal Divisions of Victoria West, Carnarvon and Fraserburg, together with the Field-cornetcies of Sutherland, Rhenoster Rivier, Riet Rivier, and Fish River in the Fiscal Division of Sutherland.
Vryburg	The Fiscal Division of Vryburg, and that part of the Fiscal Division of Mafeking which is at present included in the Electoral Division of Vryburg.

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Fourth Schedule.

FOURTH SCHEDULE.

Electoral Provinces.

Electoral Provinces.	Areas.
Western	Electoral Divisions of Cape Town, Paarl, Simon's Town, Stellenbosch, Woodstock and Wynberg.
North-Western	Electoral Divisions of Clanwilliam, Malmesbury, Namaqualand, Piquetberg and Worcester.
South-Western	Electoral Divisions of Caledon, George, Oudtshoorn, Riversdale, and Swellendam.
Midland	Electoral Divisions of Beaufort West, Graaff-Reinet, Prieska, Richmond and Victoria West.
South-Eastern	Electoral Divisions of Albany, Graham's Town, Humansdorp, Jansenville, Port Elizabeth, Uitenhage and Victoria East.
North-Eastern... ...	Electoral Divisions of Albert, Colesberg, Cradock, Fort Beaufort, Middelburg and Somerset East.
Eastern	Electoral Divisions of Aliwal North, Cathcart, East London, Griqualand East, King William's Town, Queenstown, Tembuland and Wodehouse.
Griqualand West ...	Electoral Divisions of Barkly West and Kimberley.
British Bechuanaland	Electoral Divisions of Mafeking and Vryburg.

No. 20—1898.] [December 23, 1898.

ACT (1)

To Provide for a Contribution to Her Majesty's Navy.

Repealed by 1922 Act 38 Sec. 15.

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 of term "The Admiralty."

1. In this Act the expression "the Admiralty" shall mean the Lord High Admiral of the United Kingdom for the time being or the Commissioners for the time being for executing the office of Lord High Admiral of the United Kingdom.

Annual payment to Admiralty of £30,000.

2. From and after the taking effect of this Act, there shall be paid annually to the Admiralty or such person as they may be pleased to appoint in that behalf and in such manner as they may

[1] See also Act 14, 1902 (p. 4382), providing for a further annual contribution of £20,000.

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Repealed by 1922 Act 38 Sec. 15.

No. 21—1898.

be pleased to direct, the sum of thirty thousand pounds out of the public revenue of this Colony as a contribution towards the annual expenditure by the Imperial Government in connection with Her Majesty's Naval Service.

Short Title.

3. This Act may be cited for all purposes as "The Navy Contribution Act, 1898."

No. 21—1898.] [December 23, 1898.

ACT

To Amend the Law relating to the Deeds Registry Office in British Bechuanaland.

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:—

Repeal of laws. Deeds and documents registered under repealed laws in office of Registrar of Deeds, Vryburg, to be delivered by Registrar to Resident Commissioner of Bechuanaland Protectorate.

1. From and after a date to be fixed by Proclamation by the Governor, Proclamation No. 182 B.B. of 1893, and so much of Section 19 of the "British Bechuanaland Annexation Act, 1895," as continues the exercise by the Deeds Registry Office at Vryburg of the functions imposed on it by the aforesaid Proclamation shall be hereby repealed, and thereupon all deeds and other documents registered or lodged for the purpose of being registered under and by virtue of the aforesaid Proclamation and Act in the possession of the Registrar of Deeds, in Vryburg, shall as soon as may be possible be handed over by him to the Resident Commissioner of the Bechuanaland Protectorate, or to such Officer as the High Commissioner shall appoint for the purpose.

Responsibility of Registrar of Deeds to cease in connection with aforesaid Deeds.

2. From and after the date fixed as aforesaid all liability or responsibility of the Registrar of Deeds, at Vryburg, in respect of any deed or other document so registered or lodged as aforesaid shall cease and determine, save the obligation as soon as may be possible so to hand over such deed or other document in accordance with the last preceding section.

Short Title.

3. This Act may be cited as "The Bechuanaland Deeds Registry Act, 1898."

No. 22—1898.] [December 23, 1898.

ACT

To provide for Appeals to the Supreme Court of this Colony from certain Courts constituted beyond the Colony under certain Orders in Council of Her Majesty the Queen.

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:—

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No. 22—1898.

Repeal of Laws.

1. The provisions of Act 35 of 1896 relating to appeals under the "Africa Order in Council" and under the "Matabeleland Order in Council," and so much of any other law as may be repugnant to or inconsistent with this Act shall be and are hereby repealed from and after the date when this Act comes into force, save as to any suit or matter pending in appeal under the said Act at that date, which suit or matter shall proceed and be determined under the said Act.

APPEAL UNDER THE "AFRICA ORDER IN COUNCIL, 1889."

Supreme Court to be Court of Appeal in respect of Courts for which it is prescribed as Court of Appeal by "Africa Order in Council."

2. The Supreme Court of this Colony shall have jurisdiction under this part of this Act as a Court of Appeal to entertain, hear and determine all appeals in matters brought before it from, and all cases stated for its opinion by, any Court in respect of which the said Supreme Court has been or may hereafter be prescribed as a Court of Appeal in manner provided in and by Her Majesty's Order in Council made on the fifteenth day of October, 1889, and known as the "Africa Order in Council, 1889": Provided that an appeal from an order of such Supreme Court on appeal shall lie to Her Majesty in Council in the same manner and on the same conditions as appeals from the judgments of the said Supreme Court in its ordinary jurisdiction.

Powers of Supreme Court as such "Court of Appeal."

3. As such Court of Appeal the said Supreme Court shall have and exercise all powers, authorities, and jurisdiction in respect of all matters brought before it which are conferred upon Courts of Appeal under or by any article, provision, or rule of the aforesaid Order in Council.

Procedure for bringing appeals.

4. All appeals to the said Supreme Court under the second to sixth sections inclusive of this Act shall be brought within such time and in such manner as regards the form and transmission of the appeal, and as to the day of execution and otherwise, as may be prescribed by any rules of procedure made under the aforesaid Order in Council, or as in any case by any special law or order the said Supreme Court may direct.

Procedure for prosecution, etc., of appeals.

5. The Judges of the said Supreme Court, as a Court of Appeal under the second to sixth sections inclusive of this Act, shall have power from time to time to make rules for the regulation of the procedure to be adopted in and about the prosecution, hearing and determination of all matters brought before the said Supreme Court in appeal or on any case stated in writing: Provided that no such rule shall be repugnant to or inconsistent with any article, provision, or rule contained in or made in manner prescribed by the aforesaid Order in Council: Provided, further, that until such rules are made the procedure on appeal to the Supreme Court shall be the same as the ordinary procedure of that Court on appeal.

Laws to be applied by Court of Appeal.

6. The said Supreme Court, as a Court of Appeal under the second to sixth sections inclusive of this Act, shall determine any matter brought before it in accordance with the law which the

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Court from which such matter is brought either in appeal or upon a case stated in writing may, by the aforesaid Order in Council, or by any other Order, law or rule binding upon the said Court, lawfully apply to the decision and determination of such matter.

APPEAL UNDER "THE SOUTHERN RHODESIA ORDER IN COUNCIL, 1898."

(A) *Civil Matters.*

Supreme Court to be Court of Appeal from High Court of Southern Rhodesia in civil matters.

7. The Supreme Court of this Colony shall have jurisdiction under this part of the Act as a Court of Appeal to hear, entertain, and determine, in manner provided by Her Majesty's Order in Council made on the twentieth day of October, 1898, and known as "The Southern Rhodesia Order in Council, 1898," appeals in civil matters brought before it from the High Court of Southern Rhodesia when the amount or value in dispute exceeds one hundred pounds sterling, provided that an appeal from an order of such Supreme Court on appeal shall lie to Her Majesty in Council in the same manner and on the same conditions as appeals from the judgments of the said Supreme Court in its ordinary jurisdiction.

Cases for opinion stated to Supreme Court.

8. The said Supreme Court shall also have jurisdiction in all cases stated for its opinion by the said High Court when the amount or value in dispute exceeds one hundred pounds sterling, and in all cases in which any Judge of the said High Court has granted leave to appeal from any judgment or order made therein in manner and subject to the conditions provided by the aforesaid Order in Council, even when the matter in dispute does not exceed the said amount of one hundred pounds sterling.

Procedure for bringing appeals.

9. All appeals to the said Supreme Court from the said High Court shall be brought within such time and in such manner as regards the form and transmission of the appeal as may be prescribed by any rules of procedure made by the said Supreme Court, and as regards matters not provided for by such rules, the procedure on appeal to and in the Supreme Court shall be the same as the ordinary procedure of that Court on appeal, and the order of the said Supreme Court on appeal shall be certified under its seal to the said High Court: Provided however that no rule made by the said Supreme Court shall be repugnant to or inconsistent with any article, provision or rule contained in or made under the provisions of the said "Southern Rhodesia Order in Council, 1898."

Law to be applied by Supreme Court on appeal.

10. The said Supreme Court shall determine any matter brought before it in appeal from, or stated for its opinion by, the said High Court in accordance with the law which the said High Court may, by the aforesaid Order in Council or by any other law, order or rule binding on the said Court, lawfully apply to the decision and determination of such matter.

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(B) *Criminal Matters.*

Supreme Court to be Court of Appeal from High Court of Southern Rhodesia in certain criminal matters.

11. The said Supreme Court shall have jurisdiction under this Act as a Court of Appeal to entertain, hear and determine appeals brought before it, in manner and subject to the conditions provided for in the said Order in Council, by any defendant who shall have been tried upon any indictment in the said High Court and convicted thereon on the grounds that the proceedings of the Court before which the trial took place were irregular or illegal.

Questions of law arising on trial of criminal cases may be decided by Supreme Court.

12. The said Supreme Court shall also have jurisdiction to hear and determine all questions of law arising on the trial of any person for any indictable crime or offence in the said High Court or arising upon review of the judgment or sentence of any inferior Court in any criminal action or suit by or before the said High Court, and reserved by the said High Court for the consideration and determination of the said Supreme Court, in manner and subject to the conditions provided for in the said Order in Council.

Supreme Court to be Court of Appeal to hear appeals from High Court in criminal matters brought before High Court on appeal or review from Inferior Courts.

13. The said Supreme Court shall further have jurisdiction to hear and determine on appeal any criminal suit which shall have been brought on appeal or review before the said High Court from any inferior Court and in which leave to appeal has been granted by the said High Court to either the prosecutor or defendant in the said suit.

What Appeal Court may do in cases where question of law reserved

14. In case of any appeal against a conviction or judgment of the said High Court or of any question being reserved as aforesaid, it shall be lawful for the Supreme Court to:—

(1) Confirm the judgment of the Court below; or

(2) Direct that the judgment shall be set aside, notwithstanding the verdict, which order shall have for all purposes the same effect as if the defendant had been acquitted; or

(3) Direct that the judgment of the Court shall be set aside, and instead thereof that such judgment shall be given by the Court in which the trial took place as ought to have been given at the trial; or

(4) If such Court has not delivered judgment, remit the case to it in order that it may deliver judgment; or

(5) Give such judgment as ought to have been given at the trial; or

(6) Make such order as justice may require.

Provided that no conviction shall be set aside by reason only of some irregularity or illegality whereby the defendant was not prejudiced in his defence or because evidence was improperly admitted or rejected by which no substantial wrong was in the opinion of the said Supreme Court done to the defendant.

Order of Supreme Court to be certified by Presiding Judge.

15. The order or direction of the Supreme Court shall in criminal cases be certified under the hand of the Presiding Judge to the Registrar of the Court before which the case was tried.

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16. Section 9 of this Act shall apply *mutatis mutandis* to appeals in criminal matters from the said High Court to the Supreme Court.

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Section 9 of this Act applies to appeals in criminal matters.

17. For the purposes of this Act, the term "High Court of Southern Rhodesia" shall include both the High Court of Southern Rhodesia as at present established within the limits of "The Southern Rhodesia Order in Council, 1898," or within such further or other limits as may hereafter from time to time be defined by lawful authority, as also such superior court or courts as may hereafter be lawfully established to exercise jurisdiction in place of that now exercised by the said High Court, within the limits of the said Order in Council, or within such further or other limits as may be subsequently defined as aforesaid.

Interpretation of term "High Court of Southern Rhodesia."

18. The provisions of this Act which apply to appeals under "The Southern Rhodesia Order in Council" shall come into force from and after a date to be fixed by the Governor by notice in the *Gazette*.

When Act as far as it relates to appeals from High Court of Southern Rhodesia to come into force.

19. This Act may be cited for all purposes as "The Supreme Court Extended Appellate Jurisdiction Act, 1898."

Title of Act.

No. 23—1898.] [December 30th, 1898.

Repealed by Ord. 25 of 1934

ACT (1)

To Empower the Governor under certain conditions to proclaim the temporary suspension in whole or in part of the Customs Duties upon Imported Meat and Slaughter Stock, and to advance money under the "Local Works Loans Act" for the provision of Cold Storage.

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. No Proclamation under Section Two of this Act shall be made by the Governor without the consent of all the Governments of the Orange Free State, the Colony of Natal, the Territory of Basutoland, and the Bechuanaland Protectorate, who are parties of the Customs Union Convention.

Consent of parties to Customs Union Convention, required before Proclamation under Section 2 is made.

2. After obtaining the said consents, and as soon as may be after the termination of the present Session of Parliament, it shall be lawful for the Governor, notwithstanding anything to the contrary contained in the "Customs Tariff Amendment Act, 1898," or in any other law, by Proclamation temporarily and for a period limited by the provisions of this Act to suspend in whole or in part all, or any of the Customs Duties provided by the said Tariff with regard to meats of any sort, with regard to cattle for slaughter, and sheep for slaughter.

Proclamation may be issued by Government suspending duty on meat.

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[1] See Act 21, 1900 (p. 4347).

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Proclamation to be laid on table of both Houses on opening day of next Session.

3. Such Proclamation shall be laid before both Houses upon the opening day of the next Session of Parliament, and shall not be of any force or effect after the expiration of a period of three weeks from the said day, unless before such period shall have expired both Houses of Parliament shall by identical resolutions have confirmed such Proclamation and prescribed a period, during which such Proclamation shall continue to be of force and effect: provided that the period so prescribed shall not exceed a time to which all of the aforesaid Governments shall consent.

During the period for which the Proclamation is in force, the suspension shall apply as if provided for in "Customs Tariff Act, 1898."

4. During the period for which such Proclamation shall be in force, the suspension in whole or in part of any of the said duties shall apply, as though such suspension were provided for in the Customs Union Convention and the "Customs Tariff Amendment Act, 1898."

Governor may revoke the Proclamation.

5. If the Governor shall be satisfied that the need for such suspension of all or any of the said duties has passed, but not otherwise, he may before the assembling of the next Session of Parliament with the concurrence of all the Governments who are parties to the Customs Union Convention, proclaim the revocation of such Proclamation as aforesaid.

Under certain circumstances the suspension of duties shall cease.

6. Upon the date of

(*a*) The expiration of the period of three weeks after the assembling of the next Session of Parliament, or, as the case may be,

(*b*) The expiration of such extended period as shall be prescribed by such resolutions of both Houses of Parliament as aforesaid, or

(*c*) The publication of a Proclamation under section 5 of this Act,

the temporary suspension of those of the aforesaid Customs Duties which shall in whole or in part have been suspended shall forthwith cease, and the Customs Duties prescribed and set forth in the Customs Union Tariff shall revive and be levied and collected, save as to meat or slaughter stock, as the case may be, which shall not more than seven days after such date be actually laden for a port of this Colony, upon any vessel which shall then have cleared from her port of lading, as to which last mentioned meat, or slaughter stock, the provisions of the suspending Proclamation shall continue to be of force.

Application of "Local Works Loans Acts" to erection of buildings, etc., for cold storage.

7. The erection or provision of buildings suitably furnished, equipped, and arranged for the supply of cold storage to the public shall be deemed and taken to be a purpose for which the Governor may from time to time advance loans out of sums provided by Parliament for the purposes and in accordance with the provisions of the "Local Works Loans Act, 1882," and any Amendment of the said Act.

Short Title

8. This Act may be cited as "The Meat Duties and Cold Storage Act, 1898."

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No. 24—1898.] [December 30, 1898.

ACT

To Authorise the Municipalities of Clarement and Woodstock to acquire an improved Water Supply and to take over the Contracts of the Cape Town Districts Waterworks Company, Limited, and to permit the Municipalities of Rondebosch and Mowbray to participate therein, and for other purposes.

Preamble.

WHEREAS under and by virtue of an agreement entered into on the twenty-third day of October, 1888, between one Adolphus William Ackermann, representing a certain Syndicate of the one part and the Claremont Municipal Council of the other part the said Syndicate and its assigns were granted by the Council the exclusive right to supply water by means of engines, machinery, mains, pipes and the like within the Municipal limits, and to lay down and fix pipes, hydrants and the like appliances in the public streets and across such Municipal land as the said Council might permit and the undertaking require for a term of twenty years reckoned from the first day of January 1889, upon certain terms and conditions contained in the said agreement, Schedule A hereto;

And whereas an agreement dated the seventh day of November, 1887, for similar purposes was entered into between one Thomas Haven Wheeler and the Woodstock Municipal Council, Schedule B hereto;

And whereas the said Thomas Haven Wheeler ceded, assigned and made over, as he was entitled to do, all his rights, title and interest under and to the said agreement to and unto the Syndicate hereinbefore mentioned;

And whereas the said agreement so entered and ceded as aforesaid was varied by agreement of parties dated the twenty-third day of October, 1888, containing terms conforming more nearly to the agreement entered into by the Clarement Municipal Council aforesaid, Schedule C hereto;

And whereas the two said Councils entered into an agreement dated the twenty-third day of October, 1888, whereby were secured the rights of the said Councils as between themselves in respect of and under the agreement aforementioned, Schedule D hereto;

And whereas the said Ackermann, acting as aforesaid, thereafter, as he was entitled to do, ceded, assigned and made over all his rights, title and interest in and to the said agreements to a Company registered in England, styled "The Cape Town Districts Waterworks Company, Limited," and thereafter carrying on their operations within the limits of the Cape Division;

And whereas one of the conditions contained in each of the aforesaid agreements was that upon the expiration of a term of ten years from the first day of January, 1889, or at any period

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after the expiration of such term by giving twelve months notice, the Claremont and Woodstock Municipal Councils should have the right jointly or severally to acquire the whole undertaking, property, assets, liabilities and obligations of the said Company by purchase; the said obligations including certain contracts for the supply of water to the Municipalities of Rondebosch and Mowbray, Schedule E hereto;

And whereas the said Company is willing that the said Councils should jointly take over the undertaking, property, assets, and liabilities of the said Company by purchase in accordance with the conditions of the said agreement on the first day of January, 1899;

And whereas it is provided in the said agreement that the terms of such purchase shall be the value of the said undertaking, property, assets, liabilities and obligations as a going concern and that the amount to be paid by the purchasers shall, failing agreement, be settled by arbitration;

And whereas the said parties have failed to come to an agreement as to the amount to be paid as aforesaid;

And whereas the said Councils with the consent of the majority of ratepayers, present and voting in each case at a meeting specially and duly called for the purpose of considering the above matters, have resolved jointly to acquire the rights and liabilities of the Company in terms of the above agreements on or after the first day of January, 1899;

And whereas it is also expedient that the said Councils should have power and authority, acting jointly, from time to time, to augment the water supply of the districts through and over which the said Company's operations extend, and within the Cape Division, as may be agreed upon between the said Councils, and should be empowered jointly to borrow a sum or sums not exceeding in all Five Hundred Thousand Pounds (£500,000) sterling, for the purpose of paying the purchase price aforesaid, including all costs of and incidental to the said arbitration, and for the purpose of augmenting when expedient the said water supply;

And whereas it is expedient that the said Municipal Councils should have power hereafter to admit the Municipal Councils of Rondebosch and Mowbray to join and participate in the said water supply acquired or to be acquired as aforesaid; and in the rights, powers and privileges and the undertaking, property, contracts, assets, obligations and liabilities of the said Company.

And whereas it is further expedient that the said Councils should each be empowered to levy a special water or other rate for the purposes of the said loan and that a Joint Committee of Management be appointed for controlling and regulating the water supply so taken over or augmented and the works connected therewith, and with power for the above purposes to carry out and perform all contracts and obligations of the said Company;

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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:—

Acquisition of the assets, &c., of the Cape Town Districts Waterworks Company by the Municipal Councils of Claremont and Woodstock.

1. The Municipal Councils of Claremont and Woodstock shall have power and authority jointly to acquire and by purchase take over on or after the 1st day of January, 1899, the whole undertaking, property, assets, rights, contracts, liabilities and obligations of the Cape Town Districts Waterworks Company, Ld. The terms of such purchase shall be the value of the same as a going concern and the amount to be paid by the purchasers shall failing agreement as to such value between the said Councils and the said Company be settled by arbitration, the purchasers appointing one arbitrator, and the Company another, while the two so chosen shall select the third, and the decision of a majority of such arbitrators shall be binding on the parties to the arbitration and may be made a Rule of Court: provided that for the purposes of such arbitration the provisions of the Lands and Arbitrations Clauses Act, 1882, shall, so far as may be, and not varied hereby, apply; Provided further, that nothing in this Act contained shall be construed so as to vary or alter the terms of the agreements dated 23rd day of October, 1888, and entered into between the said Councils and the said Company or so as to prevent the said Councils from entering into arbitration at any date prior to the first day of January, 1899, with a view to being in a position to take over the aforesaid undertaking on that day.

Augmentation of Water Supply.

2. The said Councils shall, when it becomes necessary or expedient so to do, have full power and authority, acting jointly, from time to time to take all necessary steps to augment the water supply of the districts through and over which the Company's operations extend and within the Cape Division as may be agreed upon in such manner as may hereafter be decided on by the said Councils and agreed between them: provided that nothing in this section contained shall be taken to confer any power upon the said Councils to borrow any further sum beyond the said sum of five hundred thousand pounds sterling for the above purpose.

Borrowing power to limit of £500,000.

3. For the purpose of paying the purchase price as set forth in the first section of this Act and of augmenting the said water supply, as in the second section set forth, the said Councils shall be authorised and empowered jointly to take up on loan as may from time to time be required by debenture or otherwise, a sum or sums not exceeding in all five hundred thousand pounds sterling, which sum or sums when borrowed, and every other pecuniary liability incurred by the said Councils 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.

Rate to be levied for payment of interest and principal of loan.

4. In order to pay the interest on the said loan and to provide for all other claims arising under this Act, the said Councils, each within its own municipal limits or the Committee of Management hereinafter referred to should the said Councils delegate to the

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said Committee the powers hereinafter in this sectioned mentioned, shall be empowered to impose, levy and collect a sufficient annual rate, over and above what each of the said Councils is already empowered to impose or levy, upon the annual rental, or if no rental be paid then upon the estimated annual value of the whole of the immovable property within the respective limits of each of the said Municipalities, 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 Councils to apply towards the payment of interest or principal or of interest and principal of the moneys borrowed any funds or moneys coming to the said Councils from any source whatever and not specially appropriated or required for any other object.

Assessment Roll.

5. The amounts for assessment entered on the assessment roll in force within the said Municipality respectively 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 some competent person to be appointed by the said Councils respectively: provided that such valuation shall be open for public inspection at the offices of each of the Municipalities for the space of fourteen days from the levying of the said annual rate, and the said Councils shall give notice in one or more newspapers circulating within the Municipalities that the same is open for 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.

When rate shall become payable.

6. 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 Councils or by the Committee of Management hereinafter referred to should the said Councils delegate the power to the said Committee, of which day or days and of the rate or assessment so to become respectively 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 Municipalities, and causing a copy to be affixed in some conspicuous place in or near the town-halls thereof.

How rates recoverable.

7. As soon as any rate shall be assessed as aforesaid the same shall become due and payable at such times and places as may be

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determined by the said Councils or by the Committee of Management hereinafter referred to should the said Councils delegate the power to the said Committee; and such rate shall on non-payment thereof, be recoverable as a separate and distinct rate at the suit of the Mayor of the said Council interested or of the Chairman of the said Committee or such person as may be appointed by the Committee, to which the said powers have been delegated, in any Resident Magistrate's Court within the jurisdiction of which such defaulter may reside, or within which the debt may have arisen.

Election and constitution of committee of Management.

8. That within six weeks from the date of taking over of the said undertaking of the Company a Committee of Management, consisting of six members, three to be elected by the Council of each Municipality, shall be constituted, and the said Committee shall be entrusted with the management, regulation and control of all matters concerning and relating to the water supply of the said Municipality; provided

(*a*) That any member of each of the said Councils or any ratepayer of each of the said Municipalities shall be eligible for election by each of such Councils respectively as a member of the Committee of Management;

Retirement of members by rotation.

(*b*) That one member elected by each of the said Councils shall go out of office by rotation at the end of each year, and the members who shall so go out of office shall be the members who have been the longest in office without re-election;

(*c*) That in respect of the members who shall become members by reason of, and after, the first election by the said Councils, the two members at the end of the first year going out of office shall be the members who at such election obtained each respectively the lowest number of votes; and those members who in like manner obtained each respectively the next higher number of votes at the aforesaid election shall go out of office at the end of the second year, and the remaining members at the end of the third year, provided always that no two members so going out of office shall be members elected by the same Council; and that in the event of any two candidates at any election having obtained an equal number of votes at such election it shall be determined by lot which of the said candidates shall retire from the membership of the said Committee;

(*d*) That any member so retiring may be re-elected;

(*e*) That any member elected to fill a casual vacancy as hereafter in section ten is provided shall go out of office at the time at which the member in whose place he was elected would, had he continued in office, have gone out of office;

(*f*) That the provisions as to the number of members of the Committee and the number to be elected by each Council

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and the manner and time of retirement of the several members of the said Committee are subject to the further provisions hereinafter set forth.

Election of Chairman and Secretary of Committee of Management and regulation of proceedings.

9. The said Committee of Management shall have the power annually to elect one of its members as Chairman, and to appoint its own Secretary and other officials, with such salaries for the said Secretary and officials as it may deem fit: provided that no business shall be transacted at any meeting of the Committee unless at least three members shall be present at such meeting and throughout the duration thereof: provided further, that all matters and questions shall be decided by a majority of votes of members present and voting at any meeting, and the said Committee of Management may from time to time make, alter and revoke bye-laws or regulations for regulating the proceedings of the Committee and the manner of voting.

Vacancy in the office of Chairman or Member.

10. In case any vacancy shall occur in the office of Chairman, such vacancy shall fortwith be filled at any ordinary or special meeting of the Committee; and in case any vacancy in the said Committee occur upon any of the grounds mentioned in the twenty-second section of the Municipal Act, 1882, the Chairman or Secretary shall forthwith notify the fact to the Council by whom the member was originally elected, in respect of whom the vacancy has occurred, and such vacancy shall forthwith be filled by election at any ordinary or special meeting of such Council: Provided that the provisions of the twenty-second section shall *mutatis mutandis* apply to the tenure of and continuance in office by the chairman and members of the said Committee, and that the said section shall be read as though therein the words "Member" and "Committee" were substituted for the words "Councillor" and "Council."

Rondebosch and Mowbray may apply to participate

11. It shall be lawful for the said Councils upon application to that effect by the Municipal Councils of Rondebosch and Mowbray (hereinafter called the other Councils) or either of them, such application being made within eighteen months after the first of January, 1899, to permit such other Councils so applying or either of them to participate each in equal shares with each of the said Councils in the rights, powers and privileges, and the undertaking, property, contracts, assets, obligations and liabilities conferred upon, secured, taken over or incurred by the said Councils under the provisions of this Act, and thereupon each of the said other Councils shall have the like and similar powers with respect to the assessment, levying and recovery of rates as those hereinbefore in clauses four, five, six and seven provided as fully and effectually to all intents and purposes as if the said other Councils were parties to this Act; provided that it shall only be lawful for both or either of the said other Councils to make such application as is referred to in this section if it shall be thereto duly authorised by a resolution passed by a majority of ratepayers present at a duly convened meeting of ratepayers of the Municipality represented

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by such Council; and such meeting shall be deemed to be duly convened by a notice of not less than fourteen days given by advertisement in the *Gazette* and two or more newspapers circulating in such Municipality, which notice shall set forth the object of the meeting: provided however, that at any such meeting any three ratepayers may by writing under their hands, delivered to the chairman of the meeting or Clerk of the Municipality, demand a poll, and thereupon the provisions of section one hundred and forty-seven and the three succeeding sections of the "Municipal Act, 1882," shall *mutatis mutandis* apply to the taking of such poll and the voting for or against the proposed resolution.

Rights and liabilities of Councils admitted to participate under Section 11.

12. In case such other Council or Councils shall become entitled to share and participate, and shall so share and participate as provided in the last preceding section with each of the said Councils in the rights, powers and privileges, and the undertaking, property, contracts, assets, obligations and liabilities as aforesaid, the said other Council or Councils shall each become invested in equal shares with each of the said Councils with a right to and property in all and singular the waterworks, stock, land, and everything appertaining to the undertaking in section one referred to.

Constitution of new Committee of Management.

13. In the event of such other Council or Councils becoming entitled to participate with the said Councils as is in the last preceding section provided, such other Council or Councils shall, within six weeks from the date when they become so entitled, elect a like number of members as the said Councils to represent such other Council or Councils on the Committee of Management: Provided that if and as soon as each of such other Councils becomes so entitled, the number of members to be elected by each of the said Councils and the said other Council or Councils shall be two and not three, and that it shall be decided by lot which of the members then in office, representing each of the said Councils, shall go out of office; and provided also that the provisions of section eight of this Act as to the election and the retirement of members by rotation and of the other sections relating to the members and chairman of such Committee shall apply to the members elected by such other Council or Councils, and that in respect of the members elected by the said other Council or Councils at the first election held after the participation of the said other Councils under the provisions of section eleven of this Act. The provisions of sub-section (*c*) of section eight of this Act shall *mutatis mutandis* apply in respect of the first retirement of one of the said members: Provided that in all cases of retirement after such participation the four members going out of office at the end of any year shall be one from each of the said Councils and the said other Councils.

Accounts to be kept of revenue and expenditure.

14. The said Councils and in the event of the said other Council or Councils becoming entitled to participate as aforesaid, such other Council or Councils shall keep or cause to be kept a separate and distinct account of all moneys borrowed and all revenue

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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 as incurred extinguished, be annually prepared up to the 31st of December in each year, and shall be deposited and lie in the Municipal Offices of the respective Municipalities for inspection at all reasonable times by any ratepayer of either of the said Municipalities.

Penalties for injuring Council's property and works.

15. 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 works, or shall obstruct, hinder or prevent the forming, construction, completing, or maintaining the works contemplated under 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 would have been subject if this Act had not been passed, but no person shall be prosecuted criminally, both under this Act and under any other law, for and in regard to one and the same act.

Penalties for defiling water.

16. Any person who shall bathe or wash himself in any dam or reservoir belonging to the said Councils or other Councils, or either of them, or in any water flowing into such dam or reservoir by means of any watercourse constructed by such Councils or other Councils or along a natural stream under the control and management thereof, 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 payment of such fine, to be imprisoned, with or without hard labour, for any period not exceeding twenty-one days.

Offences, how prosecuted.

17. The offences defined in the two last preceding sections of this Act may be prosecuted in the Court of the Resident Magistrate having jurisdiction in the locality wherein the offence is alleged to have been committed.

Tariff of Charges.

18. The said Councils and in the event of the said other Council or Councils becoming entitled to participate as aforesaid such other Council or Councils or the Committee of Management, should the said Councils and other Council or Councils as the case may be, as aforesaid, delegate the powers hereinafter referred to, to the said Committee, are hereby empowered from time to time to frame and publish a tariff of charges by which the supply of water by private water or other leadings for domestic, irrigating,

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industrial or other purposes, shall be regulated within the limits of the said Municipalities and the payment for such supply shall be in accordance with such tariff and are further empowered to make such regulations from time to time as may be required; provided

(*a*) That the said Councils and other Councils or the Committee of Management as the case may be, may specially agree with any person, or body corporate for the supply to such person or body, of water upon such special terms as they or it may deem suitable;

(*b*) That nothing in this section contained shall prevent the said Councils and other Council or Councils as the case may be or the Committee of Management from supplying water to any person or body outside of the limits of the said Municipalities upon such terms as they or it may deem suitable and from exercising in respect of such person or body the rights in the two next succeeding sections of this Act provided for or from taking any other lawful steps for the recovery of the moneys due and owing in respect of the water so supplied to any such person or body as to such Councils or Committee may seem meet.

Right to enter and cut off supply in order to effect inspection and repair.

19. The Committee of Management may authorise any person for the purposes of such inspection and repair, to enter upon any premises supplied with water by the Councils at any reasonable time, and to cut off 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 upon default of payment for water.

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 Committee of Management 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 under this Act by such person.

Borrowing powers under Municipal Act, 1882, unaffected by this Act.

21. Nothing in this Act contained shall be taken to affect or interfere with the borrowing powers conferred upon Municipal Councils under the provisions of the Municipal Act, 1882.

Power to sell land.

22. The said Councils acting jointly or the Committee of Management, should the said Councils delegate the power hereinafter referred to, to the said Committee, shall have power and authority to sell, dispose of and transfer such portion or portions of landed property included in the assests of the said Company sold to them as may, in the opinion of the said Council or Committee, as the case may be, be unnecessary for the due and efficient working and management of the said waterworks: provided that any sum so

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obtained shall be devoted towards liquidating the liability incurred in the purchase of the said undertaking or towards the augmentation of the water supply.

Costs of Act.

23. The costs, charges and expenses of obtaining the passing of this Act may be paid by the said Councils in equal portions out of the moneys borrowed under the provisions of this Act.

Short title.

24. This Act may be cited for all purposes as the "Claremont and Woodstock Water Supply Act, 1898."

Schedules.

SCHEDULE.

[A]

Concession for the Supply of Water to Claremont Municipality, dated 23rd October, 1888.

Agreement made and entered into and concluded on the twenty-third day of October, one thousand eight hundred and eighty-eight, by and between the Claremont Municipality of the one part, and Adolphus William Ackermann, the Representative in this Colony of a certain London Syndicate (of which one H. A. Synge is the Managing Member) formed to promote a Company to be called the "Cape Town District Waterworks Company, Limited," of the other part.

Whereas the said Adolphus William Ackermann in his said capacity (hereinafter styled the said Ackermann which name or term shall whenever it appears herein be taken and understood to be and mean the said Syndicate or its assigns) has applied to the Council of the said Municipality (hereinafter styled the said Council) for the concession of an exclusive right to supply pure water to the inhabitants within the limits of the said Municipality, to which application the said Council has agreed and consented upon the terms, conditions and stipulations hereinafter contained. Now, therefore, these presents witness and it is hereby contracted and agreed by and between the parties hereto of the first and second parts as follows, to wit:—

First.—The said Council doth hereby give and grant to the said Ackermann the exclusive right to supply water by means of engines, machinery, mains, pipes and other appliances of a like nature within the Municipality of Claremont, and to lay down and fix pipes, hydrants and other appliances for the supply of water in all or any of the public streets, and also across such Municipal lands as the said Council may permit, and the said undertaking may require, for a term of twenty years, reckoned from the first day of January, 1889, upon this express understanding, however, that nothing herein contained shall be binding upon the said Council, and the said concession shall be withdrawn should the said Company, to be called the Cape Town District Waterworks Company, Limited, not be *bonâ fide* floated on or before the first day of February, 1889, with a subscribed capital of one hundred thousand pounds (£100,000) and one-fifth paid up on or before the 1st February, 1889, and should an intimation not be received prior to the 1st day of February, 1889, either by letter or telegraph from some trustworthy person informing the Council of such flotation.

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Second.—The said Ackermann shall commence the work of construction within six months from the date of the signing of this Agreement, and shall have completed the laying of all the mains required for the undertaking, to be laid on the Main-road so far as it is within the said Municipality on or before the first day of October next, 1889, and shall lodge on or before the 1st day of April, 1889, on fixed deposit for a period of eighteen (18) months from the date hereof with the Standard Bank of South Africa, Limited, in the name of two Trustees, one to be appointed by the said Ackermann and the other by the said Council, the sum of one thousand pounds (£1,000) as security for the due performance and fulfilment of this contract, and shall and will complete such construction and be in a position to supply such quantity of pure and wholesome water not exceeding two hundred thousand gallons (200,000) per diem as the said Council and the inhabitants entitled thereto may require within eighteen (18) months from the date of the signing of this Agreement. And in the event of the said Ackermann failing to commence the said work or to pay the said sum of one thousand pounds (£1,000) in manner aforesaid, or to complete the laying of the mains in the Main-road as aforesaid, or to complete the construction in manner abovementioned and at or before the times abovementioned, and at or before the times above stipulated for the commencement, doing, and completion of the same then and in either of the said cases, this concession shall cease and determine and the said sum of one thousand pounds to be deposited as aforesaid shall be forfeited to the said Council as and for damages sustained by them in the premises.

Third.—The price to be charged for such water shall not exceed two pounds ten shillings (£2 10s.) per annum for each one hundred gallons supplied per diem, and the water to be supplied shall be of such purity that no bad gas or impurity which could reasonably be held to be deleterious to the health of human beings shall be discoverable in the same by means of the strictest chemical analysis and shall not be open storage or river water.

Fourth.—The said Ackermann shall be at liberty to open up the streets within the said Municpality at all suitable times and places for the purpose of taking up, laying down, removing, renewing or repairing the main and service pipes, leadings, sluices, hydrants, or other appliances used for the purpose of the said water supply and the distribution of such water upon giving twenty-four hours' previous notice at the office of the said Council, except in a case of emergency, where it may be absolutely necessary to effect repairs or renewals immediately, in which case the said notice may be dispensed with, and provided that during such times as the said streets are in a broken condition, owing to any operations in connection with the said water supply or the repair, renewal or removal of any of the main pipes or other appliances being carried on, the said Ackermann shall be liable and responsible for any damages that may be sustained by reason of his neglect to adopt all reasonable and proper precautions against the occurrence of accidents, and the said Ackermann shall also make good the streets, roads, and other places after any

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such operations have been completed to the reasonable satisfaction of the said Council and will use all possible despatch in the performance of such operations so as not to cause inconvenience to the public for a longer period than shall be absolutely necessary to complete such operations in an efficient manner, and any loss or damage which may be sustained by any person or persons in consequence of the opening of any street in connection with such operations shall be made good by the said Ackermann, and the said Ackermann shall hold harmless and indemnified the said Council of, from, and against all losses, costs, charges, damages and expenses they may sustain or be put to or condemned to pay by the judgment of any competent Court by reason of any matter or thing done or performed or neglected to be done or performed by the said Ackermann in the premises.

Fifth.—The said Ackermann shall place three hydrants at his own cost and charges for the purpose of extinguishing fire at such posts within the said Municipality as the said Council shall indicate provided such spots are within sixty (60) feet of any main of the said Ackermann, and shall and will supply such quantity of water as the said Council may from time to time require to be supplied for the purpose of extinguishing fires or for other purposes of the said Municipality, such as watering roads, flushing, &c., at the rate of two pounds for every forty thousand gallons supplied; provided, however, that nothing herein contained shall be held to prevent the said Council from obtaining a supply of water for watering roads or other purely municipal purposes from any spring or sources of supply within the said Municipality to which the said Council has or may have any right, it being also distinctly understood that this concession by no means conveys to the said Ackermann any right the said Council may have to any springs or other sources of supply within the said Municipality.

Sixth.—The said Ackermann shall be bound to lay down and keep in thorough repair at his own costs and charges all mains in the Main-road within the said Municipality, and he shall also be bound and obliged to lay down main or other pipes, exclusive of private water leadings, necessary for the efficient supply of water in all streets and thoroughfares at his own costs and charges upon receiving a guarantee from the owners of property within the said Municipality, for the sake of whom such main or other pipes are laid down, that they will take a supply of water for a term of three years sufficient to yield a return equal to fifteen per cent. per annum on the amount expended on the main or other pipes specially laid down for the supply of water to such proprietors. And tenants of property shall be entitled under similar circumstances, to a like supply of water upon giving a like guarantee, only in the case of tenants it shall be left to the said Council to decide as to the sufficiency of the guarantee offered. And further the said Ackermann shall be obliged to lay down and supply all such minor pipes and fittings as may be required for water leadings from the mains to the properties of the inhabitants of the said Municipality and to any part of such properties if required to do so at the cost price of the labour, supervision and materials supplied.

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Seventh.—In the event of the said Ackermann being at any time unable or unwilling to supply outlying properties in the said Municipality with water, then and in every such case nothing herein contained shall be held to prevent the said Council from granting facilities to such proprietors for obtaining their water supply elsewhere, provided the distance of the said properties from any of the mains of the said Ackermann shall exceed four hundred English yards, and in the event of the said Ackermann at any time laying down fresh mains so as to bring such property within 400 English yards of the same the said Council upon being made acquainted therewith by the said Ackermann and with the willingness of the said Ackermann to supply such properties with water shall, three months after receiving notice to that effect from the said Ackermann, cease to afford the proprietors of such property facilities for the supply of their water from other sources, and will do their best and utmost endeavours by all lawful ways and means to prevent such supply being obtained otherwise than from the said Ackermann. It is also understood and agreed upon between the parties hereto that nothing in this agreement continued shall be held to prevent the said Council allowing any other Council, Company or Person to lay pipes down in the streets or across the property of the said Council for the purpose of conveying water from any place outside the limits of the said Municipality to some other place also without the limits of the said Municipality, and so that the granting of such right does not confer authority to supply water within the limits of the said Municipality. And should the demands and applications to be supplied with water by the inhabitants of the said Municipality, and the said Council require a larger quantity to satisfy the same than the 200,000 gallons per diem, which the said Ackermann is bound to furnish, and the said Ackermann be unable or unwilling to supply such increased quantity, then the said Council shall be at liberty to take all such measures as they may deem necessary for the purpose of providing such increased supply, notwithstanding that the same may infringe upon the rights or be opposed to the concession hereby granted to the said Ackermann. Provided the Council shall not be entitled to take any measures for the purpose of providing such increased supply until the expiration of six months after the Council has given to the said Ackermann notice in writing of its requirements, and unless during such period of six months the said Ackermann has failed to comply with the Council's requirements, and provided the said Ackermann shall be entitled to demand and receive full particulars of the requirements of the Council.

Eighth.—In the event of the undertaking for the purpose of carrying out which the said Cape Town District Waterworks Company, Limited, is to be formed and of which the operations to be performed under this agreement by the said Ackermann form a part yielding a dividend to shareholders in excess of twelve per centum per annum on the whole of the said undertaking, then the said Ackermann shall be bound to make such a reduction in the rates for the supply of water charged by him under this agreement as to leave the said shareholders a return of twelve per cent. per annum or thereabouts,

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and should the parties hereto be unable to decide as to what reduction would give such a result, in such case the decision in the matter shall be left to the award, arbitrament and determination of three Arbitrators, one of them to be chosen by each of the parties hereto, and the third by the two Arbitrators first chosen, and the award of such Arbitrators or the majority of them shall be final and binding upon the parties hereto.

Ninth.—All mains, pipes, hydrants, sluices, and other machinery and appliances to be used by the said Ackermann shall be of the latest invention and of the best material now known.

Tenth.—The water rates to become due and payable by the inhabitants of the said Municipality to the said Ackermann in terms of this agreement shall be recovered by the said Ackermann from the parties liable to pay the same, nor shall any responsibility in respect of the payment of the same rest upon the said Council, save and except as regards such rates as the Council may owe for water supplied for municipal purposes.

Eleventh.—The said Ackermann shall not be bound and obliged to supply any householder entitled to be supplied with water under this agreement with less than one hundred gallons of water per diem, except in the case of a householder whose house is rated for municipal purposes at a sum not greater than £100, in which case the minimum such householder shall have a right to be supplied with will be fifty (50) gallons per diem and on the other hand no single householder shall be entitled to receive, nor shall he or she receive, more than one hundred gallons of water per diem in respect of any one house until every other house applying for such a supply shall have received its one hundred (100) gallons.

Twelfth.—The said Ackermann shall keep the mains, hydrants, and all other appliances and machinery employed and used for the said water supply (save and except the private water leadings) in good order and repair, and shall renew the same and take them up for the purpose of being cleaned when necessary at his own costs and charges.

Thirteenth.—Should the said Ackermann at any time during the continuance of this agreement fail to supply water in quantity and of the quality herein stipulated for, and the supply of which the inhabitants entitled thereto, or the said Council shall have a right to demand under this agreement, then and in every such case the parties entitled to demand such supply shall have a right to recover as liquidated and agreed on damages the sum of sixpence per day of every one hundred (100) gallons short supplied, and should the laches of the said Ackermann in the matter of such water supply be of frequent occurrence so as seriously to inconvenience the general public it shall be lawful for the said Council to cancel and put an end to this agreement upon giving one month's notice to that effect to the said Ackermann, whereupon all the rights and privileges of the said Ackermann under this agreement shall cease and determine.

Fourteenth.—All water leadings to private property such as are referred to in the concluding portion of the sixth paragraph hereof and have been paid for shall vest in such proprietors subject to any right of the said Ackermann to have access to the same and to enter

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the premises of any inhabitants to make such alterations or effect repairs therein for the purpose of the efficient supply of water or for the prevention of loss and waste as may from time to time be necessary during the continuance of this agreement, nor shall any one else during the continuance of this agreement have any right to interfere with, alter, or repair the same without the sanction of the said Ackermann.

Fifteenth.—All taps, cocks, pipes and fittings for water leadings shall be of manufacture and pattern approved by the said Ackermann, and plumbers licensed by the said Ackermann alone shall be permitted to lay, fix, remove, or repair all water leadings and fittings in private or public properties.

Sixteenth.—The said Council will use their best endeavours to prevent the contamination of the said water from the proximity of gas or sewage pipes or other preventable causes, nor will they permit pipes for either of the said purposes to be laid within such proximity to the said water pipes as to be likely to cause such contamination.

Seventeenth.—The said Ackermann shall not be held liable for any stoppage of the water supply or for any damage whatever in the premises occasioned by floods, earthquakes, lightning or other causes over which the said Ackermann could exercise no control or caused by the neglect of the Council or by circumstances within the control of the said Council.

Eighteenth.—The said Ackermann shall be permitted in the supply of water to use the high pressure intermittent or other approved mode of water supply.

Nineteenth.—In the event of the said Ackermann, at any time supplying the Municipalities or inhabitants of Wynberg and Rondebosch or any part or any of them with water, the rates charged shall if supplied to householders individually, and paid for as in the tenth paragraph hereof agreed, be not less than that paid at such time by the inhabitants of the Claremont Municipality, while if supplied in manner similar to that mentioned in the Woodstock Concession, that is to the Municipality itself, the rates charged shall not be less than that charged at such time to the Woodstock Municipality.

Twentieth.—At the expiration of the concession hereby granted the said Ackermann shall continue to have rights given in the first, fourth, and fourteenth paragraphs hereof, under and subject to the conditions and stipulations upon which such rights are granted, excepting that the said Ackermann Concession shall not be an exclusive one, and that the said Council shall be entitled to grant another or other concessions of a like nature.

Twenty-first.—That upon the expiration of a term of ten years from the 1st day of January, 1889, or at any period after the expiration of such term by giving twelve months' notice the Council of the Municipality of Claremont (hereinafter styled the said Council), together with the Council of the Municipality of Woodstock (hereinafter styled the Woodstock Council), shall have the right jointly to acquire the whole undertaking, property, assets, liabilities and obligations of the said Ackermann and the Cape Town District Waterworks Company, Limited, by purchase. Should the said Council desire to effect such purchase jointly with the Woodstock

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Council, and the latter be unwilling or decline to join the said Council in purchasing. then the said Council shall be entitled to give the said Woodstock Council notice in writing calling upon the said Woodstock Council to decide within six months from the date of the receipt of such notice whether or not they will join in the purchase; and should the said Woodstock Council fail within that period to intimate their willingness and take all necessary steps to join the said Council in purchasing, then the said Council shall be entitled to act alone in exercising the right of purchase hereinbefore given to the said Council and the Woodstock Council jointly. Similarly if the Woodstock Council desire to effect such purchase jointly with the Council and the latter be unwilling or decline to join the Woodstock Council in purchasing, then the Woodstock Council shall be entitled to give the said Council notice in writing calling upon the said Council to decide within six months from the date of the receipt of such notice whether or not they will join in the purchase. And should the said Council fail within that period to intimate their willingness and take all necessary steps to join the said Woodstock Council in purchasing, then the said Woodstock Council shall be entitled to act alone in exercising the right of purchase hereinbefore given to the said Council and the Woodstock Council jointly. Should either the said Council or the Woodstock Council be unwilling or decline to join the other of them in purchasing, then at the expiration of the notice of six months hereinbefore mentioned the Council wishing to purchase shall give written notice to the other of them of such Council's intention so to do and shall forthwith proceed to give the aforesaid twelve months' notice to the said Ackermann of its desire to purchase, and the Council which is unwilling or declines to join the other in purchasing shall be entitled within two months after receiving the notice of the former Council's intention to purchase to require the purchasing Council to carry out the terms of the unwilling Council's then existing agreement with the said Ackermann as to the supply of water for a period of ten years from the date when the purchasing Council takes over the said whole undertaking, property, assets, liabilities and obligations of the said Ackermann and the Cape Town Districts Waterworks Company, Limited, whereupon it shall be imperative upon the purchasing Council to carry out the terms of such unwilling Council's then existing agreement aforesaid for such term of ten years. And six months previous to the expiration of such lastmentioned term of ten years it shall be in the power of the said unwilling Council to give notice of their intention to require the renewal of the then existing agreement as to the supply of water for a further term of ten years, whereupon it shall be imperative for the purchasing Council to carry out the same for such lastmentioned further term of ten years, and so on in perpetuity the unwilling Council shall be entitled to six months previous to the expiration of each period of ten years to give notice of a continuance of the then existing agreement for a further term of ten years. Provided that notwithstanding anything to the contrary hereinbefore stated, if the unwilling Council shall not have given the aforesaid six months' notice of continuance of the agreement it shall

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be incumbent upon the purchasing Council to supply the unwilling Council with water until six months after notice in writing has been given by the purchasing to the unwilling Council calling upon the latter to state within such period of six months whether such unwilling Council desires an extension of its then existing agreement for a period of ten years from the expiration of such six months, and if within such period of six months the unwilling Council acquaints the purchasing Council of its desire for such extension it shall be incumbent upon the purchasing Council to continue the supply for a further period of ten years, at the end of which time the water supply shall be continued or discontinued as the case may be to the unwilling Council after the observance of similar formalities and so on in perpetuity. Should one of the Councils alone purchase the whole undertaking, property, assets, liabilities and obligations of the said Ackermann and the Cape Town Districts Waterworks Company, Limited, then neither of the said Councils shall have any right to take advantage of the fact that the Concession originally granted to the said Ackermann were only for a period of twenty years, except that such Concession shall at the expiration of twenty years no longer entitle the purchasing Council to treat the Concession or Agreement of the unwilling Council as an exclusive or sole concession. If the said Council and the Woodstock Council jointly elect to purchase the said whole undertaking, property, assets, liabilities and obligations of said Ackermann, and the Cape Town Districts Waterworks Company, Limited, or if under the terms hereof the Council shall do so, then the terms of the purchase shall be the value of the same as a going concern, and the amount to be paid by the purchasers shall be settled by agreement between the parties interested; failing agreement, then by arbitration, the purchasers appointing one arbitrator and the said Ackermann another, while the two so chosen shall select the third and the decision of a majority of such arbitrators shall be binding on both the purchasers and the said Ackermann and the award of the Arbitrators may be made a Rule of Court. Should the said Council and the Woodstock Council be desirous of purchasing jointly at any time and should they be unable to agree as to the terms upon which as between themselves the purchase shall be made, then the matters in difference shall be referred to Arbitration of three persons, one to be appointed by each Council, and the third to be selected by the two so appointed. The award of a majority of such arbitrators shall be binding upon the parties to the Arbitration, and the award may be made a Rule of Court; provided always that if either the said Council or the Woodstock Council shall decide alone and solely to acquire by purchase the said whole undertaking, property, assets, liabilities and obligations of the said Ackermann and the Cape Town District Waterworks Company, Limited, then the other of them shall, as an alternative to the right of insisting on a continuance of its water supply for periods of ten years at a time as hereinbefore prescribed, be at liberty to give within two months of being acquainted by the purchasing Council of the fact of its intended purchase notice in writing of its intention to cancel, and shall thereupon be entitled to cancel this concession at the

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date when the purchasing Council shall acquire the said whole undertaking, property, assets, liabilities and obligations of the said Ackermann and the Cape Town District Waterworks Company, Limited. And in the event of such other Council doing so, then such other Council shall pay to the purchasing Council the fair value of such mains, pipes, hydrants and other appliances of the said Ackermann and the Cape Town District Waterworks Company, Limited, as shall have specially been laid down or provided for the supply of water to the inhabitants of the cancelling Council's Municipality or to the cancelling Council, such fair value to be arrived at forthwith by mutual agreement, or failing mutual agreement on any points by the decision of three arbitrators appointed in manner as prescribed when a difference occurs between the Councils purchasing jointly; provided further that when either Council intends to purchase solely the arbitration as to the amount to be paid by the purchasing Council to the said Ackermann shall, failing mutual agreement as to the terms of the purchase be proceeded with forthwith between the purchasing Council and the said Ackermann forthwith two months after notice has been given by the purchasing Council to the said Ackermann of its intention to purchase, and provided always that in estimating the value of the said whole undertaking, property, assets, liabilities and obligations of the said Ackermann and the said Cape Town District Waterworks Company, Limited, when purchased by either Council solely, the arbitrators shall appraise the same as a going concern just prior to the date when the cancelling Council has intimated its intention to cancel its concession just as if the purchasing Council would after it the purchasing Council had acquired the said undertaking, property, assets, liabilities and obligations of the said Ackermann, and the said Cape Town District Waterworks Company, Limited, still continue to enjoy the right and benefit of supply the cancelling Council or the inhabitants of Municipality under the concession granted by such Council.

Twenty-second.—For the purposes of all arbitrations under the terms of this agreement the provisions of the Lands and Arbitration Clauses Act, 1882, shall so far as applicable and not varied hereby, be deemed inserted herein.

Twenty-third.—The concession hereby given shall be of no force and effect unless and until the Council and the Woodstock Council have executed an agreement intended to secure the rights of the two Councils as between themselves, and referred to in the twenty-first paragraph hereof.

Thus done, contracted, and agreed at Cape Town the day, month, and year aforesaid, in presence of the Subscribing Witnesses.

J. C. MOLTENO,
Chairman, Claremont Municipal Council.
A. W. ACKERMANN.

As Witnesses:
HENRY BEARD.
W. M. BISSET.

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[B.]

No. 24—1898.

Concession for the Supply of Water to the Town of Woodstock.

Whereas on the seventh day of November, 1887, Thomas Haven Wheeler (hereinafter styled the said Thomas Haven Wheeler which term shall also be understood to mean his heirs, executors, administrators or assigns, legal representatives or agents and any Company or Companies which may at any time during the continuance of this concession acquire the interest of the said Thomas Haven Wheeler), of Mowbray, contractor, made application to the Council of the Municipality of Woodstock hereinafter styled the said Council, for a concession of the right to supply water within the limits of the said Municipality and whereas the said Council having taken such application into consideration do hereby agree to grant such application upon the terms hereinafter appearing.

I. That the said Council do hereby grant to the said Thomas Haven Wheeler the exclusive right to supply water within the limits of the said Municipality and to lay down pipes and to fix hydrants, &c., for the supply of such water in any or all of the public streets or across municipal land as the Council may determine or the undertaking of the said Thomas Haven Wheeler require.

II. That the term of this Concession shall be Twenty years from the seventh day of November, 1887, subject however to the proviso hereinafter appearing.

III. That the said Thomas Haven Wheeler shall commence the work of construction not later than three months after the date of this concession and shall complete such construction and be in a position to supply water within twelve months from that date and failing such commencement daily continuation and completion the right to such concession shall cease and be determined.

IV. That the price to be charged for such water shall not exceed Two pounds per annum for each one hundred gallons per diem.

V. That the said Thomas Haven Wheeler shall be at liberty to open up the streets at all suitable times in the hours of daylight for the purposes of laying taking up, removing renewing and repairing the main and service pipes used in the distribution of water upon giving twenty-four hours' previous notice at the municipal offices but in case of emergency for the purpose of renewing and repairing the said pipes without notice provided always however that during such times as the streets are in a broken condition the said Thomas Haven Wheeler shall be responsible for leaving the said streets properly protected at night by lights and bars and shall always make good the surface of the streets, roads and places after his operations to the reasonable satisfaction of the said Council and their appointed officers and all or any damage sustained by any person or persons in consequence of the opening up of such streets or street shall be made good and paid by the said Thomas Haven Wheeler.

VI. That six months previous to the expiration of a term of ten years reckoned from the date mentioned in the second paragraph hereof or at any period after the expiration of such term of ten years by giving Twelve Months' notice the said Council shall have the right to acquire the undertaking of the said Thomas Haven Wheeler by purchase. If the said Council elect to acquire the same the terms

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of the purchase shall be the value of the undertaking as a going concern the amount to be settled by agreement or failing agreement by Arbitration, each party selecting an Arbitrator and the two so chosen to select the third, and the decision of such arbitrators or of a majority of them to be binding on all parties. If the said Council do not exercise their power to purchase the undertaking of the said Thomas Haven Wheeler then the said Thomas Haven Wheeler will remain in possession.

VII. That accounts for water supplied to the said Council shall be rendered quarterly.

VIII. That the said Council shall pay to the said Thomas Haven Wheeler within thirty days from the rendering of such quarter's accounts the amount due on such account.

IX. That the said Council doth hereby agree to take not less than Fifty Thousand gallons of water per diem and the said Thomas Haven Wheeler doth hereby agree and contract to supply the full amount of water required by the said Council up to two hundred thousand gallons daily. Should default be made in delivering the amount of such short delivery shall be deducted from the said Thomas Haven Wheeler's account and shall not be payable by the said Council and should such short delivery be of frequent occurrence so as to be a reasonable cause of complaint the said Council do hereby reserve the right of bringing such action against the said Thomas Haven Wheeler as their legal adviser may deem most suitable to recover compensation for the damage, injury or annoyance caused by each short delivery. And it is also mutually agreed that any waste of water or loss of water caused by the said Thomas Haven Wheeler (either accidentally or in accordance with the requirements of his undertaking) shall in no case be charged against the said Council.

X. That the said Thomas Haven Wheeler doth hereby covenant that during the whole time that his concession exists he will at all times be responsible for the due repair and removal of all pipes (excepting private leadings); hydrants, &c., in connection with his said undertaking and will also be responsible for all damage caused by his neglect in direction.

XI. That the water shall be supplied to the said Council through a meter.

Signed on behalf of the Woodstock Municipal Council.

Witnesses to signatures of

J. J. Atmore & J. B. Wheelwright.

(Sgd.) JOHN JOSEPH ATMORE,

G. C. Behr. Mayor.

D. M. Swanson.

(Sgd.) J. B. WHEELWRIGHT,

Witness to signature, Secretary.

T. H. Wheeler.

(Sgd.) THOMAS H. WHEELER.

J. R. Moore.

J. Jveitz.

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[C.] No. 24 1898.

Supplementary Concession by the Woodstock Municipality for the Supply of Water.

Whereas on the seventh day of November, 1887, the Woodstock Municipality granted a Concession in terms of the provisions of Clause 2 of Section 156 of Act 45 of 1882, to one Thomas Haven Wheeler, for the supply of Water, and whereas subsequently on the first day of October, 1888, the said Wheeler signed an agreement whereby an extension of such Concession was to be granted to the Syndicate formed to promote the Cape Town District Waterworks Company, Limited; and whereas it has been agreed by and between the said Syndicate and the said Council, that the terms of such Concession shall be somewhat varied: Now, therefore, these presents witness that the Woodstock Municipality hereby confirms the extension of the Concession made pursuant to a resolution of its Council, passed on the said 1st day of October, 1888, and varies the said Concession in such manner that the sixth clause thereof shall be considered of no force and effect, and the following substituted in its place, to wit:—

That upon the expiration of a term of ten years from the 1st day of January, 1889, or at any period after the expiration of such term by giving Twelve Months' notice, this Council together with the Council of the Claremont Municipality (hereinafter styled the Claremont Council) shall have the right jointly to acquire the whole undertaking, property, assets, liabilties and obligations of the said Syndicate, or its assigns and the Cape Town District Waterworks Company, Limited (hereinafter styled the said undertaking) by purchase. Should the Council desire to effect such purchase jointly with the Claremont Council and the latter be unwilling or decline to join the Council in purchasing, then the Council shall be entitled to give the Claremont Council notice in writing, calling on them, the said Claremont Council, to decide within six months from the date of the receipt of such notice whether or not they will join in the purchase. And should the said Claremont Council fail within that period to intimate their willingness and take all necessary steps to join the said Council in purchasing, then the said Council shall be entitled to act alone in exercising the right of purchase hereinbefore given to the Councils jointly. Similarly if the Claremont Council desire to effect such purchase jointly with the Council, and the latter be unwilling or decline to join the Claremont Council in purchasing, then the Claremont Council shall be entitled to give the said Council notice in writing calling upon the said Council to decide within six months from the date of the receipt of such notice, whether or not they will join in the purchase. And should the Council fail within that period to intimate their willingness and take all necessary steps to join the said Claremont Council in purchasing, then the said Claremont Council shall be entitled to act alone in exercising the right of purchase hereinbefore given to the Councils jointly. Should either the Council or the Claremont Council be unwilling or decline to join the other of them in purchasing, then at the expiration of the notice of six months hereinbefore mentioned, the Council willing to purchase shall give written notice to the other of them, of such Council's intention so to do and shall forthwith proceed to give the

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aforesaid twelve months' notice to the owners of the said undertaking of its desire to purchase, and the Council which is unwilling or declines to join the other in purchasing shall be entitled within two months after receiving the notice of the former Council's intention to purchase, to require the purchasing Council to carry out the terms of the unwilling Council's then existing agreement with the said Syndicate or its assigns as to the supply of water for a period of ten years from the date when the purchasing Council takes over the said undertaking, whereupon it shall be imperative upon the purchasing Council to carry out the terms of such unwilling Council's then existing agreement aforesaid for such term of ten years. And six months previous to the expiration of such last-mentioned term of ten years, it shall be in the power of the said unwilling Council to give notice of their intention to require the renewal of the then existing agreement as to the supply of water for a further term of ten years whereupon it shall be imperative for the purchasing Council to carry out the same for such last-mentioned further term of ten years and so on in perpetuity the unwilling Council shall be entitled six months previous to the expiration of such period of ten years to give notice of a continuance of the then existing agreement for a further term of ten years. Provided always that notwithstanding anything to the contrary herein stated, if the unwilling Council shall not have given the aforesaid six months' notice of continuance of the agreement, it shall be incumbent upon the purchasing Council to supply the unwilling Council with water until six months after notice in writing has been given by the purchasing to the unwilling Council, calling upon the latter to state within such period of six months, whether such unwilling Council desires an extension of its then existing agreement for a period of ten years from the expiration of such six months, and if within such period of six months the unwilling Council acquaints the purchasing Council of its desire for such extension, it shall be incumbent upon the purchasing Council to continue the supply for a further period of ten years, at the end of which time the water supply shall be continued or discontinued as the case may be to the unwilling Council after the observance of similar formalities and so on in perpetuity. Should one of the Councils alone purchase the said undertaking then neither of the said Councils shall have any right to take advantage of the fact that the Concessions originally granted to the said Wheeler Syndicate Company or their assigns if any of them were only for a period of twenty years, except that such Concessions shall at the expiration of twenty years no longer entitle the purchasing Council to treat the Concession or Agreement of the unwilling Council as an exclusive or sole Concession. If the said Council and the Claremont Council jointly elect to purchase the undertaking or if under the terms hereof the said Council shall do so, then the terms of the purchase shall be the value of the same as a going concern, and the amount to be paid by the purchasers shall be settled by agreement between the parties interested, failing agreement, then by arbitration, the purchasers appointing one arbitrator, and the Syndicate or its assigns another, while the two so chosen shall select the third, and the decisions of a majority of such arbitrators shall be binding on both parties to the arbitration, and the Award of the arbitrators may be made a rule of Court. Should the Council and the Claremont Council be

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desirous of purchasing jointly at any time, and should they be unable to agree as to the terms thereof as between themselves, then the matters in difference shall be referred to the arbitration of three persons, one to be appointed by each Council, and the third to be elected by the two so appointed. The award of a majority of such Arbitrators shall be binding upon the parties to the arbitration and the award may be made a rule of Court. Provided always that if either of the Councils shall alone and solely decide to acquire by purchase the said undertaking, then the other of them shall as an alternative to the right of insisting on a continuance of the water supply for periods of ten years as hereinbefore prescribed, be at liberty to give within two months of being acquainted by the purchasing Council of the fact of its intended purchase, notice in writing of its intention to cancel, and shall thereupon be entitled to cancel this exclusive Concession at the date when the purchasing Council shall acquire the said undertaking, and in the event of such other Council doing so, then it shall pay to the purchasing Council the fair value of such mains, pipes, hydrants, and other appliances of the said Syndicate or its Assigns, as shall have been specially laid down or provided specially for the supply of water to the inhabitants of the cancelling Council's Municipality or to the cancelling Council such fair value to be arrived at forthwith by mutual agreement, or failing mutual agreement on any points by the decision of three arbitrators appointed in manner as prescribed when a difference occurs between the Councils purchasing jointly. Provided further that when either Council intends to purchase solely the arbitration as to the amount to be paid by the purchasing Council shall failing mutual agreement as to the terms of the purchase be proceeded with forthwith between the purchasing Council and the said Syndicate or its assigns, two months after notice has been given by the purchasing Council of its intention to purchase. And provided always, that in estimating the value of the said undertaking when purchased by either Council solely, the Arbitrators shall appraise the same as a going concern just prior to the date when the cancelling Council has intimated its intention to cancel its Concession just as if the purchasing Council would after it, the purchasing Council, had acquired the said undertaking still continue to enjoy the right and benefit of supplying the cancelling Council or the inhabitants of its Municipality under the Concession granted by such Council. For the purposes of all arbitrations under the terms of this Agreement and the Concessions the provisions of the Lands and Arbitrations Clauses Act, 1882, shall so far as applicable and not varied hereby be deemed inserted herein.

Thus done and granted at Cape Town on the 23rd day of October, 1888, in presence of the subscribing Witnesses.

WILLIAM SEARLE, Jr., Mayor,
Woodstock Municipal Council.

As Witnesses:
J. B. WHEELWRIGHT.
J. H. NEETHLING.

In my presence,
W. E. MOORE,
Notary Public.

W

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[D.]

Deed of Agreement.

Entered into on this the Twenty-third day of October, 1888, between the Council of the Municipality of Woodstock, hereinafter styled Woodstock, of the one part, and the Council of the Municipality of Claremont, hereinafter styled Claremont, of the other part.

Whereas Woodstock and Claremont have agreed to grant to a Syndicate formed to promote the Cape Town District Waterworks Company, Limited, or its assigns, certain concessions to supply water to their Municipalities upon conditions which will more fully appear on reference to the Deeds of Concession;

And whereas the said Deeds of Concession contain a purchase clause which renders it necessary that to make the same effectual as between Claremont and Woodstock, they Claremont and Woodstock should mutually contract;

Now therefore, these present witness that it is contracted and agreed by Claremont and Woodstock in manner following, to wit:—

1. At the expiration of ten years from the 1st of January, 1889, or at any time thereafter, Claremont and Woodstock may join in purchasing the whole undertaking, property, assets, liabilities and obligations of the said Syndicate or its assigns (hereinafter styled the "said undertaking").

2. Should either Council desire to purchase jointly with the other, and the latter be unwilling or decline so to do, then the former Council shall be entitled to give the latter Council notice in writing, calling upon the latter to decide within six months from the date of the receipt of such notice, whether or not it will join in the purchase; and should the latter fail within that period to intimate its willingness and take all necessary steps to join the former Council in purchasing, then the former Council shall be entitled to purchase solely.

3. Should either Council be unwilling or decline to join the other of them in purchasing, then at the expiration of the notice of six months before mentioned, the Council wishing to purchase shall, if it intends to purchase, give written notice to the other of such Council's intention so to do, and the Council which is unwilling or declines to join the other in purchasing shall be entitled within two months after receiving the notice of the other Council's intention to purchase, to require the purchasing Council to carry out the terms of the unwilling Council's then existing Agreement with the said Syndicate or its assigns as to the supply of water for a period of ten years from the date when the purchasing Council takes over the said undertaking, whereupon it shall be imperative upon the purchasing Council to carry out the terms of such unwilling Council's then existing Agreement aforesaid for such term of ten years: And six months previous to the expiration of such last-mentioned term of ten years it shall be in the power of the said unwilling Council to give notice of its intention to require the renewal of the then existing Agreement as to the supply of water for a further term of ten years,

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whereupon it shall be imperative for the purchasing Council to carry out the same for such last-mentioned term of ten years and so on in perpetuity the unwilling Council shall be entitled to six months previous to the expiration of each period of ten years to give notice of a continuance of the then existing agreement for a further term of ten years: Provided always that notwithstanding anything to the contrary hereinbefore stated if the unwilling Council shall not have given the aforesaid six months' notice of continuance of the Agreement, it shall be incumbent upon the purchasing Council to supply the unwilling Council with water until six months after notice in writing has been given by the purchasing to the unwilling Council calling upon the latter to state within such period of six months whether such unwilling Council desires an extension of its then existing Agreement for a period of ten years from the expiration of such six months, and if within such period of six months the unwilling Council acquaints the purchasing Council of its desire for such extension it shall be incumbent upon the purchasing Council to continue the supply for a further period of ten years at the end of which time the water supply shall be continued or discontinued as the case may be to the unwilling Council after the observance of similar formalities, and so on in perpetuity.

4. Notwithstanding anything to the contrary above stated if either Council shall decide alone and solely to acquire by purchase the said undertaking, then the other of them shall as an alternative to the right of insisting on a continuance of its water supply for periods of ten years at a time as prescribed in paragraph 3 hereof, be at liberty to give within two months of being acquainted by the purchasing Council of the fact of its intended purchase notice in writing of its intention to cancel, and shall thereupon be entitled to cancel the concession granted by it from the date when the purchasing Council acquire the said undertaking: And in the event of the unwilling Council doing so then such unwilling Council shall pay to the purchasing Council the fair value of such mains, pipes, hydrants and other appliances as shall have been specially laid down or provided for the supply of water to the inhabitants of the cancelling Council's Municipality, and the cancelling Council itself, such fair value to be arrived at forthwith by mutual Agreement or failing mutual Agreement on any points of the decision of three arbitrators appointed in manner as prescribed when a difference occurs between the Councils purchasing jointly.

5. Should either Council alone purchase the said undertaking then neither Woodstock nor Claremont shall have any right to take advantage of the fact that the concession originally granted to the Syndicate or its assigns were only for a period of twenty years, except that such concessions shall at the expiration of twenty years no longer entitle the purchasing Council to treat the Concession or Agreement of the unwilling Council as an exclusive or sole concession, provided always the provisions of this paragraph shall in no way affect the absolute right of cancellation as given in the 4th paragraph.

6. Should Claremont and Woodstock be desirous of jointly purchasing the said undertaking and should they be unable to agree

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as to terms upon which as between themselves the purchase shall be made, then the matters in difference shall be referred to the arbitration of three persons, one to be appointed by each of them, and the third to be selected by the two so chosen: And the award of a majority of such Arbitrators shall be binding upon the parties to the Arbitration and the award may be made a Rule of Court.

7. For the purposes of any Arbitration under the terms of this Agreement the provisions of the Lands and Arbitration Clauses Act, 1882, shall so far as applicable and not varied hereby be deemed inserted herein.

Thus done and agreed at Cape Town, the day, month and year aforesaid in presence of the subscribing witnesses.

WILLIAM SEARLE, Jr., Mayor,
Woodstock Municipal Council.

As Witness to signature
of William Searle,
J. B. WHEELWRIGHT.

J. C. MOLTENO,
Chairman, Claremont Municipal Council.

As Witnesses to signature
of J. C. Molteno,
HENRY BEARD,
W. M. BISSET.

[E.]

AGREEMENT made, entered into and concluded on the sixth day of the month of March, One Thousand Eight Hundred and Ninety, by and between the Rondebosch Municipality (hereinafter styled the said Council) of the one part, and the Cape Town District Waterworks Company, Limited (hereinafter styled the said Company) of the other part.

The Undersigned, William Frederick Henry Pocock, is Chairman of the Council of the Rondebosch Municipality, and is authorised to enter into this Agreement on behalf of the said Municipality.

The Undersigned, Bernhard Pilgram and Christopher Haylett Robertson, are local Directors of the said Company and authorised to act on its behalf.

WHEREAS the said Company has applied to the Council of the said Municipality for permission to supply pure water to the inhabitants within the limits of the said Municipality, to which application the said Council has agreed and consented upon the terms, conditions and stipulations hereinafter contained, and upon the distinct understanding that this Agreement shall give the said Company no monopoly, and that the Council and the inhabitants of the Municipality shall be at liberty to obtain water from any other source should they desire to do so.

Now therefore these presents witness and it is hereby contracted and agreed by and between the parties hereto of the first and second parts as follows, to wit:—

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1. The said Council doth hereby give and grant to the said Company permission to supply water by means of engines, machinery, mains, pipes and other appliances of a like nature within the Municipality of Rondebosch, and to lay down and fix pipes, hydrants and other appliances for the supply of water in all or any of the public streets and also across such municipal lands as the said Council may permit and the said Company may require for a term of twenty years reckoned from the first day of January, one thousand eight hundred and eighty-nine. Provided the said Company shall be entitled in their option to renew this Agreement for a further period of twenty years reckoned from the first day of January one thousand and nine hundred and nine (1909).

2. The said Company undertakes and agrees to supply such quantity of pure and wholesome water not exceeding three hundred thousand gallons (300,000) per diem as the said Council and inhabitants entitled thereto may require within eighteen (18) months from the date of signing of this agreement.

3. The price to be charged for such water shall not exceed two pounds ten shillings (£2 10s.) per annum for each one hundred gallons (100 gallons) supplied per diem and the water to be supplied shall be of such purity that no bad gas or impurity which could reasonably be held to be deleterious to the health of human beings shall be discoverable in the same by means of chemical analysis, and shall not be river water.

4. The said Company shall be at liberty to open up the streets within the said Municipality at all suitable times and places for the purpose of taking up, laying down, removing, renewing, or repairing the main and surface pipes, leadings, sluices, hydrants or other appliances used for the purpose of the said water supply and the distribution of such water upon giving twenty-four (24) hours previous notice at the office of the said Council except in a case of emergency, where it may be absolutely necessary to effect repairs or renewals immediately in which case the said notice may be dispensed with and provided that during such times as the said streets are in a broken condition owing to any operations in connection with the said water supply or the repair renewal or removal of any of the main pipes or other appliances being carried on the said Company shall be liable and responsible for any damages that may be sustained by reason of its neglect to adopt all reasonable and proper precautions against the occurrence of accidents and the said Company shall also make good the streets roads and other places after any such operations have been completed, to the reasonable satisfaction of the said Council and will use all possible despatch in the performance of such operations so as not to cause inconvenience to the public for a longer period than shall be absolutely necessary to complete such operations in an effectual manner and any loss or damage which may be sustained by any person or persons in consequence of the opening of any street in connection with such operations shall be made good by the said Company and the said Company shall hold harmless and indemnified the said Council of from and against all losses, costs, charges, damages and expenses they may sustain or be put to or condemned to pay by the judgment of any competent Court by reason of any matter or

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thing done or performed or neglected to be done or performed by the said Company in the premises.

5. The said Company shall place Twelve (12) hydrants at its own cost and charges, and as many more as may hereafter from time to time be required by the Council who shall pay for the same at cost price, for the purpose of extinguishing fire at such spots within the said Municipality as the said Council shall indicate: Provided such spots are within sixty (60) feet of any main of the said Company and shall and will supply such quantity of water, as the said Council may from time to time require to be supplied for the purpose of extinguishing fires or for other purposes of the said Municipality, such as watering, road flushing, &c. at the rate of Two pounds for every forty thousand gallons (40,000) supplied. It being distinctly understood that this agreement by no means conveys to the said Company any right the said Council may have to any springs or other sources of supply within the said Municipality.

6. The said Company shall be bound to lay down and keep in thorough repair at its own cost and charges all mains in the Main Road within the said Municipality, and it shall also be bound and obliged to lay down main and other pipes exclusive of private water leadings necessary for the efficient supply of water in all thoroughfares and streets at its own cost and charges upon receiving a guarantee from the owners of property within the said Municipality for the sake of whom such main or other pipes are laid down that they will take a supply of water for a term of three (3) years sufficient to yield a return equal to fifteen (15) per cent. per annum on the amount expended on the main or other pipes specially laid down for the supply of water to such proprietors and further the said Company shall be obliged to lay down and supply all such minor pipes and fittings as may be required for water leadings for the mains to the properties of the owners aforesaid and to any part of such properties if required to do so at schedule prices for the time being charged by the Company's Contractor or Contractors.

7. In the event of the undertaking for the purpose of carrying out which the said Company has been formed and of which the operations to be performed under this agreement by the said Company form a part yielding a dividend to shareholders in excess of twelve (12) per centum per annum on the whole of the said undertaking then the said Company shall be bound to make such a reduction in the rates for the supply of water charged by it under this agreement as together with any reduction in the rates to any other Municipality Municipalities or persons will leave the said shareholders a return of twelve (12) per cent. per annum or thereabouts by way of dividend and should the parties hereto be unable to decide as to what reduction would give such a result in such case the decision in the matter shall be left to the award arbitrament and determination of three arbitrators one of them to be chosen by each of the parties hereto and the third by the two arbitrators first chosen and the award of such arbitrators or the majority of them shall be final and binding upon the parties hereto.

8. The water rates to become due and payable by the inhabitants of the said Municipality to the said Company in terms of this

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agreement shall be recovered by the said Company from the parties liable to pay the same and no responsibility in respect of the payment of the same shall rest upon the said Council save and except as regards such rates as the Council may owe for water supplied for Municipal purposes.

9. The said Company shall not be bound and obliged to supply any person entitled to be supplied with water under this Agreement with less than one hundred (100) gallons of water per diem except in the case of a person whose house is rated for Municipal purposes at a sum not greater than one hundred (£100) pounds, in which case the minimum such person shall have a right to be supplied with will be fifty (50) gallons per diem and on the other hand no such person shall be entitled to receive nor shall he or she receive more than one hundred (100) gallons of water per diem in respect of any one house until every other house applying for such a supply shall have received its one hundred (100) gallons provided however that the Company shall be entitled to supply manufacturers or persons having factories within the limits of the said Municipality with any quantity of water they may acquire over and above the one hundred (100) gallons per diem as long as the maximum demand of three hundred thousand (300,000) gallons per diem is not reached.

10. Should the Company fail at any time during the continuation of this agreement, to supply to the Municipality water in quantity and of the quality herein stipulated to be supplied the Municipal Council shall be entitled to give the Company forty-eight (48) hours' notice calling upon them to act up to this agreement and upon the Company failing to do so within such period of forty-eight (48) hours then the Council shall be entitled to recover and receive from the Company as liquidated damages the sum of three pence (3d.) per one hundred (100) gallons per diem short supplied, but the total liquidated damages payable by the Company to the Council shall in no one week exceed the sum of twenty-five pounds (£25 0s. 0d.) Provided, that the Company shall in no case be liable to the Municipality or to any inhabitants thereof for any stoppage of the water supply occasioned by the Act of God floods earthquakes lightning or other causes over which the Company could exercise no control or occasioned by the neglect of the Council or by circumstances within the control of the said Council and should the Company find it necessary temporarily for necessary purposes connected with its waterworks to stop the water supply to any portion of the Municipality they shall be entitled so to do provided they give to persons interested a notice of not less than twelve (12) hours informing them of the contemplated temporary stoppage of the supply and no liability whatever shall attach to the Company in respect of any such temporary stoppage after the prescribed notice Provided always such notice shall be given at the house the water supply of which is or will be affected in writing or on a printed form.

11. All water leadings to private property such as are referred to in the concluding portion of the 6th paragraph hereof and have been paid for shall vest in such proprietors subject to any agreement which the said Company may obtain and which the said Company shall have the right to require from the proprietors for access to the

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same and to enter the premises of any inhabitants to make such alterations or effect the repairs therein for the purpose of the efficient supply of water or for the prevention of loss and waste as may from time to time be necessary during the continuation of this agreement nor shall any proprietors or inhabitants have any right to interfere with alter or repair the same without the sanction of the said Company.

12. All taps, cocks, pipes and fittings for water leadings shall be of manufacture or pattern approved of by the said Company and plumbers licensed by the said Company alone shall be permitted to lay fix remove or repair all water leadings and fittings in private or public properties.

13. The said Council will use their best endeavours to prevent the contamination of the said water from the proximity of gas or sewage pipes or other preventable causes nor will they permit pipes for either of the said purposes to be laid within such proximity to the said water pipes as to be likely to cause such contamination.

14. The said Company shall not be entitled to supply water to any other Municipality at rates lower than those charged to the said Rondebosch Municipality excepting in so far as the Company may do so under its contract with the Woodstock Municipality.

15. The said Company shall be permitted in the supply of water to use the high pressure, intermittent or other approved mode of water supply.

16. For the purposes of all arbitrations under this Agreement the provisions of the Lands and Arbitrations Clauses Act, 1882, shall so far as applicable and not varied hereby be deemed inserted herein.

17. The Company shall not be required or compelled to supply water to any person or persons, Company or Companies for brewery purposes.

In Witness the said parties have hereto set their hands.

As Witnesses to the signature of Wm. Pocock,
W. B. JEFFREYS.
J. A. REID.

WM. POCOCK,
Mayor of Rondebosch.

As witnesses to the signature of B. Pilgram,
E. H. HEATH.
WM. EIGENMANN.

B. PILGRAM.

As witnesses to the signature of C. H. Robertson,
E. H. HEATH.
W. J. ROBERTSON.

C. H. ROBERTSON.

Seal of
Cape Town District
Waterworks Co., Ltd.

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No. 25—1898.] [December 30, 1898.

ACT

To Provide for the better management and control for defence purposes of a portion of the Port of Simon's Town and to authorise the construction of docks there by the Admiralty.

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.

Portion of Port of Simon's Town to which Act applies defined.

1. This Act shall apply to that portion of the Port of Simon's Town which is included within the following boundaries:

On the east so much as is comprised within a line drawn due south (true) from the Phœnix Buoy to the shore meeting a line drawn north 32° west (true) from the Phœnix Buoy to the shore on the south of Elsey Bay; on the north-west, west, and south, the line of high water mark of spring tides between the points where the above defined lines meet the shore with all bays, creeks, lakes, pools and rivers as far as the tide flows, which boundaries are delineated on a plan filed in the office of the Surveyor-General, marked 2,554MM. The said portion of the Port of Simon's Town is hereinafter referred to as the ~~Defence~~ Harbour Port

see act 13 of 1912. see 122 (2)

Repeal of laws.

2. The Defence Port shall be exempt from the operation of so much of Act 16 of 1857, and of any law amending the said Act, the Wrecks Removal Amendment Act, 1885, and so much of any other Act as is inconsistent with or repugnant to the provisions of this Act or to the Regulations framed under this Act and hereinafter referred to.

Interpretation of terms.

3. In this Act—

The term "Vessel" includes Ship, Boat, Lighter and Craft of every kind, however propelled.

The term "Master" applied to a vessel means the person having the command or charge of the vessel for the time being.

The term "The Admiralty" means the Lord High Admiral of the United Kingdom or the Commissioners for executing the office of Lord High Admiral.

Port Regulations to be made by Governor.

4. It shall be lawful for the Governor from time to time to make regulations in relation to the said ~~Defence~~ Harbour Port for all or any of the following purposes, namely:—

To prohibit the mooring or anchoring of vessels so as to obstruct navigation into, in or out of the said ~~Defence~~ Harbour Port;

see act 13 of 1912 see 122

To appropriate any space as a mooring place or anchoring ground for the exclusive use of Her Majesty's vessels, but not so as to authorise any ~~user of~~ such use of space in such manner as to obstruct navigation into, in or out of the said ~~Defence~~ Harbour Port;

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To prohibit or restrict the having of gunpowder and the having or discharging of shotted or loaded guns on board any vessel in any specified part of the said ~~Defence~~ Port, and to regulate the loading and unloading of gunpowder in the said ~~Defence~~ Port;

To restrict the use of fire and light and the having of tar, oil or other combustible substances on board any vessel in any specified part of the said ~~Defence~~ Port;

To prohibit the navigating of steam vessels at a greater than a specified speed in any specified part of the said ~~Defence~~ Port;

To require the presence of at least one person at all hours of the day and night on board every vessel above a specified size moored, anchored or placed in any specified part of the said ~~Defence~~ Port;

And for such other purposes as from time to time seem necessary with the view to the proper protection of Her Majesty's vessels or property, or to the requirements of Her Majesty's Naval Service in connection with the defence of the said ~~Defence~~ Port: Provided however that before any regulation is made under the provisions of this Act a copy of such proposed regulations shall, whenever practicable, be published for general information in the *Gazette* and in some newspaper circulating at Simon's Town.

Regulations may provide penalties.

5. Any such regulation as aforesaid may impose such reasonable penalties as seem fit, not exceeding for any offence ten pounds, or in the alternative imprisonment with or without hard labour for any period not exceeding three months.

Rules may be made as to lights, prevention of collision, &c., with concurrence of Board of Trade.

6. It shall be lawful for the Governor from time to time on the joint recommendation of the Admiralty and the Board of Trade to make rules concerning the lights or signals to be carried or used, and the steps for avoiding collision to be taken by Her Majesty's vessels and other vessels navigating the waters of the said ~~Defence~~ Port and of the approaches thereto; and such rules shall, with respect to Her Majesty's vessels and other vessels navigating these waters, have the same effect as if they had been regulations originally contained in Table (C) in Appendix No. 1 of the Merchant Shipping Act, 1894, or were regulations duly substituted for the same, and as if such original or substituted regulations applied to Her Majesty's vessels as well as to other vessels.

Regulations to be published in *Gazette*.

7. Every regulation under this Act shall be published in the *Gazette* and thereupon shall have the full force and effect of law; and a copy of the *Gazette*, containing any such regulation, shall be conclusive evidence of the due making and publication thereof.

Power for Senior Officer of H.M. ships in Simon's Bay to unmoor vessels, &c.

8. If the master of any vessel within the said ~~Defence~~ Port does not moor, anchor, place, unmoor, or remove the same according to directions given by the Senior Officer of Her Majesty's vessels in Simon's Bay, or any person appointed by him, in writing, to act for him in that behalf, in conformity with any regulations in this Act, or if there is no person on board of any such vessel to attend to such directions, the said Senior Officer or the person appointed by him as aforesaid may cause the vessel to be moored,

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anchored, placed, unmoored or removed in conformity with such regulations, and for that purpose may cast off, loose, or unshackle and (if need be) sever any chain or rope of the vessel, first putting on board a sufficient number of persons for the protection of the vessel in case there is not a sufficient number of persons for the protection of the vessel in case there is not a sufficient number of persons on board to protect the same; and all expenses attending the exercise of the powers of the present section shall be paid by the master of the said vessel.

Power to search &c.

9. The said Senior Officer or any person having authority, in writing, from him in this behalf, may, with proper assistants, enter into any vessel in the said ~~Defence~~ Port and there search for gunpowder, shotted or loaded guns, fire or light or combustible substances had or suspected to be had on board, in contravention of any regulation made under this Act, and may extinguish any such fire or light; and if any person wilfully obstructs the said Senior Officer or the person having his authority as aforesaid in execution of the powers conferred by this section, he shall for each offence be liable to a penalty not exceeding ten pounds, or in the alternative to imprisonment with or without hard labour for any term not exceeding three months.

Power to remove wrecks, &c.

amended by act 13 of 1912 see 122 (e)

10. The said Senior Officer or any person having authority, in writing, from him in this behalf, may cause to be removed any wreck or other thing being or likely to become an obstruction to the said ~~Defence~~ Port or to the approaches thereto, and any floating timber that impedes the navigation thereof.

Power to remove unserviceable vessels.

11. Any vessel laid by or neglected as unfit for sea service, shall not be permitted to lie within any part of the said ~~Defence~~ Port specified in this behalf in any regulation under this Act; and the said Senior Officer or any person having authority, in writing, from him in this behalf, may cause every such vessel to be removed from the part of the ~~Defence~~ Port so specified and to be laid on some part of the Strand or Sea Shore, or in some other place where the same may without injury to any person be placed.

Recovery of expenses of removal of wreck, &c.

on account of abandonment thereof by the person who was the owner at the time of abandonment

amended by act 13 of 1912 see 122 (f)

12. The expenses incurred in the removal of any such wreck or other thing or timber, or the removal or placing of any such vessel shall be repaid by the owner thereof; and the said Senior Officer or any person authorised by him as aforesaid may detain, and in case of non-payment of the expenses, within three months after demand, may sell the wreck, or other thing, timber or vessel, and out of the proceeds of the sale, pay those expenses and the expenses of the sale, rendering the surplus (if any) to the owner on demand, and any deficiency may be recovered from the owner.

Proceedings for penalties.

13. All contraventions of the provisions of this Act and of the Regulations made thereunder, shall be cognisable before the Resident Magistrate of Simon's Town, and all penalties and forfeitures incurred under any of the provisions of this Act, or under the Regulations made under it, shall be sued for in the said Court, and all such penalties and forfeitures which are recovered shall be paid into the Treasury

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see act 13 of 1912

No. 25—1898.

Service of summons.

14. Any summons or other document in any proceeding on this Act or any Regulation under it, may (in addition to or in lieu of any other mode of service) be served by being left for the person to be served on board any vessel to which he belongs with the person being or appearing to be in command or charge of the vessel.

PART II.

Construction of breakwaters, piers and docks.

15. It shall be lawful for the Admiralty at any time after the passing of this Act, within that portion of the said ~~Defence~~ Harbour Port coloured pink on the said plan referred to in section 1 of this Act, to construct breakwaters, piers and docks, and all other works necessary for the proper accommodation of Her Majesty's vessels: Provided however that if, in the course of construction of any works under the Act, the present town pier be removed or permanently obstructed then it shall be incumbent upon the Admiralty to make provision for some other suitable pier or piers for the use of the public of Simon's Town.

Power to take water and land and raise materials on private property for said purpose.

16. It shall and may be lawful for the said Admiralty, and they are hereby authorised, to take possession of and impound so much water in the said Bay, and to take and use so much of the bed and foreshore of the sea vested in Her Majesty in her Colonial Government as may be required for the purposes aforesaid, and to dig 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 be convenient to the works to be performed as aforesaid; and the said Admiralty shall be, and 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 raising and carrying away such materials for making and repairing roads or harbours, and whether such rights shall have been preserved to the said Government by the Proclamation of His Excellency Sir John Francis Cradock, having date 6th day of August, 1813, permitting the conversion of land 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 whatever

Land expropriated by Colonial Government under Act 3 of 1887 to be transferred to Admiralty free of transfer duty.

17. So much land belonging to private persons in the neighbourhood of the aforesaid works required for the aforesaid purposes or for any purposes incidental thereto as has been already or shall be hereafter, at the request of the Admiralty, expropriated by the Government of this Colony under the provisions of "The Land Expropriation Act, 1887," shall be transferred by the said Government to the Admiralty free of transfer duty, on payment by the Admiralty to the said Government of the total cost incurred in the expropriation of the said land.

Short title. Repealed by Act 13 of 1912 sec 122 (1)

18. This Act may be cited for all purposes as the "Simon's Town Naval Defence Act, 1898."

Act N° 25 of 1898 (Cape of Good Hope) as amended by Act 13 of 1912 (Sec 122 (1)) may be cited for all purposes as the "Simon's Bay Dockyard Port Regulations Statutes 1898—1912".

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No. 26—1898.] [December 23, 1898.

Repealed by Act 25 of 1934

ACT

To Apply a Sum of Money for the Service of the Year ending the 30th June, 1899.

[Spent.]

No. 27—1898.] [January 6, 1899.

ACT

To Authorise the Municipality of Wynberg to Borrow a Sum not exceeding £60,000 for Drainage purposes.

Preamble.

WHEREAS it is expedient that works for the drainage of the Municipality of Wynberg should be carried out;

And whereas it is expedient that the Council of the said Municipality should be empowered to borrow for the purpose above mentioned such sum or sums of money as the said Council may deem necessary for the same, not exceeding in the whole the sum of sixty thousand pounds sterling;

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:—

Power to raise loan not exceeding £60,000 for drainage purposes.

1. It shall be lawful for the Council of the Municipality of Wynberg to borrow from time to time at interest not exceeding five per cent. per annum, such sum or sums of money not exceeding in the whole the sum of sixty thousand pounds sterling, for the purpose of constructing sewers and other works for the drainage of the Municipality of Wynberg.

Loan charged on special rate—Council to have the right to apply other funds to payment of same.

2. The aforesaid sum of Sixty Thousand Pounds Sterling or such lesser sum as shall be borrowed for the purposes aforesaid by the said Council is hereby charged 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 principal or interest or principal and interest of the said debt any funds or moneys coming to them from any other source, and not specially appropriated or required for any other object.

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No. 27—1898.

Council to grant acknowledgments of debt.

3. The Council of the said Municipality shall grant to the party or parties, Company, Society or co-partnership from whom they shall borrow any moneys for the purposes mentioned in this Act a written acknowledgment or written acknowledgments of or for the moneys so borrowed, which acknowledgments shall be in substance in the form annexed to this Act and shall be signed on behalf of the said Council by the Mayor thereof and countersigned by the Municipal Clerk, and the Common Seal of the said Council shall be affixed thereto in the presence of any two Councillors.

Moneys borrowed to be a debt under the Public Bodies Act.

4. All moneys borrowed for the purposes 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."

Account to be kept.

5. The Council of the said Municipality 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 shall, as long as any part of any debt contracted by virtue of this Act shall be in existence, make an annual statement thereof up to the 31st December, which statement shall be deposited in the office of the said Municipality, for the information and inspection of rate-payers.

Borrowing powers under Municipal Act not interfered with.

6. Nothing in this Act contained shall be taken to affect or interfere with the borrowing powers of the said Municipality under the provisions of sections one hundred and forty-four to one hundred and fifty-five of the Municipal Act, 1882.

Costs of Act to be paid out of revenues of Council

7. All necessary costs, charges and expenses incurred in obtaining the passing of this Act shall be paid out of the ordinary revenues of the said Council.

Short title.

8. This Act may for all purposes be cited as "The Wynberg Municipal Drainage Act, 1898," and shall come into effect on and after the first day of March, 1899.

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SCHEDULE.

No. 28—1898.
Schedule.

We, the undersigned Commissioners of the Municipality of Wynberg, do hereby acknowledge that the said Commissioners, in their said capacity, are indebted to in the sum of pounds sterling for so much money borrowed by the said Commissioners for the purposes set forth in the Wynberg Municipal Drainage Act, 1898; 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 in our said capacity that the principal and interest 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).

Given under our hands at Wynberg, this day of , 189 .

A. A., Mayor.
B. B., }
C. C., } Councillors.

Witnesses:
D. D.
E. E.

No. 28—1898.] [January 6, 1899.

ACT [1]

To Amend the Law relating to the Sale of Liquor.

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:—

Licensing Court may impose conditions as to sale of liquor to Natives.

1. Any Licensing Court shall have power when application is made to it for the grant or renewal of any licence to impose upon the holder thereof such conditions in regard to the sale of liquor to [2] natives as to such court shall seem meet, and for the purposes of section twenty-four sub-section (4) of Act No. 25 of 1891, it shall be deemed to be a condition, unless a contrary privilege or condition shall be embodied in any certificate by the Commissioner of Public Works, that no liquor shall at any time or on any day be sold at any railway [3] station refreshment room to any native.

Conditions and penalty for contravention.

2. Such conditions may impose such restrictions or conditions, exclusive of total prohibition, upon such sale as to the court may seem meet. They shall be endorsed upon the licence and shall be taken to form part of it. And any licensed person who shall contravene a condition imposed by virtue of this and the preceding section shall be liable upon conviction to the penalties prescribed by the seventy-fifth section of the Liquor Licensing Act, 1883.

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[1] See footnote to Act 28, 1883 (p. 2118).
[2] See Act 5, 1899, § 16 (p. 4036). Native locations, labour centres.
[3] See Acts 44, 1902, and 8, 1903 (Railway Catering).

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No. 28—1898.

Penalty on holder of wholesale licence.

3. It shall not be lawful for the holder of any wholesale licence to sell liquor under such licence to any native, not being the holder of a retail or bottle licence, and any such holder contravening the terms of this section shall be liable to the penalties imposed by the seventy-fifth section of the Liquor Licensing Act of 1883.

Penalty for acting as agent for native when liquor could not be legally bought by native.

4. Any person who shall as the agent or on behalf of any native, and not being the European employer of such native, buy or receive liquor from any licence holder, which liquor could not have been legally bought or received by a native under the conditions of the said licence, shall be guilty of contravening this section and shall upon conviction be liable to a fine not exceeding twenty-five pounds or in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

Meaning of "Native."

5. For the purposes of this Act the term "Native" shall mean any Kafir, Fingo, Basuto, Damara, Hottentot, Bushman, ~~or~~ Koranna, Griqua, Zulu, Ibeer, Swazi, or any member of any aboriginal tribe or race of Africa.

vide Act 1 of 1916

Memorial against renewal of existing country licence.

6. In regard to any application for the renewal of any existing licence in respect of any premises situated outside the area of a municipality and outside any area wherein the Village Management Act of 1881 is in operation, it shall not be lawful for the Licensing Court to grant the said renewal in case there shall have been lodged with the Resident Magistrate of the district at least fourteen days before the meeting of the Licensing Court to consider the said application a memorial or memorials signed by more than one half of the voters registered for the election of members of the Divisional Council within the limits of the Divisional Council district in which such premises are situated, objecting to such renewal. With respect to every such memorial the provisions of sections thirteen and fourteen of the Liquor Act, 1891, shall apply save in so far as they are inconsistent with the terms of this section: provided always that the provisions of this section shall not apply to any Divisional Council district in respect of which the number of registered voters for Divisional Council purposes is less than twenty.

Making of Kafir beer.

7. It shall not be lawful for any person to make, assist in making or cause to be made, any of the liquor commonly called "Kafir beer," upon any land which is private property, or which is held under lease from the Crown, or to bring upon or have in his possession upon such land any "Kafir beer" without in each case having obtained the permission of the owner of such private property or the lessee of such Crown land, as the case may be, or the permission of some person duly authorised by such owner or lessee to give it. And any person contravening the provisions of this section shall be liable on conviction to a fine not exceeding five pounds, or in default of payment to imprisonment with or without hard labour for any period not exceeding one month: provided that for the purposes of this and the two next succeeding sections:

(*a*) "Kafir beer" shall, in addition to the liquor commonly so-called, include fermented liquor made from prickly

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pears, commonly called "Prickly-pear beer," and fermented liquor, made from honey, called "Honey-beer."

(b) Any native location within a Municipality, or within an area wherein the Village Management Act of 1881 is in operation, shall be considered private property whereof the Commissioners of the Municipality, or the members of the Board of Management, as the case may be, are the owners.

Repealed by 1923 Act 21 Sec. 27 (1)

Search for and seizure of Kafir beer.

8. Any such owner or lessee as aforesaid, and any occupier of land upon being satisfied that there is reason to suspect the existence of any "Kafir beer," made or possessed in contravention of the preceding section, within any building, hut or enclosure upon the land owned, leased or occupied by him, may search, or give written authority to any other person to search such building, hut, or enclosure, at any time during the day or night. Any "Kafir beer" found in such building, hut or enclosure, or on such land as aforesaid, may be seized by the person so searching, and, in the event of any person being convicted of a contravention of the preceding section in respect of such "Kafir beer," then the same shall be forfeited and may be destroyed.

Wrongful or malicious exercise of powers of search.

9. Any person who shall, under colour of this Act, wrongfully and maliciously, or without reasonable and probable cause, exercise the powers conferred by the last section, shall be liable to a fine not exceeding twenty pounds, or in default of payment to imprisonment with or without hard labour for any period not exceeding three months, which penalty the Resident Magistrate of the district shall have jurisdiction to impose.

Sale of tonic bitters, &c., forbidden.

10. It shall not be lawful to sell any tonic bitters, or other similar preparations containing spirits, under an importer's or a general dealer's licence, as such, anything in the fifth section of the Stamp Act, 1887, to the contrary notwithstanding.

Licence not required for sale to passenger whilst steamships in dock, &c.

11. It shall be lawful for the master of any steam-ship in any dock or harbour in this Colony or within Colonial territorial waters, or for any person duly authorised by the master, to sell liquor without a licence on board such steam-ship to any passenger therein.

Sale of liquor by member of family or employee of licencee.

12. If any liquor, the property or in the possession of the holder of a licence to sell liquor, shall be sold, delivered, dealt in, or supplied by any person being a member of the family, or in the service or employ of such holder, such liquor shall, for all the purposes of the "Liquor Laws, 1883-1898," be conclusively deemed to have been sold, delivered, dealt in, or supplied with the knowledge and permission of the holder of such licence.

Sale or exchange in whole or in part of liquor presumed to be disposal of liquor.

13. If by the holder of a licence to sell liquor or of a licence as a general dealer, importer, agent for a foreign firm, butcher, baker or dealer in aerated waters, any liquor shall be given or supplied in connection with any sale or exchange or with any dealing or transaction in the nature of a sale or exchange, whether the thing or things sold or exchanged or dealt in or to which

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such transaction relates, be or be not in whole or in part liquor, then and in every such case the liquor so given or supplied shall for the purposes of any legal proceedings civil or criminal be presumed to form part of the cause or consideration for and of such sale, exchange, dealing or transaction, and such holder shall be presumed to have sold, dealt in or disposed of such liquor: provided that in any such proceedings any party thereto may rebut such presumption by proof to the satisfaction of the court before which such proceedings are pending that such liquor was in truth given or supplied independently altogether of such sale, exchange, dealing or transaction.

Penalty for permitting persons under 15 years to handle or supply liquor.

14. The penalties provided by section seventy-three of the Act No. 28 of 1883 shall be incurred by any holder of any retail licence who shall knowingly permit any person under the age of fifteen years to sell, handle, deal in, deliver, or supply any liquor in connection with the business carried on under such licence.

Penalty for refusal to leave premises one quarter of an hour before time of closing.

15. At any time within one quarter of an hour before the time by law or the terms of the licence prescribed for the closing of any premises licensed under a retail or bottle licence, the holder of such licence may lawfully request any person not being an inmate, lodger, or servant residing upon such premises to take note of the time, and to leave such premises without delay, and if after such request and after the time so prescribed shall have expired, such person shall be found upon such licensed premises, he shall on conviction be liable to a fine not exceeding five pounds, and in default of payment to imprisonment with or without hard labour for any term not exceeding fourteen days unless such fine be sooner paid: provided that no person shall be prosecuted both under this section and under section seventy-eight of the Act No. 28 of 1883 for the same offence.

Transfer of licence for billiard table.

16. When temporary transfer of a licence shall have been granted under the provisions of section fifty-six and the succeeding sections of the Act No. 28 of 1883, and the original holder of that licence shall also be the holder of a licence to keep a billiard table upon the licensed premises, he may by application to and endorsement under the hand of the Resident Magistrate make transfer of the licence to keep such billiard table for the unexpired period thereof to the person to whom the first mentioned licence has been temporarily transferred.

Short Title.

17. This Act shall be called "The Liquor Law Amendment Act, 1898," and shall be read as one with "The Liquor Licensing Act, 1883," "The Liquor Licensing Act Amendment Act, 1885," "The Liquor Act, 1891," and "The Liquor Law Amendment Act, 1894," and, with the said Acts, shall be known and may be cited collectively as "The Liquor Laws, 1883-1898."

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No. 29—1898.] [January 6, 1899.

ACT (1)

To Provide for the Settlement of Differences by Arbitration.

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:—

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

Interpretation clause. 2. In this Act unless a contrary intention appears:

"Submission" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

"Court" means the Supreme Court, the Eastern Districts Court, and the High Court of Griqualand West, or any Circuit Court within the jurisdiction of the said courts respectively.

"Judge" means a judge of the said courts respectively.

"Official Referee" means a referee appointed by either of the said courts or a judge thereof.

"Special Referee" means any particular person appointed to be a referee in any particular matter.

REFERENCES BY CONSENT OUT OF COURT.

Effect of a submission. 3. A submission, unless a contrary intention is expressed therein, shall be irrevocable, except by leave of the court or a judge, or by the consent of all parties thereto, and shall have the same effect in all respects as if it had been made an order of court.

Submission to include provisions in Schedule. 4. A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in the Schedule to this Act,, so far as they are applicable to the reference under the submission.

Official Referee. 5. Where a submission provides that the reference shall be to an official referee, any official referee to whom application is made shall, subject to any order of court or a judge, hear and determine the matters agreed to be referred.

Staying of legal proceedings. 6. If any party to a submission, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the submission, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceedings may at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings, apply to that court to stay proceedings, and that court or a judge thereof, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission, and that the applicant was, at the time when the proceedings were commenced, and still remains,

(1) See Act 6, 1882 (p. 1828) and § 31 of this Act.

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ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

Provision as to arbitration on certain matters.

7. Criminal cases, so far as the prosecution or punishment thereof is concerned, shall not be submitted to arbitration, nor, without special leave of the Court, shall any of the following matters be submitted to arbitration, viz.:

(*a*) Matters relating to status;

(*b*) Matrimonial causes; or

(*c*) Matters in which minors or other persons under legal disability may be interested.

In what cases written notice to appoint an arbitrator may be served.

8. In any of the following cases:

(*a*) Where a submission provides that the reference shall be to a single arbitrator, and all the parties do not after differences have arisen concur in the appointment of an arbitrator:

(*b*) If an appointed arbitrator, or umpire, refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties, or the arbitrators as the case may be, do not supply the vacancy, or cannot agree who shall be appointed to supply such vacancy:

(*c*) When the parties, or two arbitrators, are at liberty to appoint an umpire or another or other arbitrators, and do not appoint him or them in any case where such appointment is requisite for the decision of the matters in dispute, or the due conduct of the arbitration:

(*d*) When an appointed umpire, or third arbitrator, refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy:

any party may serve the other parties, or the arbitrators, as the case may be, with a written notice to appoint, or if agreement be necessary, to agree in the appointment of an arbitrator, or umpire, as the case may be.

If the appointment is not made or agreed to as the case may be within seven clear days after the service of the notice, the court, or a judge, may, on application of the party who gave the notice, and upon notice to the other party, appoint an arbitrator, umpire, or other arbitrators, who shall have the like powers to act in the reference and make an award as if he or they had been appointed by consent of all parties.

In case the submission provides for two or more arbitrators.

9. When a submission provides that the reference shall be to two or more arbitrators, one or more of whom may be appointed by each party, then, unless the submission expresses a contrary intention:

(*a*) If any of the appointed arbitrators refuses to act, or is incapable of acting, or dies, the party who appointed him may appoint a new arbitrator in his place;

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(*b*) If, on such reference, one party fails to appoint an arbitrator, either originally or by way of substitution, as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent of both parties:

Provided that the court or a judge may set aside any appointment made in pursuance of this section.

Arbitrators and umpires to be disinterested parties.

10. Every arbitrator and umpire must be, and continue throughout the reference to be disinterested with reference to the matters referred and the parties to the reference, and any party to a reference may require any arbitrator or umpire to make a sworn declaration before beginning or continuing his duties as such arbitrator or umpire, that he has no interest direct or indirect in the matters referred or in the parties to the reference, and knows of nothing disqualifying him from being impartial and disinterested in the discharge of such duties: Provided always, that any party may expressly waive any right to object to any arbitrator or umpire on the grounds of interest or the like.

Court may remove arbitrator or umpire.

11. The court may, at any time, upon motion, remove any arbitrator or umpire against whom a just ground of recusation is found to exist, or who has misconducted himself in connection with the matters referred to arbitration.

When arbitrators differ.

12. Where the arbitrators, or a majority of them, do not agree in their award, their decision shall not be taken to be either the least amount or least right of relief awarded by them, or the average of what has been awarded by them, but the matter shall thereupon become referable to the umpire, unless the submission otherwise provides.

Powers of umpire or arbitrator.

13. The arbitrator or umpire acting under a submission shall, unless the submission expresses a contrary intention, have power:

(*a*) To administer oaths or to take the affirmations of the parties and witnesses appearing; and

(*b*) To state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and

(*c*) To correct in any award any clerical mistake or error arising from any accidental slip or omission.

Party to submission may take out process of court for witnesses.

14. Any party to a submission may take out process of the court for the attendance of witnesses, but no person shall be compelled under any such process to produce any document which he could not be compelled to produce on the trial of any action.

Time for making award.

15. The time for making an award may from time to time be enlarged by order of the court or a judge, whether the time for making the award has expired or not.

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Remission of case to arbitrator or umpire.

16. (1) In all cases of reference to arbitration, the court or a judge may from time to time remit the matters referred, or any of them, to the reconsideration of the arbitrators or umpire.

(2) When an award is remitted, the arbitrators or umpire shall, unless the court otherwise directs, make their award within three months after the date of the order.

Misconduct of arbitrator or umpire.

17. (1) Where an arbitrator or umpire has misconducted himself, the court may remove him.

(2) Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the court may set the award aside and may award costs against any such arbitrator or umpire personally.

Award, how to be enforced.

18. An award, which has been made a rule of court, may be enforced in the same manner as a judgment or order to the same effect.

Arbitrators or umpire may appoint place for arbitration if not already provided for.

19. Where the submission does not provide in what place the arbitration shall be held, the arbitrators or umpire may from time to time decide upon such place as may be reasonably accessible to the parties and convenient for the purposes of the reference.

Official and special referees and officers of Court.

20. (1) Subject to rules of court and to any right to have particular cases tried by a jury, the court or judge may refer any question arising in any cause or matter (other than a criminal proceeding) for enquiry or report to any official or special referee or officer of the court.

(2) The report of an official or special referee or officer of the court may be adopted wholly or partially by the court or a judge, and with or without such amendments as may to the court or judge seem meet, and if so adopted may be enforced as a judgment or order to the same effect, or the court or a judge may remit the report for further consideration or make such other order thereon as may be just.

Matters which may be referred to referee for trial.

21. In any cause or matter (other than a criminal proceeding):

(*a*) If all the parties interested who are not under disability consent; or,

(*b*) If the cause or matter requires any prolonged examination of documents or any scientific technical or local investigation which cannot in the opinion of a court or judge conveniently be made before a jury or conducted by the court through its ordinary officers, or,

(*c*) If the question in dispute consists wholly or in part of matters of account:

the court or judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before an official or special referee or arbitrator agreed on by the parties, or failing agreement, appointed by the court, or before any official referee or officer of the court, appointed by the court.

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Duty of referee, and effect of his report or award.

22. (1) In all cases of reference to an officer or the court or to an official or special referee or arbitrator under an order of court or a judge in any cause or matter, the official or special referee or arbitrator shall be deemed to be an officer of the court, and shall have such authority and shall conduct the reference in such manner as may be prescribed by rules of court, and subject thereto as the court or a judge may direct.

(2) The report or award of any official or special referee or arbitrator ro officer of the court on any such reference shall, unless set aside by the court or a judge, be equivalent to the verdict of a jury.

(3) The remuneration to be paid to any official or special referee or arbitrator or officer of the court to whom any matter is referred by order of the court or a judge, shall be determined by the court or a judge, or by rules of court.

Award may be made a rule of Court.

23. The report or award of any officer of the court or official or special referee or arbitrator may upon motion by any party after due notice to the other parties be made a judgment or rule of the court.

Powers of court or judge as to references.

24. The court or a judge shall, as to references under order of the court or a judge, have all the powers which are by this Act conferred on the court or a judge, as to references by consent out of court.

General.

Subpœna or summons.

25. The issue of a subpœna or summons on a witness to compel his attendance and the production of things or documents before an arbitrator, arbitrators, umpire, officer of the court, and official or special referee, as the case may be, may be procured in the same way and subject to the same conditions as if the matter were an action pending in the court:

(*a*) By any party to a submission, or any arbitrator, arbitrators, or umpire thereunder;

(*b*) By the parties to any reference under any order of court; or

(*c*) Any officer of the court, official or special referee, hearing any reference under order of court, provided always:

(1) That any person shall not be compelled on such subpœna to produce any document or thing the production of which would not be compellable on trial of an action.

(2) That the Clerk of the Court of any Magistrate may issue such subpœna in the name and on behalf of the Registrar of the Court upon payment of the same fees as are chargeable for the issue of a subpœna in the Magistrate's Court.

General powers of court or judge.

26. The court or a judge may order the process of the court to issue to compel the attendance before a special or official referee, or

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officer of the court, or before an arbitrator or umpire, of a witness, wherever he may be, within the jurisdiction of the court or a judge or may order any prisoner to be brought up for examination before such officer, referee, arbitrator or umpire.

Special case stated by umpire, referee, arbitrator or officer.

27. Any such officer, referee, arbitrator, or umpire may at any stage of the proceedings, under a reference, and shall, if so directed by the court or a judge, state in the form of a special case for the opinion of the court any question of law arising in the course of the reference.

Costs.

28. Any order made under this Act may be made on such terms as to costs, or otherwise, as the authority making the order thinks just.

False evidence.

29. Any person who wilfully or corruptly gives false evidence before any such officer, referee, arbitrator, or umpire, shall be guilty of perjury, in the same way as if the evidence had been given in open court; and may be dealt with, prosecuted, and punished accordingly.

Act not to be retroactive,

30. This Act shall not affect any arbitration pending at the commencement of this Act, but shall apply to any arbitration commenced after the promulgation of this Act under any agreement or order made before the commencement of this Act.

Not to affect arbitration under Lands Arbitration Clauses Act except by consent.

31. Nothing in this Act shall apply to any arbitration under the Lands and Arbitrations Clauses Act of 1882, unless all the parties to the arbitration shall otherwise agree, in writing, and then the two Acts shall be read together.

Short Title.

32. This Act may be cited as the "Arbitrations Act, 1898."

Schedule.

SCHEDULE.

PROVISIONS TO BE IMPLIED IN SUBMISSION.

(*a*) If no other mode of reference is provided, the reference shall be to a single arbitrator.

(*b*) If the reference is to two arbitrators, then for the decision of any question they must both agree, but if to more than two, then the decision of the majority of arbitrators shall determine all questions.

(*c*) If the reference is to two arbitrators, the two or more arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

(*d*) The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, if the latter be the earlier date, or on or before any later day to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award; provided that such further period shall not exceed four months.

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(*e*) If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing, stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

(*f*) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award, provided that such further time shall not exceed three months.

(*g*) The parties to the reference and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, accounts, papers, writings, and documents within their possession or power respectively, which may be required or called for, and to do all other things which during the proceedings on the reference the arbitrators or umpire may require.

(*h*) The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath or affirmation.

(*i*) The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

(*j*) The cost of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be so paid as between solicitor and client; Provided always: That if no direction be given as to the scale on which such costs are to be taxed, they shall be taxed on the tariff allowed in Magistrates' Courts from time to time, if the award is such as a Magistrate might have pronounced as a judgment in his court but otherwise such costs shall be taxed on the tariff in force from time to time in the Supreme Court.

(*k*) The oral evidence of witnesses shall be recorded by the arbitrator or arbitrators, or umpire, before whom it may be given, in such manner as may be by him or them from time to time directed, if not recorded by the arbitrator, arbitrators, or umpire themselves.

(*l*) The umpire shall be at liberty to act upon the evidence recorded before the arbitrators, and to make his award

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without hearing any witnesses or receiving any fresh evidence: Provided, nevertheless, that he shall be entitled, if he so think fit, to re-hear the witnesses or any of them, or to call for further evidence.

(*m*) The umpire shall be at liberty to sit together with the arbitrators and to hear the evidence given from time to time, and shall be entitled then and there to decide any interlocutory matter upon which the arbitrators disagree: Provided, however, that the umpire shall not, unless called upon to give an award, or unless the parties have requested him so to sit, be entitled to demand remuneration from the parties in respect of his attendance on the reference with the arbitrators.

(*n*) If the arbitrators, where there is more than one, or a majority of them cannot agree as to any matter of procedure, or any interlocutory question, they may refer such matter or question forthwith to the umpire for decision, and he shall give his decision thereon forthwith.

(*o*) The arbitrator, arbitrators, or umpire shall be at liberty to proceed *ex parte* in case any party, after reasonable notice, shall at any time neglect, or refuse to attend on the reference without having shown previously to them what they may consider good and sufficient cause for omitting to attend.

(*p*) If any party to the arbitration die, the arbitration shall be stayed subject to any order that the Court may make, until the appointment of an executor or other proper representative of such deceased party, and the time for making an award shall be extended for the same period as may elapse between the death of the party and the appointment of an executor or other proper representative, and such executor or other proper representative shall, when called upon by the other party or parties to the submission to proceed with the arbitration, be subject to the same rules, provisions and conditions as the deceased party.

Ordinance No 10 of 1912 in the First Schedule Part II repeals the whole of the Municipalities with the Ordinance not being specified by any special

No. 30—1898.] [January 6, 1899.

ACT

To Enable Town Councils or Boards of Commissioners to alienate Lands and Buildings for Educational Purposes.

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:—

Alienation by Town Councils Board or of Commis-

1. Notwithstanding anything to the contrary contained in any Law, it shall be lawful for the Council or Board of Commissioners

[1] Extended to Native Territories by Proclamation 272, 1902.

Repealed by Ord. No 25 of 1934

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of any Municipality, Borough or Corporate Town, with the consent of the Governor, and by way of gift, to grant, for the purpose of any undenominational public school situated within the limits of the jurisdiction of such Council or Board, any buildings, lands or landed property, vested in such Council or Board, and the alienation of which is not expressly prohibited by Law, and to transfer the same to the trustees for the time being of such school, as also to sell, lease or otherwise alienate any such buildings, lands or landed property, and devote the proceeds of such sale, lease or alienation to the purposes of assisting education in connection with any such school situated within such limits, and for the purpose of obtaining the consent of the Governor and of carrying into effect any such grant, sale, lease or alienation, the provisions of section one hundred and sixty to one hundred and sixty-three, both inclusive, of "The Municipal Act, 1882," shall *mutatis mutandis* apply: provided that in the case of any Council or Board of Commissioners constituted under any special Act of Parliament, and having powers under such Act to alienate lands and buildings vested in them, the corresponding provisions of such Act shall *mutatis mutandis* apply for the purposes aforesaid.

sioners of Lands and Buildings for Educational purposes.

2. The Act may be cited for all purposes as "The Municipal Educational Grants Act, 1898."

Short Title.

No. 31—1898.] [January 6, 1899.

ACT (1)

To Consolidate and Amend the Laws relating to the Prospecting and Mining for Precious Minerals.

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:—

Provisions of Act not to apply to land the title to which contains no reservation to the Crown of precious stones and minerals.

1. Nothing in this Act contained shall be taken to affect land the title to which does not contain a reservation to the Crown of precious stones and minerals. The expression "private property" wherever it occurs in this Act shall be taken to mean exclusively private property the title to which does contain such a reservation.

Repeal of laws.

2. The laws mentioned in the First Schedule of this Act to the extent to which the same are therein expressed to be repealed, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, shall be and are hereby repealed. But no such repeal shall affect anything duly done or any right or privilege acquired by any liability, penalty or forfeiture incurred in respect of any such laws.

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[1] See also Act 11, 1889, as to Precious Stones. Amended by Act 45, 1905. Extended to Native Territories, as modified, by Proclamation 207, 1902.

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Interpretation of terms.

3. In the interpretation of this Act unless repugnant to the context the following words and expressions shall have the meaning following:—

The word "Claimholder" shall be taken to include partnership and joint stock companies and any public body or body corporate to whom any portion of ground has been or may be assigned for mining purposes whether by way of absolute ownership, lease, or otherwise.

The word "Claim" shall be taken to mean any portion of ground assigned for mining purposes of a size fixed by this Act.

The word "Minerals" shall be held to mean gold, silver or platinum.

The word "Discoverer" shall mean a duly licensed prospector who has discovered precious minerals, and has made the declaration referred to in this Act that he has found them in payable quantities.

The words "Discoverer's claims" shall mean the claims awarded to the discoverer under the provisions of this Act.

"Peg off," "Peg out," these terms shall be used synonymously to denote performance of any of the ways prescribed by this Act as necessary to be done to define the boundaries of a claim for the purpose of appropriation.

"Reef Digging," "Alluvial Digging," shall respectively mean any place where minerals have been discovered and which has been proclaimed such by the Governor.

"Reef" shall be understood to include all forms of ore deposits containing gold, silver or platinum, occurring in the earth's crust that have been deposited subsequently to the formation of the enclosing country rocks. It shall include "Metalliferous Bankets."

"Inspector" shall mean the official appointed as "Inspector of Claims," or "Inspector of Mines or of Diggings," for the particular digging referred to in the section of this Act in which the term is used, or for the district in which such digging is situated.

DIVISION I.

Prospecting for Minerals.

Application for prospecting licence. (Act 19 of 1883, Section 2.) (B.B.P. 63, 1889, Section 2.)

4. Any person shall be at liberty to take out, at the office of any Civil Commissioner in the Colony, a licence to prospect and search for minerals on Crown lands or on private property on satisfying the Civil Commissioner that he is a person of good character. Such licence shall bear a stamp of the value of two shillings and sixpence for each month.

Extent of licence. (Act 19 of 1883, Section 3.) (B.B.P. 63, 1889, Section 3.)

5. A prospecting licence, issued under the preceding section, shall be in the form set forth in the Second Schedule to this Act, and shall give to the holder, for the period therein mentioned not

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exceeding twelve months, the right to prospect and search for minerals on Crown lands and, subject to the consent of the owner, on private property throughout the Colony, and no one shall be allowed to prospect or search for minerals on such lands without obtaining such licence.

No prospector to prospect without owner's consent: right to enter into agreement with such prospector. (Act 44 of 1887, section 5 (2).)

6. No owner of private property shall be bound or obliged to permit or allow any licensed prospector to prospect for minerals upon such property, but he may give and grant to any prospector duly licensed leave to prospect thereon, or upon such portion thereof as he may point out, for such lawful consideration and subject to such lawful terms and conditions as may be agreed upon between them, provided that a prospector who, at the date of the promulgation of this Act, has lawfully pegged out under a prospecting licence for minerals any prospecting area in British Bechuanaland on private property shall be entitled to continue prospecting in such area without the consent of the owner of such property, during the currency of such licence or any renewal thereof for a period not exceeding six months reckoned from the date of such promulgation.

Protection of prospectors in British Bechuanaland holding licence at date of promulgation of this Act.

"Prospecting Area." (B.B.P. 63, 1889, section 6.)

7. A duly licensed prospector shall have the exclusive right of prospecting on Crown land within a rectangular area, hereinafter called a prospecting area, seven thousand five hundred feet long and eight hundred feet broad, at each corner of which it shall be his duty to put in pegs not less than two feet in height above the ground. Any such prospector shall, during the currency of his licence, be at liberty to move such pegs to any other spot on Crown lands lawfully open to him, provided such spot or area does not interfere with the prospecting area of any other duly licensed prospector.

Penalty for destroying the pegs of a prospecting area and for prospecting in such area without the consent of prospector who has pegged it out. (B.B.P. 63, 1889, section 6.)

8. Any person who shall remove or destroy any licensed prospector's pegs, or any person who, without the consent of the prospector, shall knowingly and wilfully prospect within such prospector's prospecting area, shall be liable on conviction to a penalty not exceeding fifty pounds (£50) sterling, and in default of payment to imprisonment with or without hard labour not exceeding six months.

Every prospector bound to prospect *bonâ fide* in prospecting area. (B.B.P. 63, 1889, section 7). (Act 44, 1887, section 2.)

9. Every person who shall be the holder of a prospecting licence under the provisions of this Act, or of any other law, shall be bound and obliged, in respect of any prospecting area on Crown lands pegged out by him, to prospect therein *bonâ fide* to the satisfaction of the Governor, and, if he shall fail to do so, it shall be lawful for the Governor forthwith to cancel such licence as far as such area is concerned, and thereupon such holder shall not again be permitted to prospect within such area for a period of six months and such area shall thereupon be open to any licensed prospector to prospect thereon.

Grazing right secured to holder of licence prospecting on Crown lands.

10. Every holder of a prospecting licence shall have the right on Crown lands of grazing for six horses or mules or for sixteen oxen, and of taking wood and water for his domestic use.

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(Act 19 of 1883, section 4.)
(B.B.P. 63, 1889, section 4.)
Places where prospecting is prohibited.
(B.B.P. 63, 1889, section 15.)

11. No person shall be entitled, under a prospecting licence, to dig or search for minerals on Crown lands within two hundred yards of any house or building occupied or used by the owner, or lessee thereof; nor upon any land under cultivation or required for the purposes of irrigation; nor in any public squares, streets, roads, railways, or cemeteries; nor in any mine or diggings which have been duly declared abandoned as hereinafter provided; nor in any duly proclaimed area used for any mining purposes.

DIVISION II.

Discovery of Minerals.

Duties and Rights of a Discoverer.

Information to be given by the discoverer of minerals.

12. It shall be the duty of any person who shall find any minerals whilst prospecting under a licence, forthwith to give notice thereof to the Civil Commissioner of the division in which he has found them, and any person who shall fail to do so shall be liable, upon conviction thereof before any Magistrate, to pay a fine not exceeding fifty pounds (£50) sterling, and in default of payment to imprisonment with or without hard labour for any period not exceeding six months.

Declaration to be made by the discoverer of minerals in payable quantities.
(B.B.P. 63, 1889, section 8.)
(Act 19, 1883, section 8.)

13. It shall be the duty of any person who shall find any minerals in payable quantities whilst prospecting under a licence, forthwith to make a solemn declaration of the finding of the same, and to lodge such declaration with the Civil Commissioner of the division in which he has found them; and any person who shall fail to do so shall be liable, upon conviction thereof before any Magistrate, to the penalties provided in the preceding section.

Rights of Discoverer in a Reef Digging.

Discoverer entitled to privilege of selecting claims.
(B.B.P. 63, 1889, section 9.)
(Act 19, 1883, section 9.)

14. Any holder of a prospecting licence under the provisions of this Act or of any of the laws referred to in the First Schedule, who shall prove to the satisfaction of the Civil Commissioner, with whom he has lodged the declaration mentioned in the preceding section, that he has found minerals in a reef in payable quantities under such licence, shall be entitled to peg out twenty-five claims in block (1) if on private property, and fifty claims in block if on Crown Lands, at the place where such minerals shall have been found, upon the proclamation of the said place as a Reef Digging and shall receive a certificate from the Civil Commissioner that he is so entitled. Such claims as aforesaid shall be pegged out prior to the pegging out of any other claims in the said digging, and shall be free of licence moneys as long as they are held by such discoverer in his own right. Upon the granting of such certificate as aforesaid the discoverer's rights under his prospecting licence within the place to which the certificate refers shall cease and determine.

[1] Printed as amended by Act 45, 1905 (p. 4976).

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Size of claims in Reef Diggings. (B.B.P. 63, 1889, sections 9 and 17.) (Act 44, 1887, section 14.)

15. The size of a claim in a Reef Digging shall be one hundred and fifty feet in the direction of the reef and eight hundred feet broad either across or on one side of the reef. When the discovery is made on private property the discoverer shall be bound to select his claims within the limits of such property, and if the discovery is made on Crown land he shall be bound to select his claims so that in the direction of the reef they shall be entirely within his prospecting area, but in breadth across the reef they may fall partly within and partly without such area.

Only one set of discoverer's claims on same continuous reef; Prospector where prospecting area is included in proclaimed area, to have two claims. (B.B.P. 63, 1889, section 10.)

16. No prospector shall be entitled to discoverer's claims if the discovery made by him is of the same continuous reef as that in respect of which the certificate mentioned in section fourteen of this Act has already been granted unless it be distant at least six miles from the place referred to in such certificate; provided that if any prospecting area be included in a proclaimed Reef Digging any prospector holding a prospecting licence current within the boundaries of the digging at the date of its proclamation shall be entitled, on payment of the licence money thereon one month in advance, to peg out two claims within the boundaries of the digging and to have the same registered in his name.

Discoverer's rights if Governor do not see fit to proclaim place a Reef Digging. (B.B.P. 63, 1889, section 41.) (Act 44, 1887, section 7.)

17. It shall be lawful for the holder of the certificate mentioned in the fourteenth section of this Act, should the Governor not see fit to proclaim a Reef Digging at the place referred to in the certificate within three months after the granting of the same, to peg out and hold subject to the terms and conditions of any agreement between himself and the owner, when such place is on private property, the claims to which the said certificate entitles him in the same manner and with the same rights and obligations in every respect as if such place had been proclaimed a Reef Digging; provided that nothing herein contained shall be deemed or taken in any way to interfere with the rights and powers of the Governor at any time to proclaim a Reef Digging including the claims so pegged out; and provided further that all such claims and any transfers of them shall be registered with the Registrar of Claims in the same way as if such claims were in a proclaimed digging in manner hereinafter provided.

Governor may grant lease of portion of Crown land on which a discovery of minerals has been made, if he do not see fit to proclaim such place a reef digging.

18. It shall be lawful for the Governor, after such certificate as aforesaid has been granted in respect of a discovery of minerals on Crown lands, if he shall not see fit to proclaim the place at which the discovery has been made a Reef Digging within three months from the date of such certificate, to grant a lease to the holder thereof of such portion of Crown land, including the prospecting area in which the discovery has been made, as to the Governor may seem expedient, but not exceeding one hundred morgen, together with such depositing sites and servitudes on Crown land adjoining the portion leased as may be necessary for the proper digging for minerals in such portion.

Terms of lease referred to in preceding section.

19. The said lease shall be for the period of five years with the right to the lessee of renewing it from time to time for further periods of five years at an annual rental of ten shillings per

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morgen in respect of the portion so leased, and such lease shall, in addition to the ordinary rights of a lessee of farm land, give to the lessee the sole and exclusive right to all minerals in the portion of land leased, and the right to sublet, assign or alienate his lease.

Bonus to first discoverer of gold reef.

20. The first discoverer of gold in reef in any division of this Colony shall be entitled to receive from the Government the sum of five thousand pounds (£5,000) if within five years after such discovery at least twenty-five thousand ounces of gold shall have been registered as extracted from that reef within such division.

Governor may take steps to test payability and extent of place where minerals are discovered. (B.B.P. - 63, 1889, section 19.) (Act 19, 1883, section 13.)

21. The Governor may, at any time after the lodging with such Civil Commissioner of the declaration referred to in section thirteen of this Act, and shall prior to proclaiming any place a digging, take such steps as he may deem fit for the purpose of testing the character, payable qualities and extent, of the place at which minerals have been found, and for this purpose may appoint such duly qualified person on such salary or allowance as he may think fit, and may authorise the expenditure of such sums of money as shall be deemed necessary for the purpose of such testing.

Penalty for false declaration of discovery of minerals. (B.B.P. 63, 1889, section 20.) (Act 19, 1883, section 14.)

22. Any person who shall make such declaration as aforesaid, while prospecting or otherwise, well knowing the precious minerals declared to have been found were by himself or by some other person placed or deposited in or on the spot, or in the soil or stuff dug out or removed from the spot in which such declarant was prospecting, or where the discovery of such precious minerals is declared as aforesaid to have been made, and were not naturally situated in or on the spot or in the soil or stuff where they were declared to have been found or discovered, or well knowing that the said precious minerals were not found or discovered in or on the place where they were declared to have been found or discovered, shall upon conviction be liable to such punishment as is by law provided for the crime of perjury.

The placing of minerals on places where not naturally found, in order to induce prospector to make declaration, punishable as fraud. (B.B.P. 63, 1889, section 21.) (Act 19, 1883, section 15.)

23. Any person who shall wilfully place or deposit, or be accessory to the wilfully placing or depositing of any precious minerals in any spot or place with intent to make or instruct, persuade or induce any other person to make such solemn declaration as aforesaid, or with intent to mislead the Governor or any other person as to the payable nature of a spot or place where precious minerals have been declared to have been found, and previous to such spot being proclaimed an alluvial digging or mine, or being let out on a lease, shall be guilty of the crime of contravening the provisions of this Act, and shall upon conviction thereof suffer such punishment as shall be by law provided for the crime of fraud.

Onus of proof in proceeding under last preceding section. (B.B.P. 63, 1889, section 21.) (Act 19, 1883, section 16.)

24. In any proceedings taken for the contravention of the last preceding section, if the accused person shall be proved to have placed or deposited, or to have been accessory to the placing or depositing of any precious mineral in any place where the finding

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thereof would be likely to lead any person to make a declaration of the finding of the same, or would tend to mislead the Governor, or any other person, he shall be taken to have so placed or deposited such precious mineral in contravention of the last preceding section, unless he shall produce satisfactory evidence to the contrary.

DIVISION III.

Proclamation of Reef Diggings, Alluvial Diggings and Mining Areas.

Governor's power to declare an area a reef digging. (Act 19, 1883, section 18.) (B.B.P. 63, 1889, section 26.)

25. Whenever minerals shall be discovered on Crown lands or on private property and the Governor shall be satisfied after taking the steps mentioned in section twenty-one of this Act that minerals exist in payable quantities, it shall be lawful for the Governor to proclaim such area as shall be described a Reef Digging or Alluvial Digging as the case may be, and the Governor shall be empowered from time to time as occasion may require to make all such rules, orders, regulations or bye-laws as he may deem necessary or expedient for the proper laying out, surveying, enlargement or contraction of any mining areas and depositing floors in connection with such diggings and generally all matters and things connected with the proper and efficient working thereof.

Surveys of reef diggings and mining areas. (Act 19, 1883, section 34.) (B.B.P. 63, 1889 section 47.)

26. For the purpose of working any Reef Digging situate on Crown lands or on private property the Minister shall be and hereby is empowered to cause to be surveyed by some duly qualified person a sufficient area, hereinafter called a Mining Area, around such digging, for the purpose of depositing-floors and all matters and things connected with the proper and efficient working of such digging; and to frame a plan of the said survey, which plan shall lie at the office of the Civil Commissioner of the division in which such digging is situate, and shall be open for public inspection at all reasonable times. The Area so surveyed shall be proclaimed by the Governor as Mining Area and may from time to time, be by proclamation altered and enlarged at the discretion of the Governor, as the necessities of the digging may require.

No proclamation of any digging or mining area on private property can be issued before three months after notice to the owner. (Act 44, 1887, section 5 (3).)

27. No private property or any portion thereof shall be proclaimed by the Governor as forming the whole or any portion of a Reef Digging or Alluvial Digging, or Mining Area, until the expiration of three months from the date of a notice, in writing, to be given by the Civil Commissioner for the division wherein such land is situate to the owner thereof, and every such proclamation shall reserve to such owner the free and uninterrupted use of his homestead, meaning thereby a circular area of two hundred yards in all directions round the principal house as a centre, together with all buildings and kraals that may be situate outside that area and of all cultivated lands, which shall not be deemed to be included in such proclaimed area, and also the full and

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preferent right to so much water as such owner shall require for domestic purposes and for the purposes of irrigation and watering stock, or driving any mill or machinery in existence at the time of the area being proclaimed as aforesaid, or for the purpose of mining or digging for minerals in ground held under a mining lease granted to the owner as hereinafter provided.

Owner of private property to survey and beacon off portions of his land reserved to him under preceding section.

28. It shall be the duty of the owner of such land prior to such proclamation as aforesaid to cause to be surveyed and beaconed off at his own expense the portions of his land reserved to him in the preceding section; in default thereof the Inspector may cause the same to be done at the expense of such owner.

Not competent to Governor to proclaim digging or mining area on property on which owner does not himself prospect or allow others to do so.

29. It shall not be lawful for the Governor to proclaim any portion of private property a Reef Digging or Alluvial Digging so long as the owner thereof does not himself prospect thereon for minerals or give permission to duly licensed prospectors to do so; nor shall it be lawful for the Governor to proclaim any portion of private property a mining area for any digging situate on some other property without the consent of the owner thereof.

Area proclaimed a digging or mining area must have its boundaries defined by beacons.

30. Prior to the proclamation of any area as a Reef Digging, Alluvial Digging or Mining Area, the extent of such area shall be surveyed and the boundaries indicated, except where natural boundaries exist, by beacons of not less than three feet above the ground and not more than one thousand yards from each other.

Beacons indicating boundaries of digging or mining area, to be erected at expense of Government on Crown land, and on private property at expense of owner.

31. The survey and erection of beacons referred to in the last section shall, on Crown lands, be effected at the expense of the Government. In the case of private property written notice shall be given to the owner by the Minister, as soon as possible after the Governor has decided to proclaim a digging or mining area on such property to survey the extent of and erect the beacons indicating the boundaries thereof; should the owner not comply therewith within six weeks after such notice the Minister shall cause the said survey to be made and the beacons to be erected at the expense of the owner.

DIVISION IV.

Distribution of Claims in a Reef Digging.

Pegging off claim in Reef Digging after reading of proclamation.

32. No Crown land or private property on which a Reef Digging has been proclaimed shall be available for "pegging off" claims until the Proclamation proclaiming the same shall have been read on the ground proclaimed by the Inspector or some other official appointed in that behalf, and on a day notice of which shall be given in the *Gazette* at least two weeks prior thereto.

Number of claims which may be pegged off by any person in a Reef Digging.

33. After reading of such proclamation as aforesaid it shall be lawful for any male person of full age to peg off on the area proclaimed a Reef Digging, after the discoverer and the prospector referred to in section sixteen of this Act have pegged off the claims

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to which they are entitled under this Act, any number of claims not exceeding five. For each claim pegged off by such person he shall take out at the office of the Registrar of Claims a certificate of registration, as hereinafter provided, within six days from the date of such pegging off as aforesaid.

Times during which pegging off prohibited.

34. No such pegging off as aforesaid shall be done between sunset and sunrise, or on Sundays and public holidays. Pegging off at such prohibited times shall be considered illegal and shall give no rights whatever.

Boundaries of claims to be indicated by pegs. (B.B.P. 63, 1889, section 17.)

35. In pegging off claims as aforesaid two central pegs, not less than two feet above the ground, shall be sufficient for the first seven days, and after the expiration of that time four corner pegs of the same height above the ground must be substituted and the directions must be indicated by clearly defined beacons. Every claim shall be marked and kept marked by pegs bearing the registered number of the claim placed at each corner at the expense of the claimholder to the satisfaction of the Inspector or other officer duly appointed, within three days from the date of its allotment, or from such later date as the Inspector may fix; provided that every claim not so marked out within the prescribed period and not so kept marked may be declared abandoned by the Inspector; and provided further that in case of blocks of amalgamated claims four corner pegs shall be sufficient for each block, but the names of the claimholders in the block must be legibly marked on each peg, with the date of amalgamation.

Pegging out of claims on area covered by owner's mining lease not allowed.

36. No ground situated within the beacons of the area over which the owner holds a mining lease as hereinafter provided nor any ground reserved to the owner in any part of a reef digging or mining area may be pegged out as claims without the consent of such owner.

Minister may cause claims pegged off to be surveyed.

37. The Minister shall be and is hereby empowered to cause all claims which have been pegged off in any proclaimed Reef Digging to be surveyed at the expense of the claimholders thereof. If upon such survey it shall be found that any claim has been beaconed or pegged off in excess of the size provided by this Act, the Inspector shall have power to act and decide in such matter according to circumstances and either order that the pegs or beacons should be moved or give out under licence the ground which has been beaconed off in excess or take such other measures as shall appear to him desirable.

Penalty for wilfully pegging off claims exceeding size provided by Act.

38. Any person who shall wilfully peg off a claim in excess of the size provided by this Act shall be liable on conviction thereof to a fine not exceeding one hundred pounds sterling, or to imprisonment with or without hard labour for a period not exceeding six months.

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DIVISION V.

RIGHTS OF CLAIMHOLDERS IN A REEF DIGGING.

Appointment of Inspectors, Registrars, etc., at a reef digging.

39. At every Reef Digging the Governor may appoint such Inspectors, Registrars, or other officers as may be deemed requisite, who shall receive such salaries or allowances out of the public funds as may be deemed necessary and whose duties and authorities shall be fixed from time to time by the Minister.

Certificate of registration to be issued. (Act 19, 1883, section 20.) (B.B.P. 63, 1889, section 29.)

40. Every claimholder shall receive a certificate of registration in the form contained in the third schedule hereto: Provided that no firm or joint-stock company shall be entitled to be registered as holding claims except in the name or names of not more than two persons resident in the division in which such claims shall be situated, as the duly accredited agent or agents of such firm or joint-stock company, and such agent or agents shall be responsible for all matters connected with the claim or claims for which he or they shall be so registered, exactly as if such claim or claims were registered in his or their own name or names as his or their property.

Stamp chargeable for a certificate of registration. (Act 19, 1883, section 21.) (B.B.P. 63, 1889, section 30.)

41. Every certificate of the registration of a claim or portion of a claim in any Reef Digging situated or being in or upon Crown lands or private property shall be covered by a stamp of twenty shillings for each month for which such claim or portion of a claim is registered, payable in advance.

Hyphothecation of claims. (Act 19, 1883, section 22.) (B.B.P. 63, 1889, section 31.)

42. Any claimholder desirous of hypothecating his holding in any Reef Digging may effect such hypothecation at the office of the Registrar of Claims, and the same shall be duly entered in a book to be kept for that purpose, and a certificate of hypothecation shall be granted in the form contained in the fourth Schedule hereto.

Stamp chargeable for such hypothecation. (Act 19, 1883, section 23.) (B.B.P. 63, 1889, section 32.)

43. Every certificate of hypothecation shall bear a stamp of two shillings and sixpence for every claim or portion of a claim hypothecated in any Reef Digging.

Stamp chargeable for certificate of transfer. (Act 19, 1883, section 24.) (B.B.P. 63, 1889, section 33.

44. Every certificate of transfer of a claim or portion of a claim in any Reef Digging shall bear a stamp of not less than two shillings and sixpence, but if the sum for which such claim is sold shall be more than fifty pounds, then the certificate shall bear stamps, being for transfer duty, at the rate of one pound sterling for every one hundred pounds or a portion of one hundred pounds of the purchase money.

Conditions under which transfer shall be made. (Act 19, 1883, section 25.) (B.B.P. 63, 1889, section 34.)

45. No transfer of any claim shall be made until the same shall have been registered by the proper officer duly appointed in that behalf, and no such registration shall be made until all rates, liens, licence money, royalties, or rents due and payable in respect of the property to be transferred shall have been paid.

Stamp of five shillings per £100, chargeable for certificate of transfer in certain cases. (Act 19, 1883, section 26.)

46. In all cases where two or more claimholders in any Reef Digging shall amalgamate their respective claims, the certificate of the transfer effected for the purpose of carrying out such amalgamation shall bear stamps at the rate of five shillings for

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every hundred pounds or portion of one hundred pounds of the assessed value, or if there shall be no assessment, of the declared value of the claims so amalgamated; provided that the amount of stamps shall in no case exceed the amount of two hundred pounds; and provided further that the solemn declarations required in the purchase, sale and exchange of property under the Transfer Duty Act, 1884, shall be required in the purchase, sale and exchange of claims in a Reef Digging. (B.B.P. 63, 1889, section 35.)

Inspector of Claims to demand and recover licence money, &c., due in respect of claims: circumstances under which claims may be declared abandoned on which licence moneys in arrear. (B.B.P. 63, 1889, section 37.)

47. The Inspector or other officer duly appointed in that behalf is hereby empowered to ask, demand, sue for, recover and receive all licence moneys, royalties, rents or transfer dues in respect of any claims in a Reef Digging: Provided that when the payment of such licence moneys or rents is six months or more in arrear the said Inspector shall demand payment thereof in any newspaper published in the division in which the said digging is situate, and in the *Gazette*, in every case in which the address of the claimholder in arrear or his duly authorised agent is unknown to the Inspector; and provided further that, if within one month after such demand the said claimholder fails to pay the amount in arrear, his claim or claims in respect of which he is in arrear as aforesaid may be declared abandoned by the said Inspector.

Increase of licence moneys in respect of any claim not worked for four months.

48. Whenever any claim in a Reef Digging shall have been proved to the satisfaction of the Inspector or other officer duly appointed in that behalf to have remained unworked for a period of four months, it shall be lawful for the said Inspector after notice to the registered holder of such claim, in case such holder shall not have obtained the certificate of protection as provided in the next succeeding section, to double the licence money thereon from the date of such notice until it is proved to his satisfaction that such claim is being worked; and if, after such notice as aforesaid the said claim remains unworked for a further period of four months it shall be lawful for the Minister again to double the licence money to be paid in respect thereof, that is to say to make it four times the original amount from the date of notice thereof to the said claimholder until such time as it is proved to his satisfaction that such claim is being worked: Provided that when more than one claim is held by one person the increased licence moneys aforesaid shall apply to each of such claims, but it shall be sufficient for the purposes of this section if work has been done on any one of such claims.

Certificates of protection exempting claims from operation of last preceding section. (Act 10, 1888, section 6.) (B.B.P. 63, 1889, section 38.)

49. Every claimholder in a Reef Digging may apply to the Inspector for a certificate of protection on the ground of sickness, unavoidable absence, or other insufficient cause, which certificate shall not be issued for a period of more than four months, during which the claims to which it refers shall be exempted from the operation of the last preceding section, provided that if any such certificate be obtained by false representations it shall afford

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no protection under this section, and shall forthwith upon the discovery of such false representation be declared to be cancelled by the Inspector.

Depositing sites. (Act 19, 1883, section 35.) (B.B P. 63, 1889, section 48.)

50. To every licensed claim in any Reef Digging which may hereafter be established there shall be attached the right to use and occupy free of charge, within the mining area proclaimed in connection with such digging, not more than one acre of ground, hereinafter called a depositing site, to be pointed out by the Inspector for the purpose of depositing tailings, or other debris from the batteries, for placing dams or reservoirs, for storing quartz or ore, or for such other purposes as the Inspector may consider necessary for the proper working of the said claim. The said Inspector shall cause each such depositing site to be surveyed and beaconed off at the expense of the holder of the claim to which it is attached.

Machinery stands.

51. To every licensed claim in a Reef Digging there shall be attached the right to use and occupy free of charge a site, within the proclaimed digging and on a locality which is not known to contain minerals, for the erection of machinery for the working of such claim. Such site shall be pointed out by the Inspector and shall be not more than one hundred and fifty feet square for each claim. The Inspector shall cause such site to be surveyed and beaconed off at the expense of the claimholder.

Applications by claimholder for the use of water in proclaimed area.

52. It shall be lawful for the registered holder of any claim in a Reef Digging to apply to the inspector for the use of such water as such holder may require for mining purposes; and the said Inspector shall thereupon grant to the applicant permission to use such water as may be available within the limits of the digging or mining area thereof upon such terms and conditions as he may see fit or upon such terms and conditions as may be prescribed by any regulations made under the provisions of this Act: Provided, however, that in no case shall any property right in such water as aforesaid be conferred; and provided further that the said Inspector shall in dealing with every such application take into consideration the wants of all claimholders in such digging and also the rights to water reserved under section twenty-seven of this Act to the owner of property on which such digging has been proclaimed.

Provision for order by Inspector authorising certain works in respect of adjoining claims after due notice. (Act 10, 1888, section 11.) (B.B.P. 63, 1889, section 74.)

53. It shall be lawful for any claimholder in a Reef Digging, hereinafter called the applicant, to give notice to any adjoining or other claimholder to appear before the Inspector, upon a day to be fixed by such Inspector not being a day within thirty days of such notice, and to show cause to such Inspector why the applicant shall not be allowed to construct upon any claim or claims of such adjoining or other claimholder such buildings, tunnels, shoots, impounding weirs or watercourses as may be required for the ventilation, the discharge or supply of water, the removal of ore or debris, or generally for the more advantageous working of the claim or claims of the applicant; and upon the day appointed,

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or any other day to which the hearing of the matter may be adjourned, it shall be lawful for such Inspector to grant an order authorising the applicant to do all or any of the acts or things applied for in, upon, or in respect of the claim or claims of such adjoining or other claimholder: Provided, however, that no such order shall be granted unless such Inspector shall be satisfied that the working of such claim or claims by such adjoining or other claimholder will not be materially impeded, interfered with, or obstructed by any act or thing done pursuant to such order, and provided that such Inspector in granting any such order may limit the same by such terms, conditions and restrictions as shall appear to him to be required for the protection of such adjoining or other claimholder in the proper working of his claim or claims: provided, further, that no such order shall be deemed in any way to affect or bind any claimholder to whom no such notice as aforesaid shall have been given; and that nothing herein contained shall be deemed in any way to prejudice the right of any such adjoining or other claimholder or any other person thereafter to recover from the applicant or any other person damages for any injury which he may satisfactorily prove to have been in fact sustained by him by and in consequence of any act or thing done by the applicant, pursuant to any such order by any Inspector.

DIVISION VI

Abandoned Diggings and Claims.

Reef digging declared abandoned. (Act 19, 1883, section 30.) (B.B.P. 63, 1889, section 40.)

54. Any Reef Digging situate on Crown lands or on private property in which the digging or mining operations shall not be and shall not have been for a period of twelve weeks carried on in five claims in all in such diggings to the satisfaction of the Inspector and in respect of which the licences on nine-tenths or more of all the claims in such diggings shall not have been paid for a period of two months, may be proclaimed abandoned; and shall forthwith on such proclamation be closed; but such digging or any portion thereof may at any time, under and subject to the provisions of this Act, be again proclaimed a Reef Digging: provided that if in any continuous portion of a Reef Digging situated on Crown land or on private property, being in extent not less than one-fourth of the total area of such proclaimed digging, all the claims therein shall have been declared abandoned, such portion of the digging may be declared abandoned and excluded from the area proclaimed as a digging; provided that at any future date the area so declared abandoned may be re-proclaimed either as portion of the original digging or as a separate digging.

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Governor may grant lease of abandoned reef digging or any portion thereof. (Act 19, 1813, section 31.) (B.B.P. 63, 1889, section 42.)

55. It shall be at all times lawful for the Governor to grant a lease of any abandoned Reef Digging or any portion thereof when the same is situated on Crown land or on private property, after the same has been declared abandoned, or any Crown land adjoining such abandoned digging, and to frame regulations for the granting of such leases; and in any lease so granted the following terms and conditions shall, amongst others, be inserted:

(*a*) The lease shall be for a term of two years with a right of renewal from time to time at the option of the lessee for the same period.

(*b*) The rent reserved shall be a royalty of not less than one pound per centum on the gross amount realized by the sale of minerals yielded by the property leased, to be paid from time to time as the same are sold, and payment of a sum at a rate per morgen or portion of a morgen as may be fixed by the Governor, which latter amount shall be payable half-yearly in advance.

(*c*) The lease shall be granted solely for the purpose of mining for minerals.

(*d*) The lessee shall be bound, during the term of his lease, to carry on mining operations to the satisfaction of the Inspector, due regard being had to the special circumstances of each case.

(*e*) The lessee shall have the power to sub-let or assign, subject to the approval of the Governor, and any such sublease or assignment shall be registered in the office of the Registrar of Deeds.

(*f*) The lessee shall keep proper books, in which shall be entered the quantity of minerals realized from the land leased, and all such books shall be open to the inspection of the Civil Commissioner of the division, or other person duly appointed, at all reasonable times:

Provided that the lessee as aforesaid shall be entitled to occupy a sufficient area for depositing sites for machinery or other mining purposes beyond the margin of the digging proper, and in the case of any abandoned digging being situate on private property, the owner of such property shall be entitled to receive from the lessee by way of compensation for the ground required or leased with such abandoned digging as aforesaid, such sum as may be determined by mutual agreement or by arbitration in the manner provided by the "Lands and Arbitration Clauses Act, No. 6 of 1882."

Person failing to take out certificate of registration within six days of pegging it out deemed to have abandoned it. (B.B.P. 63, 1889, section 53.)

56. Any person pegging out a claim in any Reef Digging who shall fail to take out a certificate of registration of the said claim within a period of six days shall be deemed to have abandoned the same, and the Inspector shall thereupon declare the same to be abandoned.

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57. From and after the promulgation of this Act, a claim in any Reef Digging shall be considered as abandoned whenever it has been declared so by the Inspector under the provisions of this Act or when the registered holder thereof shall give him notice, in writng, of his intention to abandon the same.

Definition of abandoned claims. (Act 19, 1883, section 65.)

58. It shall be lawful for the said Inspector to refuse to issue a licence for any abandoned claim after notice has been given him of the holder's intention to abandon it, when he suspects that the abandonment has taken place in order to evade the payment of transfer dues. He may, before giving out any such claim, first institute an enquiry, and he shall be entitled to refuse to give out such claim and to cause it to be sold by public auction for the benefit of the Public Treasury.

Sale of abandoned claims : when licences for abandoned claims may be refused.

DIVISION VII.

Rights of an Owner on whose Property a Digging is proclaimed.

59. Every owner of private property may without taking out any licence lawfully prospect thereon for minerals and shall be deemed and taken in law to be entitled, in respect of every discovery of minerals made by him while so prospecting to the same rights to which any licensed prospector would have been entitled had he made such discovery: provided, however, that every such owner shall be under the same obligations as a licensed prospector of giving information to the Civil Commissioner of the division in which such land is situated of any discovery by him of minerals and of making a solemn declaration of the finding thereof in payable quantities when he has so found them; and if he shall fail to do so he shall be liable to forfeit all rights reserved to him under this Act.

Owner of land free right to prospect thereon without a licence; rights of a discoverer in any discovery of minerals made by him. (Act 44, 1887, section 5 (1).)

60. Every holder of land on lease from the Crown, under any law, and every lessee of land, and in the lease of which the owner shall have stipulated and agreed to let, and such lessee to hire, such land together with the rights of the owner in respect of minerals shall, *mutatis mutandis*, and provided that such lease shall be duly registered in the office of the Registrar of Deeds, with the title deeds of such land, be entitled, during the term of his lease, but no longer, to all rights and privileges conferred upon any owner of land under and by virtue of the provisions of this Act; provided that at the expiration of his lease every lessee hereinmentioned shall be bound and obliged to cede and assign to the owner of the land leased every mining lease in respect of such land granted to or held by him under the provisions of the sixty-fourth section of this Act, and upon such cession such owner shall be and become during the unexpired portion of such mining lease entitled to all the rights and privileges and bound by all the conditions and obligations conferred and imposed upon such lessee under such lease.

Holders of land on lease from the Crown and lessees who have hired owner's rights to have *mutatis mutandis* same rights as owner. (Act 44, 1887, section 9.)

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Ordinary lessee of such land not to have rights of owner, but may claim compensation for disturbance. (Act 44, 1887, section 10.)

61. No lessee of lands, and in the lease of which there shall be contained no such stipulation or agreement as is referred to in the last preceding section, shall be entitled to any of the rights or privileges specially conferred upon owners of such land under the provisions of this Act; but every such lessee who shall be disturbed in his possession, or damaged or injured in any way by reason and in consequence of the exercise by any person of any right or power conferred or reserved under the provisions of this Act, shall be entitled to claim from the owner and lessor compensation in respect of such disturbance, damage, or injury, the amount of which compensation shall in all cases of disagreement be determined by arbitration, and such arbitration shall *mutatis mutandis* be regulated by the provisions of the "Lands and Arbitration Clauses Act, 1882."

Term "owner" defined. (Act 19, 1883, section 13.) (B.B.P. 63, 1889, section 54.)

62. The term "owner" shall include all persons duly registerd as the proprietors of land in the office of the Registrar of Deeds, but if in any case two or more persons shall be registered as the owners *pro indiviso* of any land, or as the holders or lessees of any land referred to in this Act, all rights and powers conferred upon or reserved to the owner of such land, or to such holders or lessees, by the provisions of this Act, shall be deemed and taken to be jointly and not severally conferred upon or reserved to such persons.

Owner's share in the licence moneys received by the Government in respect of claims in a Reef Digging or abandoned Reef Digging situate on his land.

63. The owner of any private property on which a Reef Digging or portion thereof shall be proclaimed under the provisions of this Act shall be entitled to demand and receive from the Public Treasury three-fourths of the licence money collected by the Government in respect of each claim in such digging for which he provides to the satisfaction of the Inspector of such digging a depositing site as aforesaid. When any abandoned Reef Digging or portion thereof on private property shall be or shall have been leased for digging operations as aforesaid, the owner of such property shall be entitled to receive from the Government one-half of the rents and royalties collected by the Government in respect of such lease; and the persons appointed in that behalf shall be bound to keep books showing the amount of all such moneys, and shall account for and pay over to such owner at the end of every half-year all sums of money due to such owner as aforesaid, and shall afford to such owner, at all reasonable times, inspection of such books.

Owner's right to mining lease of one-tenth of his property on which minerals are discovered, and in respect of which a declaration has been made under section 13 of this Act.

64. At any time within three months after the declaration mentioined in the thirteenth section of this Act has been lodged in regard to minerals discovered on private property the owner thereof shall be entitled to claim and demand from the Government a mining lease of a proportion of his property to be by him selected, not exceeding one-tenth of the entire extent of such property held by one title deed, which lease shall be in writing signed by such owner, and by the Civil Commissioner of the division in which such property is situated, and such lease shall be for a term of not less than two years, nor more than five, and shall

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embody an agreement that the lessee shall have the right to renew such lease or any renewal thereof for any period not exceeding five years, and shall provide for an annual payment in advance by the lessee of two shillings per morgen in respect of such one-tenth portion of such property; and upon the execution of any such lease and upon condition of conforming to its terms, conditions and stipulations, every such owner shall be entitled in respect of such portion of his property to all the rights and powers which would be vested, and subject to all the liabilities which would be imposed by any law in and upon him, in case the title to such property had not been subject to any reservation to the Crown of precious stones and minerals; provided, however, that no royalty shall be payable to Government in respect of any minerals found thereafter in or upon such property; and provided that such lease and every renewal thereof shall forthwith, after its execution, be registered together with the title deeds of such property in the office of the Registrar of Deeds.

Conditions of lease. (Act 44, 1887, section 8.) (B.B.P. 102, 1891, section 2.)

65. The ground leased under the last preceding section shall not include the claims to which the discoverer of the minerals is entitled under this Act, and such discoverer shall on being required to do so by the owner forthwith select the claims to which he is entitled so that the owner may define the ground to be included in his mining lease. Such ground shall be bounded by not more than four straight lines, and for this purpose one of the boundaries of the private property shall be deemed and taken to be one straight line; Provided that in measuring the extent of the ground leased as aforesaid the reef may not be taken lengthwise only but the proportion of breadth to length shall be at the highest as one to two.

Ground leased as aforesaid not to include discoverer's claims; discoverer to select his claim when called on to do so by owner. Area leased to be bounded by four straight lines.

66. The angles of the ground leased as aforesaid shall, prior to the proclamation of a Reef Digging on the said private property, be indicated by stone beacons of masonry four feet high, which shall bear the inscription "Mining Lease No....." whilst the sides shall be indicated by beacons of masonry not less than three feet above the ground and not more than one thousand yards apart.

Angles and sides of leased ground to be indicated by beacons.

67. The lessee shall be responsible to the Inspector for the proper maintenance of the aforesaid beacons to the satisfaction of the said Inspector, and on the lessee neglecting to erect beacons or maintaining them in a proper condition such beacons shall be erected and maintained by the Government at the expense of the lessee.

If lessee neglects to erect beacons or maintain them in proper condition Government entitled to do so at his expense.

68. If the ground, for which a mining lease has been granted as aforesaid, is not worked the said lease shall not be renewed except with the express written consent of the Government, and if the Government refuse to consent to such renewal the said ground on being proclaimed a Reef Digging, if not already so proclaimed, may be pegged out as claims in the same manner as is provided in this Act for the "pegging out" claims in a Reef Digging.

If ground leased is not worked, lease not to be renewed except by written consent of Government.

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Owner entitled to discoverer's claims in addition to mining lease when he is the "discoverer."

69. If the owner of private property is the discoverer of minerals thereon he shall be entitled in addition to such mining lease as aforesaid to "discoverer's claims" under this Act.

Laws relating to registration of titles to immovable property under quitrent tenure to apply to registrations of mining leases under this Act.

70. All and singular the provisions of the law relating to registration of titles to immovable property held upon quitrent tenure, and transfers, mortgages or hypothecations thereof, and to the effect and preference or priority of registered deeds or documents, and to the payment of registration and other fees and charges, and of transfer duty shall, *mutatis mutandis*, apply to registrations, cessions, transfers, mortgages and hypothecations of such mining leases as aforesaid, except when such provisions shall be repugnant to the express enactments in this Act contained.

DIVISION VIII.

Certificates of Special Registration.

Application for Certificates of Special Registration.

71. It shall be lawful for any registered claimholder to apply to the Registrar of Claims for a certificate of Special Registration in respect of his claim or block of claims. Every such application shall have a stamp of the value of five shillings, and shall be accompanied by a deposit of amounts to be fixed by the Registrar to cover

(1) The cost of publication of such application in the manner hereinafter prescribed,

(2) The cost of obtaining such Surveyor's report upon the said claim or block of claims as is hereinafter prescribed, such cost being reckoned to include both the fees and travelling expenses of such surveyor.

Provided, however, that it shall be lawful for the applicant to lodge with the Registrar, in lieu of the latter amount, a report signed by the Government surveyor upon the said claim or block of claims with plans in duplicate.

Registrar may appoint surveyor to report on claim or claims in respect of which application for certificate is made.

72. Should the said applicant fail to lodge such surveyor's report as aforesaid, the Registrar shall, on receipt of such deposit as aforesaid, send at the earliest possible opportunity a surveyor to make a survey of, and report upon such claim, or block of claims as aforesaid, and upon receipt of such report, with plans of such claims or block of claims in duplicate, the Registrar shall forthwith notify the fact of such receipt to the applicant who shall thereupon be permitted to inspect such report, and be required to signify to the Registrar in writing his satisfaction or otherwise with the boundaries as fixed by the surveyor.

Publication of application.

73. In the event of the applicant being satisfied with such boundaries as aforesaid or if the applicant shall himself lodge a report, the Registrar shall forthwith cause an advertisement containing full particulars as to such application for a certificate of Special Registration as aforesaid to be inserted in such newspaper or newspapers as may from time to time be prescribed by the

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Minister, in three separate issues, at intervals of not less than one week, and shall cause to be specified in such advertisement a day which shall not be later than seven days after the third publication of such advertisement as aforesaid, up to and upon which parties having objections to the issue of such certificate of Special Registration shall be permitted to lodge their objections with the Registrar.

Hearing of objections by Registrar.

74. Should any objection as aforesaid be lodged with the Registrar, he shall defer the issue of such certificate of Special Registration as aforesaid pending the conclusion of an investigation to be held by him as to the rights of the various parties interested on a day notice of which shall be given to the applicant and the objectors. The said Registrar shall and may, for the purpose of such investigation as aforesaid, examine witnesses on oath and take down their evidence in writing, and shall have authority to summon all parties and witnesses to appear before him, and in default of their appearing he may issue warrants for their being brought before him, and for non-attendance he may fine them any sum not exceeding five pounds.

If no objections certificate to be forthwith issued to applicant.

75. In the absence of any such objection as aforesaid to the issue of a certificate of Special Registration, the Registrar shall forthwith issue to the applicant a certificate of Special Registration in the form set forth in the fifth Schedule to this Act, having a stamp of a value calculated at the rate of one pound for each claim referred to in the certificate for each month for which such claim or claims is specially registered payable in advance. No such certificate shall be issued unless all licence moneys due on the claim or claims have been paid.

Diagram of claim or claims to be attached to certificate.

76. To every such certificate there shall be attached a diagram of the claim or claims framed by such Government Surveyor as aforesaid and signed by the said Registrar, and every such Special Registration of a claim or block of claims shall be effected in a separate register to be opened for the purpose by the said Registrar.

Rights conferred by certificate of special registration

77. A certificate of Special Registration shall be conclusive evidence of the right of the holder thereof to the claim or claims in respect of which it has been issued, unless such claim or claims have been abandoned by the holder or been declared abandoned by the Inspector under the provisions of this Act.

DIVISION IX.

Alluvial Diggings.

"A."

Discoverer's Rights.

Discoverer's claims in a proclaimed Alluvial Digging.

78. The holder of a licence to prospect for minerals who shall prove to the satisfaction of the Civil Commissioner with whom he has lodged the declaration mentioned in the thirteenth section

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of this Act that he has found minerals in alluvial in payable quantities under such licence shall receive a certificate from the Civil Commissioner that he is entitled to peg out twenty claims in block of a size hereinafter provided at the place where such minerals have been discovered upon the proclamation by the Governor of such place as an "Alluvial Digging" prior to the pegging out of any other claims therein; and no licence money shall be payable on the said claims whilst they are held by such discoverer in his own right. Upon the granting of such certificate as aforesaid the discoverer's right of prospecting under his licence within the place to which the certificate refers shall cease and determine.

Sections 17, 18 and 19 of this Act to apply to Alluvial Diggings.

79. Sections seventeen, eighteen and nineteen of this Act shall apply to Alluvial Diggings exactly as if the word "Alluvial" were substituted for the word "Reef" whenever it occurs in those sections.

Bonus to discoverer of Alluvial Diggings in any Division of this Colony.

80. The discoverer of any Alluvial Digging in any division of this Colony distant not less than ten miles from a previously registered claim in Alluvial Digging and from which in the space of two years at least twenty-five thousand ounces of gold shall have been registered as extracted therefrom shall be entitled, as a reward for such discovery, to receive from the Government the sum of five thousand pounds.

"B."

Distribution of Claims in an Alluvial Digging and Rights of Holders of such Claims.

Size of claim, circumstances in which size may be altered. (Act 10, 1888, section 7.)

81. The size of a claim in an Alluvial Digging shall be in extent one hundred and fifty feet by one hundred and fifty feet: Provided that the Inspector may, with the consent of the Minister and on being satisfied that the quality of ground or difficulty in working it necessitates an alteration or extension of the aforesaid size, grant special alluvial claims of irregular form and containing a total area not exceeding twenty thousand feet.

Amount of licence for claims on Crown land. (Act 10, 1888, section 2.)

82. The amount payable by the holder of any claim in any proclaimed alluvial digging situated on Crown land, shall be two shillings and sixpence per claim per month, payable in advance, whether such digging shall have been proclaimed before or after the passing of this Act.

Amount of licence for claims on private property except in certain cases. (Act 10, 1838, section 3.)

83. The amount payable by the holder of any claim in any proclaimed alluvial digging situated on private property shall be five shillings per claim per month, payable in advance, whether such digging shall have been proclaimed before or after the passing of this Act: provided that the Government shall pay to the owners of Lots M and N in the Millwood Alluvial Digging and Mine, one half of the monthly licence fee in the case of all alluvial claims, and the whole of the monthly licence fee in the case of all reef claims.

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84. No Crown land or private property on which Alluvial Digging has been proclaimed shall be available for pegging off claims until the Proclamation proclaiming the same shall have been read by the Inspector or some other person appointed in that behalf on the ground proclaimed and on a day of which notice shall be given in the *Gazette* at least two weeks prior thereto.

No pegging off claims until proclamation read.

85. After the reading of such proclamation as aforesaid it shall be lawful for any male person of full age to peg off one claim on the area proclaimed an Alluvial Digging after the discoverer and owner have pegged off the claims to which they are entitled under this Act. Any person pegging off a claim in such digging shall take out a certificate of registration as hereinafter provided within six days, and on his failing to do so shall be deemed to have abandoned the same and the Inspector shall thereupon declare the same to be abandoned.

Right of every male person of full age to peg off one claim.

86. Sections thirty-four, thirty-five, thirty-six, thirty-seven and thirty-eight of this Act, shall apply to alluvial diggings as if the word "alluvial" were substituted for the word "Reef" whenever it occurs in those sections.

Sections 34, 35, 36, 37 and 38 of this Act to apply to Alluvial Diggings.

87. Every claimholder in an Alluvial Digging shall be entitled to use and occupy, free of charge, a piece of ground within the proclaimed area of such digging for the purpose of a residence. The said piece of ground shall be marked out for each claimholder by the Inspector and shall not be more than fifty feet square in extent.

Right of claimholder to piece of ground for a residence.
(Act 18, 1888, section 1.)
(B.B.P. 63, 1889, section 49.)

88. Any holder of one or more alluvial claims, who shall prove to the satisfaction of the Inspector that he has discovered a gold-bearing reef within any of his claims, may be allowed by the Inspector, so far as the extent available shall permit, to exchange such an alluvial claim or claims for reef claims.

Exchange of alluvial claims for reef claims.
(Act 10, 1888, section 10.)

89. Sections fifty-two and fifty-three of this Act shall apply to alluvial diggings as if the word "alluvial" were substituted for the word "Reef" whenever it occurs in the said sections.

Use of water; provisions for water by Inspector authorising certain works in respect of adjoining claims. Sections 52 and 53 of Act to apply.

"C."

Registration, Transfer and Hypothecation of Claims in Alluvial Diggings.

90. Sections thirty-nine, forty, forty-two, forty-three, forty-four and forty-five of this Act shall apply to Alluvial Diggings as if the word "alluvial" were substituted for "Reef" wherever such word occurs in the said sections.

Appointment of inspectors, &c., certificates of registration, hypothecation of claims, transfer of claims.
Sections 39, 40, 42, 43, 44 and 45 of Act to apply to alluvial diggings.

91. Every certificate of registration of a claim or portion of a claim in any Alluvial Digging situate on Crown land or on private property shall be covered by a stamp of the amount provided by sections eighty-two and eighty-three of this Act for each month for which such claim or portion of a claim is registered, payable in advance.

Stamps chargeable for a certificate of registration.

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Stamps chargeable on amalgamation of claims in digging or diggings. (Act 19, 1883, section 26.) (B.B.P. 63, 1889, section 35.)

92. In all cases where two or more claimholders in an Alluvial Digging or Diggings shall amalgamate their respective claims, the certificate of transfer effected for the purpose of carrying out such amalgamation shall bear stamps at the rate of ten shillings for every hundred pounds or portion of one hundred pounds of the assessed value, or if there shall be no assessment, of the declared value of the claims so amalgamated: Provided that the amount of stamps shall in no case exceed the sum of twenty-five pounds.

Inspector to demand licence moneys and to declare any claim abandoned in respect of which licence money is in arrear for thirty days. (Act 19, 1883, section 28.) (B.B.P. 63, 1889, section 37.)

93. The Inspector or other officer duly appointed in that behalf is hereby empowered to ask, demand, sue for, recover and receive all licence moneys, royalties, rents or transfer dues in respect of any claims in an Alluvial Digging; and to declare as abandoned any claims in respect whereof any such licence moneys royalties or rents shall be in arrear for a space of thirty days.

Claim unworked for fourteen days may be declared abandoned. (Act 10, 1888, section 5 (1).)

94. Whenever it shall be proved to the satisfaction of the Inspector that a claim in any Alluvial Digging has remained unworked for a period of fourteen days, not being any of them a Sunday or public holiday, it shall be lawful for him to declare such claim abandoned; provided that the claimholder shall not have obtained a certificate of protection as provided in the next succeeding section; and provided that when claims have been amalgamated, it shall be sufficient for the purpose of this section if work has been done on any one of such claims.

Certificate of protection on certain grounds. Certificate obtained by false representation void. (Act 10, 1888, section 6.)

95. Every claimholder in an Alluvial Digging may apply to the Inspector for a certificate of protection on the ground of sickness, unavoidable absence or other sufficient cause, which certificate shall not be issued for a period more than sixty days, during which period the claim or claims to which it refers shall not be liable to forfeiture under the next preceding section; provided that if any such certificate be obtained by false representation it shall afford no protection under this section, and shall forthwith upon the discovery of such false representation be declared to be cancelled by the Inspector.

Release of liability of claimholder in case of floods. (Act 19, 1883, section 29.) (B.B.P. 63, 1889, section 39.)

96. In the event of any claim in an Alluvial Digging situate on Crown lands or private property becoming submerged in consequence of the rising of any river near to which or on the bed of which such claim is situated, and in the event of such claim by reason thereof becoming practically unworkable, the registered owner of such claim shall, if such claim be practically unworkable on the day when the monthly licence money, royalty, or rent is due and payable, be relieved from the payment of the ordinary monthly licence money as aforesaid in respect of such claim for the next ensuing month; and in lieu thereof the Inspector shall grant him a certificate of reservation, bearing a stamp of one shilling for the next ensuing calendar month, and in like manner from month to month; which certificate shall entitle him to be registered for each month, so long as the said claim shall continue to be so submerged.

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Abandoned Alluvial Diggings; Tracts or area of Alluvial deposit; Abandoned Claims; Diggers' Committee.

Abandonment of Alluvial Diggings; lease of such diggings or portions thereof.
Sections 54 and 55 of Act to apply with certain exceptions.

97. Sections fifty-four and fifty-five of this Act save and except the proviso at the end of the latter section shall apply to Alluvial Diggings as if the word "Alluvial" were substituted for the word "Reef" wherever that word occurs in the said sections; provided however that the period of the lease referred to in section fifty-five shall in the case of an abandoned Alluvial Digging or abandoned portion thereof be twelve months with the right to the lessee of renewing it from time to time.

Abandonment of claims; mode of disposing of abandoned claims.
Sections 57 and 58 of Act to apply.
Governor may grant lease of Crown land on which area of aluvial deposit of minerals exists.
(Act 19, 1883, section 32.)
(B.B.P. 63, 1889, section 43.)

98. Sections fifty-seven and fifty-eight of this Act shall apply to Alluvial Diggings as if the word "Alluvial" were substituted for the word "Reef" in those sections.

99. Whenever it shall be shown to the satisfaction of the Governor, that minerals occur in any tract or area of alluvial deposit upon crown land and if, after due publication of the application for the lease of such tract or area, there shall not have been received by the Inspector of Claims for the district, before a time specified in the notice, applications from ten or more duly qualified miners for mining claims in such tract or area, it shall be lawful for the Governor to grant a lease of such tract or area, and also of sufficient ground adjoining thereto as shall be deemed necessary for the working of the same to the person making application therefor, upon similar terms and conditions as those in the fifty-fifth section of this Act set forth.

Governor to make rules for Diggers' Committee.
(Act 19, 1883, section 36.)

100. It shall at all times be lawful for the Governor to make such rules and regulations for the election of Diggers' Committees at all Alluvial Diggings as he may deem fit, and to define from time to time as occasion may require, the duties, powers, functions and authorities of such Diggers' Committees, and to make rules for the guidance of the same.

Governor to direct mode of election of such Committee.
(Act 19, 1883, section 37.)
Governor may abolish Committee.
(Act 19, 1883, section 38.)
By or against whom actions are to be brought.
(Act 19, 1883, section 75.)
How disputes between claimholders to be settled.
(Act 18, 1886, section 6.)

101. The Governor may direct that one Diggers' Committee shall be elected for one or more Alluvial Diggings as he may deem advisable, and in such manner as he may deem fit.

102. The Governor may at any time direct that any Diggers' Committee shall be abolished or dissolved.

103. All actions brought by or against a Diggers' Committee shall be brought by or against the chairman of such committee or board.

104. All disputes between claimholders in any Alluvial Digging as to the ownership of any claim, or as to the boundaries of their respective claims, shall be dealt with and decided by the Inspector of the digging and two assessors to be nominated by the said Inspector: and for this purpose the Inspector and assessors aforesaid shall and may examine witnesses on oath and take down their evidence in writing, and shall do all things which they may

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deem necessary in order to arrive at a proper decision in the case: And the Inspector shall have authority to summon all defendants and witnesses to appear before him, and in default of their appearance he may issue warrants for their being brought before him, and for non-attendance he may fine them any sum not exceeding five pounds sterling.

Service of summons on defendant or witness. (Act 18, 1886, section 7.)

105. The service of any summons on any defendant or witness in any case to be heard and decided as aforesaid shall be performed by any person appointed for that purpose by the Inspector, and the said person shall also have authority to execute the warrant mentioned in the last preceding section.

"E."

Rights of Owner on whose Property an Alluvial Digging has been Proclaimed.

Owner's right to share with Government in licence moneys, rents and royalties collected by Government in respect of Alluvial Diggings or Abandoned Alluvial Diggings. (Act 19, 1883, section 33.) (B.B.P. 63, 1889, section 44.

106. The owner of any private property on which an Alluvial Digging has been or shall be declared, or any abandoned Alluvial Digging is leased for digging operations shall be entitled to demand and receive from the Public Treasury half the licence moneys, rents, or royalties collected by the Government in respect of such digging or lease as aforesaid: And the persons appointed in that behalf shall be bound to keep books showing the amount of all such moneys and shall account for and pay over to such owner at the end of every half-year all sums of money due to such owner as aforesaid, and shall afford to such owner, at all reasonable times, inspection of such books.

Owner's right of selection.

107. When the place where precious minerals have been discovered shall be proclaimed an alluvial digging or portion of an alluvial digging under the provisions of this Act the owner of the property on which the said digging or portion thereof is situate shall be entitled to select, next after the discoverer, thirty claims therein on payment by him of the licence moneys thereon one month in advance. If such owner is also the discoverer he shall be entitled to the claims mentioned in this section in addition to the claims given to the discoverer under this Act.

DIVISION X.

Provisions applicable to both Reef and Alluvial Diggings.

Order of preference for amounts due on any claim. (Act 19, 1883, section 70.) (B.B.P. 63, 1889, section 64.)

108. The following shall be the order of preference for amounts due and owing upon or in respect of any claim in any Reef or Alluvial Digging:—

(1) Claim licences.

(2) Expenses of work done by any Diggers' Committee.

(3) Conventional hypothecations.

(4) Fines or penalties recovered in any court in respect of such claim or claims.

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109. It shall be lawful for the Governor from time to time to proclaim rules and regulations concerning the manner of working claims and machinery at any digging and for the regulation of all works within the mining area, in so far as the protection of life and limb is concerned, and generally for the proper management of all diggings, and to fix the penalties for the breach of such rules and regulations not exceeding those in the next succeeding section mentioned, and such rules and regulations shall, on being proclaimed, have the force and effect of law at the digging referred to in such proclamation as aforesaid, until the same are cancelled, altered or amended by any subsequent proclamation made under and by virtue of the provisions of this section.

Governor may proclaim regulations for working of claims and machinery, &c.
(Act 19, 1883, section 71.)
(B.B.P. 63, 1889, section 65.)

110. Any person mining or digging for minerals without a prospecting licence, or without a claim licence, on Crown land or on private property shall on conviction be liable to a penalty not exceeding one hundred pounds, and, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding twelve months; and any person who may be convicted before a competent court of contravening any of the regulations framed under the provisions of this Act, shall be liable to such penalties as may be by the said regulations prescribed, not in any case exceeding one hundred pounds, or in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

Penalty for mining or digging without licence.
(Act 19, 1883, section 72.)
(B.B.P. 63, 1889, section 66.)

111. All offences created by this Act and all fines and penalties imposed under the provisions of this Act or of any rules, regulations or bye-laws to be framed and proclaimed in manner hereinbefore provided shall be recoverable in the court of the Resident Magistrate for the district in which such digging is situate.

Recovery of fines, penalties, &c.
(Act 19, 1883, section 74.)
(B.B.P. 63, 1889, section 67.)

112. All gold found or extracted within the limits of proclaimed Reef or Alluvial Diggings shall be registered at the office of the Inspector not later than the second day of the month following that in which such gold may be found or extracted, and any person who shall contravene this section shall be liable to a fine not exceeding ten pounds sterling.

Penalty for non-registration of gold found in proclaimed reef or alluvial digging.
(Act 10, 1888, section 12.)

113. The Native Reserves in British Bechuanaland defined in the schedule to Proclamation No. 220 B. B., 1895, shall for the purposes of this Act be treated as Crown lands; provided that as compensation for surface damage caused by the proclaiming of any Reef or Alluvial Digging on any such Reserves, the provisions of sections sixty-three and one hundred-and-six of this Act shall apply to such Reserve as if it were private property and the Civil Commissioner of the Division in which it is situate the owner thereof. The moneys received by such Civil Commissioner under the provisions of the said sections shall be applied by him to the purposes mentioned in section seven of Proclamation No. 220 B. B., 1895.

Native Reserves in British Bechuanaland to be treated as Crown lands for the purpose of this Act.

114. This Act may be cited as "The Precious Minerals Act, 1898."

Title of Act.

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Schedules.

FIRST SCHEDULE.

Enactment.	Title.	Extent of repeal.
Act No. 19, 1883 ...	The "Precious Stones and Minerals Act."	So much thereof as relates to precious minerals.
Act No. 22, 1885 ...	The "Precious Stones and Minerals Mining Act Amendment Act, 1885."	Do., do.
Act No. 18, 1886 ...	The "Precious Stones and Minerals Act Further Amendment Act, 1886."	Do., do.
Act No. 44, 1887 ...	The "Precious Stones and Minerals Mining Law Amendment Act, 1887."	Do., do.
Act No. 10, 1888 ...	The "Gold Mining Act, 1888."	The whole.
Act No. 13, 1888 ...	The "Joint Stock Companies Act, 1888."	Section one.
British Bechuanaland Proclamation No. 63 B.B., 1889.	...	The whole.
British Bechuanaland Proclamation No. 102 B.B., 1891.	...	The whole.

SECOND SCHEDULE.

PROSPECTING LICENCE.

Civil Commissioner's Office,

....., 189.....

Whereas A.B. has duly complied with the provisions of Act ..... Licence is hereby granted to him to search and prospect for precious minerals throughout the Colony for the period of ..... from ..... to .....

.....

Civil Commissioner.

NOTE.—This Licence does not give any right to prospect on private property, without the consent of the owner; nor on Crown land held under lease without the consent of the lessee; nor within the prospecting area of any other prospector without his consent; nor within two hundred yards of any house or building occupied or used by the owner or lessee thereof; nor on any land under cultivation or required for the purposes of irrigation; nor in any public squares, streets, roads, railways or cemeteries, nor in any mine or digging duly declared abandoned; nor in any duly proclaimed area used for mining purposes.

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THIRD SCHEDULE.

CERTIFICATE OF REGISTRATION.

This is to certify that ..... of ..... is the registered holder of Claim No. ..... Reef Digging (or Alluvial Digging as the case may be) and that the licence money for the same has been paid in advance up to the .....

Office of the Registrar of Claims of the Reef Digging (or Alluvial Digging as the case may be.)

.....
Registrar.

FOURTH SCHEDULE.

CERTIFICATE OF HYPOTHECATION.

This is to certify that Claim No. ..... in the Reef Digging (or Alluvial Digging as the case may be) has this day been hypothecated by ..... the registered holder of such Claim to ..... of ..... for the sum of £.....

Office of the Registrar of Claims of the Reef Digging (or Alluvial Digging as the case may be).

.....
Registrar.

FIFTH SCHEDULE

CERTIFICATE OF SPECIAL REGISTRATION.

This is to certify that Claim (or Claims) No. ..... in the Reef Digging ..... has (or have) been specially registered and that ..... of ..... is the registered holder of the said Claim (or Claims) and that the licence money for the same has been paid in advance up to the .....

Office of the Registrar of Claims of the Reef Digging,..... .....

.....
Registrar.

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Repealed by Act No 25 of 1934

No. 32—1898.] [January 6, 1899.

ACT (1)

To Provide for Appeals from the Courts of the Chief Magistrate in the Native Territories to the Supreme Court.

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:—

Appeal from Chief Magistrate to Supreme Court in cases in which Europeans affected

1. From and after the passing of this Act an appeal shall lie from the judgment, decree or order, whether in first instance or on appeal of the Chief Magistrate of any of the territories set forth in the schedule to this Act to the (1) Supreme Court of this Colony in any civil suit, action or proceeding in which any one of the parties thereto is a European; provided that the party appellant shall within twenty-one days next after such judgment, decree or order shall have been pronounced, give notice of appeal to the party respondent, and to the Chief Magistrate, from whose judgment, decree, or order the appeal takes place, and shall, within three months after judgment, duly prosecute such appeal in the Supreme Court, in case there shall be a sitting of the said Court within this period, or, if there shall not be any such sitting, then at the next sitting of the said Court; provided that it shall be lawful for the said Court, for good and sufficient cause shown, to extend the time within which the appellant shall prosecute his appeal.

Chief Magistrate to give reasons for his judgment in matter on appeal to Supreme Court.

2. When the judgment of any Chief Magistrate in any civil case shall be appealed from, or brought under review by proceedings under Rule 190 of the Rules of the Supreme Court, the Chief Magistrate by whom such judgment was granted shall transmit to the Registrar of the Supreme Court for hearing the appeal or review, a statement of the facts which he shall find to have been proved, and his reason for the judgment pronounced.

Short Title of Act.

3. This Act may be cited as the "Native Territories Appeal Amendment Act, 1898."

Schedule.

SCHEDULE.

The Territories annexed to the Colony under the provisions of the "Transkeian Annexation Act, 1877," the "Tembuland Annexation Act, 1885," the "Pondoland Annexation Act, 1894," the "Xesibe Country Annexation Act, 1886," the "Rode Valley Annexation Act, 1887," and the territory known under the name designation, and title of Port of St. John's.

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(1) As to appeals where Natives alone are concerned, see § 3, Act 26, 1894 (p. 3392). See also § 9, Act 35, 1904 (p. 4764). Appeal lies to E. D. Court also.

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No. 33—1898.] [January 6, 1899.

ACT

Repealed by Act.

To Authorise the Raising of a Public Loan of Two Hundred Thousand Pounds for the purpose of Prosecuting and Improving the Harbour Works of Table Bay, and Providing Greater Facilities for the Conduct of the Business of the Port.

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:—

Power to raise loan of £200,000 for improvement of Table Bay Harbour Works, &c.

1. It shall be lawful for the Governor to raise by public loan a sum not exceeding two hundred thousand pounds sterling 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 hereunto annexed.

Application of moneys by Harbour Board.

2. The application of the moneys to be raised as aforesaid for the above purposes shall be entrusted to the Table Bay Harbour Board, and the said Harbour Board shall in respect to such application have and exercise all the powers conferred upon such Board by any law.

Capital and interest of loans chargeable upon revenues of Table Bay Harbour Board.

3. Save in cases in which it may be expressly provided by law to the contrary, the capital and interest of all loans raised on the guarantee of the public revenue, for the purpose of prosecuting and improving the Harbour Works of Table Bay, shall in the first instance be chargeable upon the revenues of the Table Bay Harbour Board, and such Board 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 of such loan.

Short title.

4. This Act may be cited as "The Table Bay Harbour Loan Act, 1898."

SCHEDULE.

Improvement of Harbour of Table Bay (as per plan submitted to Committee, 1895)	£574,121
Protective capping to Breakwater	80,412
Improved coaling facilities	125,252
Adaption of West Quay for railway traffic	3,690
	£783,475
Purchase of Amsterdam Battery	76,000
Total	£859,475

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No. 34—1898.] [January 6, 1899.

ACT

To Authorise the Raising of a Public Loan of One Hundred and Six Thousand One Hundred Pounds for the purpose of Prosecuting and Improving the Harbour Works of East London, and providing greater facilities for the Conduct of the Business of the Port.

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:—

Power to raise loan of £106,100 for improvement of East London Harbour Works.

1. It shall be lawful for the Governor to raise by public loan a sum not exceeding one hundred and six thousand one hundred pounds sterling for the purpose of prosecuting the harbour works of East London, and of effecting improvements at the Port as set forth in the Schedule to this Act.

Application of moneys by Harbour Board.

2. The application of moneys to be raised as aforesaid for the above purposes shall be entrusted to the East London Harbour Board, and the said Harbour Board shall, in respect to such application, have and exercise all the powers conferred upon such Board by any law.

Capital and interest of loans chargeable upon Revenues of East London Harbour Board.

3. Save in cases in which it may be expressly provided by law to the contrary, the capital and interest of all loans raised on the guarantee of the public revenue, for the purpose of prosecuting and improving the harbour works of East London shall, in the first instance, be chargeable upon the revenues of the East London Harbour Board and such Board 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 of such loans.

Short title.

4. This Act may be cited as "The East London Harbour Loan Act, 1898."

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SCHEDULE.

No. 35—1898.
Schedule.

Completion of Concrete Wharf in extension No. 3 Wharf, total length 400 feet		£25,000
Reclaiming ground and culvert...		10,000
New cranes...		11,000
Completion and enlargement of "Victoria" Slip		15,500
Additional landing and shipping plant and accessories ...		9,500
River Dredging Plant:—		
Stationary Bucket and Ladder Dredger...	13,000	
2 Hopper Barges, each 350 tons	9,000	
2 Rock Removing Stampers and Craft	7,000	
	£29,000	29,000
Lengthening No. 2 Wharf 70 feet		1,400
Widening Produce Wharf		1,500
Electric Lighting Plant		3,200
		£106,100

No. 35—1898.] [January 6, 1899.

ACT

Repealed by Act 25 of 1934

To Authorise the raising of a Public Loan of One Hundred and Fifteen Thousand Pounds for the purpose of Prosecuting and Improving the Harbour Works of Port Elizabeth, and providing greater facilities for the Conduct of the Business of the Port.

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:—

Power to raise loan of £115,000 for improvement of Port Elizabeth Harbour Works, &c.

1. It shall be lawful for the Governor to raise by public loan a sum not exceeding one hundred and fifteen thousand pounds sterling for the puprpose of prosecuting and improving the Harbour Works of Port Elizabeth, 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 further authorised by the Schedule hereunto annexed.

Application of moneys by Harbour Board.

2. The application of the moneys to be raised as aforesaid for the above purposes shall be entrusted to the Port Elizabeth Harbour Board, and the said Harbour Board shall in respect to such application have and exercise all the powers conferred upon such Board by any law.

Capital and interest of loans chargeable upon Revenues of Port Elizabeth Harbour Board.

3. Save in cases in which it may be expressly provided by law to the contrary, the capital and interest of all loans raised on the guarantee of the Public Revenue, for the purpose of prosecuting and improving the Harbour Works of Port Elizabeth, shall in

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the first instance be chargeable upon the Revenues of the Port Elizabeth Harbour Board, and such 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 of such loans.

Short title.

4. This Act may be cited as "The Port Elizabeth Harbour Loan Act, 1898."

Schedule.

SCHEDULE.

1. North Embankment extension (additional)...	£9,000
2. South do. do.	21,000
3. Lengthening and widening South Jetty (additional)	44,000
4. Explosives Landing Stage North End	4,000
5. Patent slip at Shark's River Mouth (additional)	12,000
6. Hydraulic plant extension...	20,000
7. Electrical power and lighting plant	5,000
Total	£115,000

No. 36—1898.] [January 6, 1899.

ACT

To Apply a Sum not exceeding Twenty-eight Thousand Five Hundred and Seventy-five Pounds Twelve Shillings Sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

Repealed by Act 25 of 1957

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:—

Revenue charged with £28,575 17s. 0d. for certain unauthorised expenditure.

1. The public revenue of this Colony is hereby charged with a sum not exceeding twenty-eight thousand four hundred and ninety-seven pounds eighteen shillings and twopence sterling, to meet unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended the 30th June, 1897; and a further sum of seventy-seven pounds thirteen shillings and tenpence sterling, to meet a deficit on Act No. 33 of 1896, described respectively on pages XVI. XXVI. 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 1896-97" [G. 2—'98.]

Short title.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1898."

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No. 37—1898.] [January 6, 1899.

Repealed by Act 25 of 1934

ACT

To Authorise the raising of a loan for the purpose of certain new and additional Railway Works and Services.

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 may raise £1,382,810 for the construction of new and additional Railway Works.

1. For the purposes set forth in the Schedule to this Act, it shall be lawful for the Governor to raise the sum of one million, three hundred and eighty-two thousand, eight hundred and ten pounds sterling (£1,382,810), from time to time as he may deem expedient either by debentures or stock, or partly by debentures and partly by stock.

Cost of raising loan to be a first charge against amount.

2. The costs necessarily incurred in raising the said loan, including discount, commission, and other incidental charges, shall be a first charge against the amount thereof.

Short title.

3. This Act may be cited as "The Railway Loan Act, 1898."

SCHEDULE.

Schedule.

RAILWAY WORKS AND SERVICES.

1.	Additional Rolling Stock	£430,000
2.	Cape Town Station Extension	50,000
3.	Locomotive Workshops, Steam Sheds, Pits, &c.	84,765
4.	Doubling Line, Maitland to Durban Road	5,000
5.	Water Supply	52,000
6.	Additional Station Accommodation	98,781
7.	Additional Siding Accommodation and Crossing Loops	18,964
8.	Additional Accommodation for Railway Employés	45,460
9.	Stores, Warehouses and Maintenance Shops and Offices...	29,300
10.	Overhead Bridges...	5,000
11.	Signals	15,820
12.	Easing Gradients	5,220
13.	Rosmead—Graaff-Reinet Junction Line, Land and fencing	29,000
14.	Oudtshoorn—Klipplaat Line, to complete	82,000
15.	Fencing	20,000
16.	Reserve of Stores, Additional	310,000
17.	Surveys	40,000
18.	Subsidy: Ashton—Swellendam Line, Authorised under Act 37, 1894	61,500
	Total	£1,382,810

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No. 38—1898.] [January 6, 1899.

ACT

To Authorise the Raising of Money to provide for Loans under the Local Works Loans Act.

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 may raise £500,000 to be applied to purposes of Local Works Loans Acts.

1. It shall be lawful for the Governor, from time to time as occasion may require, to raise and take up a sum of money not exceeding Five hundred thousand pounds sterling (£500,000), to be applied to the purposes of the Local Works Loans Act, No. 11 of 1882, as amended by the "Local Works Loans Amendment Act No. 14 of 1895," and "The Local Works Loans Amendment Act No. 14 of 1896."

Governor may restore £100,000 charged to Revenue by Act No. 14 of 1896.

2. It shall be lawful for the Governor out of the money so taken up, to restore to the revenue of the Colony the amount of One hundred thousand pounds sterling (£100,000) referred to in the second section of "The Local Works Loans Amendment Act, No. 14 of 1896."

Short Title.

3. This Act may be cited for all purposes as "The Local Works Loans Act, 1898."

No. 39—1898.] [January 6, 1899.

ACT

To Authorise the raising of a Temporary Loan of £600,000 and to make certain other provision in regard to public money appropriated by loan or otherwise.

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:—

Governor may raise Temporary Loan of £600,000 for repaying moneys advanced out of Revenue for certain purposes.

1. Notwithstanding anything to the contrary contained in clause 3 of "The Temporary Loans Act of 1897," it shall be lawful for the Governor to raise by way of temporary loan, in such manner as may seem to him most expedient, the sum of Six hundred thousand pounds sterling (£600,000), for the purpose of repaying in part the sums advanced from Revenue, to meet the expenditure upon Rinderpest and the Bechuanaland Rebellion during the years 1896 and 1897 (1).

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[1] Printed as amended by Act 37, 1899.

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2. Section 2 of "The Irrigation Works Act 33 of 1896," as far as it relates to the sum authorised to be set aside out of the accrued Revenue of the financial year ending 30th June, 1896, in respect of the work set forth in Schedule B to the said Act, shall be, and is hereby repealed. No. 40—1898. Section 2, Act 33 of 1896 repealed.

3. [Repealed by Act 37, 1897.]

4. The provisions of section 2 of "The Railway Construction Balances Account, Act No. 8 of 1892," shall, *mutatis mutandis* apply in respect of all services and works for which money may have been and may hereafter be authorised to be raised by way of loan or advanced out of Revenue. Application of Section 2 of Act 8 of 1892.

5. This Act may be cited as the "Temporary Loan Act, 1898." Short title.

Sections 1, 3 and 6-8 inclusive and Schedule A with the exception of 1, paragraphs (a) (b) (c) (d) repealed by Act. 25 of 1934

No. 40—1898.] ACT [1] [January 6, 1899.]

To Provide for the Construction, Equipment and Working of certain Lines of Railway.

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 Agreement entered between the Colonial Government and the Thames Iron Works and Shipbuilding Company, dated the second day of August, 1898, and set out in Schedule A hereto, is hereby confirmed: Provided that Agreement for construction of railways confirmed.

(1) The said Company shall on or before the 7th day of February, 1899, satisfy the Commissioner of Public Works that it is within their powers as defined by their Memorandum of Association to construct the Railways mentioned in the said Agreement.

(2) The said Company shall, on or before the 7th day of February, 1899, give security to the satisfaction of the Commissioner that they will duly complete the construction of each and every of the said lines of railway mentioned in the said agreement.

(3) In the event of the said Company failing to give the said Commissioner the satisfaction required in Sub-section (1) of this Proviso, or failing to give the security referred to in Sub-section (2) thereof, the Agreement in Schedule A

[1] See Act 9, 1900 (p. 4275).

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shall cease and determine and thereupon, unless the said Company shall give notice to the said Commissioner on or before the 7th day of February, 1899, of their intention to construct the railways mentioned in the said Agreement under the Contracts with the Grand Junction Railway Company (Limited) mentioned therein, it shall be lawful for the Governor to enter upon and take possession of so much of the said lines of railway as have been constructed by the said Company upon payment to the said Company of the actual cost which may have been expended upon the said lines of railway or upon payment of the amount of a valuation to be fixed by arbitration under the Land and Arbitration Clauses Act, 1882, less the amount of any sum or sums advanced to the said Company on account of the said railways.

Failing agreement in Schedule A, how line to be constructed.

2. It shall be lawful for the Governor, as soon as to him may be expedient, after the event contemplated in Sub-section (3) of the Proviso to the next preceding Section of this Act, to cause the line (*a*) in Agreement in the Schedule A to be constructed and equipped, and shall for that purpose call for tenders for the construction of the said line by contractors, who shall have the powers conferred by "The Railway Extension Act, 1895," in relation to the construction of the said line.

Act 28 of 1895 to remain in force.

3. The provisions of Act 28 of 1895 in so far as the same are repugnant or inconsistent with the terms of the said agreement or the provisions of this Act shall be and the same are hereby repealed except as to the acts done, rights acquired and liabilities incurred before the taking effect of this Act.

Governor empowered to construct certain Railways.

4. It shall be lawful for the Governor so soon as to him may seem expedient after the taking effect of this Act to cause to be constructed, equipped, maintained and worked the several lines of Railway set forth in Schedule B hereto.

Gauges of Railways.

5. The line marked (B) in Schedule B from a point at or near Port Elizabeth *via* Humansdorp for a distance of 178 miles to a point at or near Avontuur, shall be constructed upon a gauge of two feet, the remaining lines shall be constructed upon the Standard Colonial gauge of three feet six inches.

Amount to be spent in construction.

6. The cost of the construction and equipment of the aforesaid lines of Railway shall not exceed the respective amounts set forth against the said lines in Schedule B aforesaid.

Subsidy for the Swellendam-Riversdale extension.

7. Subject to all legislative enactments, conditions, agreements or regulations applicable to the lines of Railway heretofore constructed by the New Cape Central Railways Company it shall be lawful for the Colonial Government to pay to the said Railway Company a subsidy at the rate of £2,000 per mile in respect of the extension of a line of Railway from Swellendam to Riversdale, provided that the total sum payable by the Colonial Government in respect of such extension shall not exceed £128,000.

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Loan authorised.

8. For the provision of funds to meet the amounts required from time to time for the payment of the cost of the construction and the equipment of the lines aforesaid and also of the subsidy under the last preceding section, it shall be lawful for the Governor to apply the sum of £650,000 paid to the Colonial Government by the Government of the Orange Free State in respect of the purchase of the lines of railway constructed in that State, and, in respect of the balance required to make up the sum of £2,094,350, from time to time as he may deem expedient to raise by way of loan a sum of £1,444,350, either by debentures or stock, or partly by debentures and partly by stock, and the costs necessarily incurred in raising any such loan, including discount, if any, commission and other charges shall be a first charge against the amount of such loan.

Act of 1895 to apply to contractors.

9. The provisions of the Railway Extension Act, 1895, in so far as they apply to lines of railway to be constructed by a contractor under this Act shall *mutatis mutandis* apply to the construction of the several lines of railway, (*b*), (*c*), (*d*), and (*e*) set forth in Schedule B hereto.

Short title.

10. This Act may be cited for all purposes as the "Railways Extension Act, 1898."

Schedules.

SCHEDULE A.

ARTICLES OF AGREEMENT made and entered into this second day of August, 1898, between Sir James Sivewright, K.C.M.G., in his capacity as Commissioner of Public Works and as such representing the Colonial Government of the one part and David Urquhart as authorised representative of the Thames Ironworks and Shipbuilding Company, Limited, of Blackwall, London, hereinafter styled the Contractors of the other part.

Whereas the Contractors have agreed to take over the contracts made between the Colonial Government and the Grand Junction Railways, Limited, dated the 19th of May, 1896, and 13th of October, 1896, for the construction of the following lines of railway, namely:—

(*a*) A line of railway from Oudtshoorn *via* Willowmore to a point on the Graaff-Reinet railway at or near Klipplaat.

(*b*) A line of railway from a point at or near Somerset East *via* Cookhouse and Bedford to Fort Beaufort.

(*c*) A line of railway from Fort Beaufort *via* Alice to King William's Town.

(*d*) A line of railway from Mossel Bay *via* George to Oudtshoorn; subject to an extension of time as hereinafter provided and to the conditions herein set forth.

And whereas the Colonial Government desire to have the line of railway (*a*) constructed as a Government line and also desire to have a thorough survey made of the line of railway (*d*) by a different route:

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Now therefore the following agreement is entered into subject to the approval of Parliament in so far as the same may be necessary.

I.—1. The agreement of the 19th of May, 1896, in so far as it relates to the line of railway from Oudtshoorn to Klipplaat, is provisionally cancelled.

2. The Colonial Government agree to pay to the Grand Junction Railways, Limited, or their order the value of the work done on that railway as already certified by the Government Engineers, and also to pay to the Grand Junction Railways, Limited, as advance of subsidy 40 per cent. of the value of work actually done or of materials actually supplied as similarly certified on the other lines of railway less the amount of any advances of subsidy already paid to the said railway company or to their assigns.

3. The above payments by the Colonial Government to the Grand Junction Railways, Limited, shall be credited by the Contractors in the final settlement between them and the Government.

4. The Contractors undertake to construct the Oudtshoorn—Klipplaat line as a complete line, including land, buildings, permanent way, bridge superstructure, &c., for the Government in accordance with the plans, sections, drawings and schedules attached to or referred to in the contract and specification issued by the Government at the beginning of the year, when calling for tenders for the completion of that line (copies of which are hereunto annexed) and to have the same in a condition fit for the running of trains by the 31st of December, 1899.

5. The Government will pay to the Contractors monthly the value of the work executed on the line less 10 per cent. as hereinafter provided, such value being calculated on the schedule of prices attached to the most acceptable of the tenders received after public advertisement at the beginning of the year for the completion of that line so far as these apply, copy of which is hereunto annexed, marked A, and on the basis of a schedule settled by the Engineer of the Government and the Contractors for all work and materials not included in that schedule hereunto annexed, marked B.

6. The Government will treat each section of not less than twenty miles as a completed section when ballasted, and will pay for the same at the contract price of four thousand four hundred and fifty pounds sterling (£4,450) less the schedule value of any bridges over fifty feet span and of accessories not completed and less the amount of any monthly payments made on such section and also less the value of equipment as estimated by the Government Engineer and included in the sum mentioned in Section 12 of Act No. 28 of 1895; provided that the last mentioned deduction shall not be included in the final payment for the line.

7. The Government shall be at liberty to retain 10 per cent. on all the above payments to the Contractors as a guarantee fund, such retention to be credited to the Contractors and taken into account on final settlement.

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II.—1. The Contractors undertake to push on the construction of the Somerset East—Fort Beaufort, and Fort Beaufort—King William's Town lines with all possible diligence on the terms of the contract of 19th May, 1896, and bind themselves to have those lines in a condition fit for the running of trains by the 31st December, 1899. They will execute a *pro rata* share of the work every month, it being understood that in estimating the *pro rata* share of work to be done monthly a reasonable time shall be allowed for getting gangs of workmen together, and that the permanent way and bridge work are not to be taken into account until after November 30th next. Reasonable allowance shall also be made for work which can be more cheaply and more expeditiously executed after the rails are laid.

2. The Government will make advances of subsidy on the Somerset East—King William's Town lines and on the Mossel Bay—Oudtshoorn lines at the rate of 40 per cent. of the value of work done on these lines as calculated on the schedule hereunto annexed, marked C, with the proviso that when the total advances of subsidy on account of the Somerset East—Fort Beaufort line or the Fort Beaufort—King William's Town line amount to a sum equal to thirteen hundred and fifty pounds sterling (£1,350) per mile over the whole line, then all advances of subsidy on that line shall cease, and similarly when the total advances of subsidy on the Mossel Bay—Oudtshoorn line amount to a sum equal to eighteen hundred pounds sterling (£1,800) per mile on the whole of that line all advances of subsidy on that line shall cease. The Government shall retain the balance of 10 per cent. of the authorised subsidy for each line until completion of that line.

3. The Government agrees that the work on the Mossel Bay—Oudtshoorn line shall remain in abeyance until a detail survey undertaken by an engineer approved of by the Government has been completed of the route through the Gouritz Gorge and if need be the instructions of Parliament have been sought and obtained as to what route should be adopted.

III.—1. The Contractors shall be at liberty to adopt on all the lines a ruling gradient of 1 in 70 in place of 1 in 40 with curves of 8 chains radius in place of 5 chains radius and to lay 60 lb. rails, in place of 46¼ lb. rails, with a corresponding increase in the size of sleepers and amount of ballast. Any reasonable deviations required to secure the improved gradient shall be sanctioned by the Government provided they do not unduly lengthen the lines.

2. The Colonial Government shall have the right, upon completion of the lines (*b*), (*c*), and (*d*), to take over the same as Government lines upon paying to the Contractors the difference between £4,800 per mile in respect of (*b*) and (*c*) and £8,000 per mile in respect of (*d*) plus the value of the improved grading and heavier permanent way on a schedule to be agreed between the

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Chief Engineer of the Cape Government Railways and the Contractors and such sums as may have been paid to the Contractors or the Grand Junction Railways, Limited, on account of subsidy

3. In the event of Parliament not sanctioning before the 1st of August, 1899, the construction of the Somerset East—King William's Town and the Mossel Bay—Oudtshoorn lines as Government lines and the payment to the Contractors of the value of work and materials supplied by them on those lines at the rate of four thousand eight hundred pounds sterling (£4,800), and eight thousand pounds sterling (£8,000) per mile respectively; and also the value of the improved grading and heavier permanent way on all the lines referred to in this contract, on a schedule to be agreed between the Government Engineer and the Contractors, then the agreement and the concession of the 19th of May, 1896, and 13th October, 1896, shall revive and be in force and binding, the Contractors taking the place of the Grand Junction Railways Limited and undertaking to complete and work the lines as therein provided except that the time for completion is extended to the 31st of December, 1899.

4. In the event of Parliament agreeing to the construction of the said lines (*b*), (*c*) and (*d*) as Government lines and to the payment for improved grading and permanent way as mentioned in the preceding clause, then on payment by the Government as therein provided this contract shall determine as from the first August, 1899, as also the contracts of 19th May, 1896, and 13th October, 1896, in so far as they relate to the said lines (*b*), (*c*), and (*d*) and the Government shall be at liberty to either allow the Contractors to complete the lines at the agreed prices or to call for tenders for the completion of the line.

5. The Government will pay for the materials required for the Oudtshoorn—Klipplaat line at schedule prices against the shipping documents in London in the usual way and will similarly pay forty per cent. of the schedule prices of materials for the other lines.

In witness whereof the said parties hereunto set their hands at Cape Town the day month and year first aforewritten in presence of the subscribed witnesses.

Sgd. J. SIVEWRIGHT,
Commissioner of Public Works.

For the Thames Iron Works and Shipbuilding Co., Ltd.,
Sgd. DAVID URQUHART.

Witnesses:

Sgd. J. LANGERMAN.
„ J. A. REID.

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(1) SCHEDULE B.

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No.	Description.	Miles.	Amount.
1	(*a*) Somerset East *via* Cookhouse to King Willam's Town ...	147	£485,100 0 0
2	(*b*) From a point at or near Port Elizabeth to a point at or near Avontuur, 2ft. gauge, at £2,500 per mile... ...	178	445,000 0 0
3	(*c*) Sir Lowry's Pass to Caledon	53	439,000 0 0
4	(*d*) Kalabas Kraal or Malmesbury to Pickeniers Kloof ...	96½	505,000 0 0
5	(*e*) From a point near Queen's Town to Tarkastad ...	30¾	92,250 0 0
			£1,966,350 0 0

No. 41—1898.] [January 6, 1899.

ACT

To Amend Act No. 24 of 1886, known as "The Native Territories Penal Code."

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 Native Territories Penal Code,

1. The two hundredth section of Act No. 24 of 1886 is hereby repealed, and in lieu thereof it is enacted that when the spoor of any stolen animal is traced to any kraal or locality responsibility in respect of the value of such stolen animals shall be determined as is hereinafter provided; that is to say:—

(1) The head of any kraal (*umninimzi*) shall be responsible for the value and damages of any stolen animals, the spoor of which is traced to such Kraal.

(2) The owner of any stolen animals, the spoor of which has become lost or obliterated, has a right of search for any traces of such animal in any hut, kraal, enclosure or lands in that neighbourhood; and any person refusing to permit such search is responsible for the value of the animals stolen.

(3) When the owner of any animal is on the spoor of such animal, it shall be lawful for the owner to demand from the persons living in the neighbourhood all reasonable assistance in following up such spoor, and whoever

[1] See Act 2, 1904 (p. 4636).

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neglects or refuses to give such assistance, and by such neglect or refusal causes the loss or obliteration of such spoor, or whoever by wilful obstruction or malice causes the obliteration or loss of such spoor, is liable for the value of the animal stolen.

(4) When such spoor cannot be traced to any specific kraal or kraals, but is lost or becomes obliterated on any lands, then the responsibility for the value of such stolen animal shall devolve upon the heads (*abaninimizi*) of the kraals adjacant to and surrounding the spot where such spoor has been lost or obliterated: and for the purpose of compensating the owner of such stolen animal, it shall be lawful for the Resident Magistrate so to fix such responsibility by an assessment not exceeding two head of cattle (or their money value), to be by such Magistrate levied on each kraal, to make up the whole value, or as near as possible the whole value, of the stolen animal or animals.

(5) Whenever a spoor is traced to, or within, the confines of any locality occupied by any kraal or kraals, or to or within any area occupied by any community or section of a tribe, if the person occupying such kraal or kraals, or locality, or constituting such community or such section of a tribe, without lawful excuse, neglect or refuse to receive to take over and follow up such spoor, they are responsible for the value of the stolen animal whose spoor shall have been so traced, and are to be compelled to make good such value to the owner in like manner as is provided for with reference to "lost spoor" cases in the preceding sub-section.

Effect of Act.

2. This Act shall be read as one with the Act No. 24 of 1886, and shall take effect throughout the whole of the Territories in which the said Act is in force.

Short Title.

3. This Act shall be cited as "The Transkeian Territories Penal Code Amendment Act, 1898."

Repealed by 1926 Act 37, Sec. 361 Whole Act except Secs. 3, 5, 6, 9.

No. 42—1898.] [January 6, 1899.

ACT

To Authorise the New Cape Central Railway Ld. to extend its Railway from Swellendam to Riversdale.

Preamble.

WHEREAS the Cape Central Railways Ld. did by authority of Act 16 of 1883 construct, maintain and work a railway from Worcester *via* Robertson to Roodewal now called Ashton and whereas the New Cape Central Railway Ld. did thereafter

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acquire the whole undertaking of the said Cape Central Railways Ld. and did by virtue of Act 37 of 1894 contract and agree with the Commissioner of Public Works to construct, maintain and work a railway from Ashton to Swellendam which railway is now in course of construction and whereas it is expedient that the said railway should be further extended from Swellendam to Riversdale and 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, maintain and work a railway between Swellendam and Riversdale provided that a subsidy as above mentioned is paid by Government.

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 Railway.

1. The Company styled the New Cape Central Railway Ld. 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 and at a gradient not steeper than one in forty commencing from the terminus of the said Company's railway at or near Swellendam to Riversdale *via* Heidelberg 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, or any deviation or alteration therefrom as hereinafter provided, and it is further provided that the said railway shall be completed within a period of four years after the passing of this Act.

Route of Railway

2. The said railway shall commence at the terminus of the railway from Ashton to Swellendam and thence proceed across or over or near the following lands and farms that is to say Swellendam Municipal Commonage, Appelsbosch, Rotterdam, portions of Steynsrust, portions of Bakkelys Plaats, portions of Thornlands, portion of Compagnies Drift, Distelsfontein, portion of Bonteboks Kloof, portions of Kinko, Zuurbraak, portion of Hartebeest Rivier, Crown lands adjoining Kinko, Crown lands adjoining Rietkuil, portions of Goedeverwachting, Rietkuil, portions of Karnmelks Rivier, portion of Uitvlugt, Brakkefontein, Kruiskloof alias Andrieskraal, alias Grootvley, Melkhouteboom, portions of Slange Rivier, Kruis Rivier, Constantia, Uitspanskraal, portions of Hooikraal, Heidelberg Commonage, Reitz-street, and Market Square in Heidelberg, Erven in Heidelberg, Nos, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 209, 210 and 212, portions of Doornboom, Duivenhoks Rivier, land adjoining Doornboom, Krombeks Rivier alias Karnemelks Rivier, portions of Spiegels Rivier, portions of Kraggakraal, and annex Melkhoutekraal, portions of Narroo, Vette Rivier, alias Melkhoutsboom, alias Kragga, portions of Aan de Vette Rivier, Spitzkop, Doornkraal (including about 42 acres of Riversdale Commonage) and Melkhoutenkraal alias Melkboom to a terminus at Riversdale.

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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 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, 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.

Repealed by 1935 Act 37, Sec. 3 (1)

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 chall 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 on 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

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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.

Transfer of lands compensated for.

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 as expropriated shall be bound and obliged to pass transfer to the said Company of such land.

Repealed by 1925 Act 37 Sec. 3(1)

New streets and roads to be carried across Railway.

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.

Provision where Railway crosses any street or road.

9. At all places where the said railway shall 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.

Powers may be exercised through an Agent.

10. 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.

Subsidy to be paid by Government.

11. 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 two thousand pounds sterling per mile of railway completed as aforesaid.

Repealed by 1925 Act 37, Sec. 3(1)

Tariffs to be framed before commencing to work.

12. That a tariff or tariffs of passenger fares and goods in all classes shall be framed by the Company with the approval of the Government before commencing to work the said railway, no fare or rate to exceed the corresponding fare or rate at present charged by the Company on the railway between Worcester and Ashton and no increase in any fare or rate to be thereafter made without the approval of the Government: Provided that the tariff or tariffs so framed shall not be binding upon the Company until there shall be paid a dividend or interest of not less than five per cent. per annum on the capital expended over and above the aforesaid sum of money in and about the

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construction and equipment of the said railway: Provided further that in the event of the line of railway authorised by this Act being constructed no existing fare or rate charged on the line between Worcester and Ashton, or any portion thereof, shall be increased except with the consent of the Government.

Railway when to be opened for traffic.

13. 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 some Officer to be by him appointed that the same is sufficiently completed for the safe conveyance of passengers; provided that in the event of any difference arising between the Officer so appointed and the Company such difference or dispute shall be settled by arbitration.

Application of Act No. 19 of 1861.

14. 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. 40 of 1889.

15. 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.

Erection of Telegraph and Telephone.

16. 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.

Purchase by Government.

17. Upon the exercise at any time by the Government of its rights and powers under the seventeenth section of the Cape Central Railways Act, 1883 and the Cape Central Railways Extension Act 1894 the Government shall have the right if so disposed to purchase from the Company on giving six months' notice to this 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 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 that such price shall not be less than the capital expended by the Company on such undertaking, and further provided that such price shall not exceed the amount of the estimated cost of the said railway as stated in the Government report already made and presented to Parliament, and provided moreover that from the price so agreed upon or settled by arbitration as the case may be, shall be deducted the amount already paid by the Government to the Company under the provisions of this Act.

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18. For the purpose of any land taken or any arbitration under this Act the provisions of the "Lands and Arbitration Clauses Act 1882" are hereby incorporated.

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Application of Act No. 6 of 1882.

19. 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.

Actions in Corporate name.

20. The Company shall without prejudice to the rights of the Government under section seventeen have the rights of letting the said railway upon lease or of selling and assigning its rights to the railway and to the powers and privileges conferred by this Act.

Right to lease or sell.

21. This Act may be cited for all purposes as the "New Cape Central Railway Extension Act, 1898."

Short Title.

Repealed except para. 4 of 1-or-1 and 4 of Schedule II

No. 43—1898.] [December 30, 1898.

(1) ACT

To Amend the Law relating to Licences and Stamps.

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. The several laws mentioned in the first Schedule to this Act, to the extent therein stated, 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 except as to things done, offences committed, penalties incurred, or proceedings instituted before the taking effect of this Act.

Sec. 25 of 1

Provisions of Tariffs 1 and 2 in Schedule 2 shall have effect as Law.

2. All and singular the several provisions, directions, explanations, conditions and definitions contained in Tariffs No. 1 and No. 2, in the second Schedule hereto, shall be of the same force and effect as if the same had been contained in one or more of the enacting clauses of this Act.

Fees of office set forth in Tariffs 3, 4 and 5 of 2nd Schedule to become payable.

3. All and singular the fees of office set forth in the Tariffs Nos. 3, 4 and 5, in the second Schedule hereto shall, from and after the taking effect of this Act, become due and payable in civil cases for, and in respect of, the several instruments, documents and processes enumerated in the said tariffs.

Collection of fees of office.

4. The fees in the last preceding section mentioned shall be collected by means of stamps affixed to the said instruments, documents and processes, and cancelled by such person and in such manner as may, from time to time, be prescribed by the Governor: ~~Provided, however, that~~ the fees in Tariff 4 of Schedule 2 shall, as to the Court of the Eastern Districts and the High Court of Griqualand, until the Governor otherwise determine, be paid to the Deputy Sheriffs of Albany and Kimberley respectively for their personal benefit.

[1] Extended to Native Territories, as modified, by Proclamation 13, 1899.

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No. 43—1898.

No butcher's licence for sale of meat by market master.

5. A butcher's licence shall not be required for placing, exposing or offering meat, on any public or municipal market, for sale by the market master.

Application of Act in annexed Territories.

6. This Act shall, on and after such date as may be prescribed by the Governor by Proclamation, apply and be in force in the Territories annexed to the Colony under the provisions of the "Transkeian Annexation Act, 1887," the "Tembuland Annexation Act, 1885," the "Walfish Bay and St. John's River Territories Annexation Act, 1884," the "Pondoland Annexation Act, 1894," the "Xesibe Country Annexation Act, 1886," and the "Rode Valley Annexation Act, 1887."

Effect and short title of Act.

7. This Act shall be read as one with the existing Stamp Acts, and may be cited as the "Stamps and Licences Amendment Act, 1898."

Schedule I.

SCHEDULE I

Enactments Repealed.

No. and Year.	Title.	Extent of Repeal.
No. 3 of 1864	"The Stamp Act, 1864."	So much of Tariff 17 of the Schedule as has not been already repealed.
Act No. 20 of 1884	"The Stamp and Office Fees Act, 1884."	In Schedule 2, Tariff 16, the items: "Every Scrip Certificate, Scrip or "Share (new Scrip Certificates "without change of proprietor- "ship excepted)— "(*a*) Entitling any person to "become the proprietor of "any share in any Com- "pany or proposed Com- "pany, "(*b*) Issued or delivered in "the Colony and entitling "any person to become the "proprietor of any share in "any Colonial or Foreign "Company or proposed "Company— "For every £10 of subscribed "Capital or fraction "thereof ... £0 0 3 "Every transfer of any "such share— "For every £10 of sub- "scribed Capital or "fraction thereof ... £0 0 1
No. 15 of 1877	"The Stamp Act, 1877."	The Schedule thereto.

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SCHEDULE I—(*continued*). No. 43—1898.

ENACTMENTS REPEALED.

No. and Year.	Title.	Extent of Repeal.
No. 20 of 1884	"The Stamp Act and Office Fees Act, 1884."	Tariff III. in Schedule. Fees in Civil Cases in the Court of Appeal, the Supreme Court, the Court of the Eastern Districts, the High Court of Griqualand and the Circuit Courts.
Proclamation No. 2, B. B., 6th October, 1885.	Laws and Regulations for the Government of British Bechuanaland	Regulation No. 45.

The Rule of the Supreme Court No. 308, promulgated by Government Notice dated the 3rd January, 1878, relating to Fees to be taken by the Clerk of the Court of the Resident Magistrate.

The Rule of the Supreme Court No. 359, promulgated by Government Notice dated the 25th July, 1884, relating to the Fees to be taken in connection with the sale of real property under attachment.

SCHEDULE II.

Schedule II.

so much as applies to licences to be taken out by insurance companies Repealed by 1923 Act 37, Sec. 58.

TARIFF No. 1.

Annual Joint Stock Companies.

Every joint stock company carrying on business in this Colony shall annually take out a licence, for which there shall be payable for every £100 or fraction of £100 of the subscribed capital of such company £0 1 0

1. The term "joint stock company" shall, for the purpose of the above licence be taken to mean:

(*a*) Every company having a capital stock divided into shares, of which the chief seat or principal place where its business is managed shall be within this Colony.

(*b*) Every such company of whom the chief seat or principal place where its business is managed shall not be in this Colony, but of which any of the dealings or business of such company shall be carried on within this Colony, either by directors appointed to carry on such dealings

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Repealed by 1923 Act 37 Sec. 58 so much as applies to licences to be taken out by insurance companies

or business or by a managing director, manager, secretary or agent on behalf of such company: Provided that when the only business carried on by any company in this Colony shall be the registration of transfers of shares in the said company, such company shall annually take out a licence for which there shall be paid the sum of £5 in lieu of the aforesaid licence: Provided further that nothing herein contained shall in any way alter or affect or apply to the licences of such companies as are regulated by sections 11 or 12 of the Act 38 of 1887.

2. The licence issued to any such company at any seat or place of business thereof in this Colony shall cover the business of such company as a joint stock company at all its places of business in this Colony.

3. The above licence shall, no matter at what period of the year the same may have been taken out, expire on the 31st of December then next ensuing. When any such licence shall be issued upon or after the first day of July there shall be payable only one-half of the amount calculated as herein described; if taken out before the first day of July there shall be no deduction.

4. The directors for the time being within this Colony of any such company as aforesaid shall be personally liable *singuli in solidum* for the amount payable for the licence. If there be no directors within this Colony, but only a managing director, manager, secretary or agent, then such managing director, manager, secretary or agent shall be liable.

5. Before a licence is taken out by any such company and on every renewal of a licence there shall be delivered to the officer appointed to issue such a licence a certificate of the subscribed capital of such company. Such certificate shall be signed by a director, if there be one, or managing director, manager, secretary or agent of such company; in the event of the neglect or refusal of any such director, managing director, manager, secretary or agent to certify such amount the officer aforesaid shall be entitled to estimate the subscribed capital of such company at whatever amount he shall, from the information within his reach, judge to be sufficient, and calculate the sum payable for a licence according to such amount, and such amount shall be recovered as aforesaid.

6. Every mutual assurance company, not having a capital stock divided into shares, and every building society, whether one having a capital stock divided into shares or not, shall annually take out a licence, for which there shall be payable the sum of one shilling for every £100 or fraction of £100 of the accumulated fund of such company, as such fund shall have been ascertained by the latest statement of accounts laid before its members at any general meeting thereof: Provided that no such company or

See note on page 4017

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See note on Page 4018.

society as is in this clause mentioned, of which the accumulated fund for the time being shall be less than £10,000, shall be required to take out a licence under this Act: Provided, further, that before the issue or renewal of any such licence a duly certified copy of such latest statement of accounts, to be rendered in such form as the Governor may from time to time fix, shall be delivered to the officer appointed to issue such licence; and provided also that no such company or society shall in any case in any one year be bound or obliged to pay any sum by way of licence exceeding the sum of five hundred pounds sterling.

7. Nothing in this Act contained shall require any savings bank society or benefit society to take out any licence.

Tariff No. 2.

Scrip Certificates.

1. On every scrip certificate, scrip or share (new scrip, share, or scrip certificates without change of proprietorship excepted), in any company, whether Colonial or Foreign, which may be issued or delivered in the Colony, there shall be payable for every £10 of subscribed capital or fraction thereof the sum of three pence.

The words scrip certificate, scrip or share shall mean and include every certificate of actual registered ownership of shares or stock in any company or syndicate, as well as certificates entitling any person to become the proprietor of shares or stock in any company or proposed company.

2. On every transfer of any such scrip certificate, scrip or share there shall be payable for every £10 of subscribed capital or fraction thereof the sum of one penny.

Tariff No. 3.

In the Supreme Court, the Court of the Eastern Districts, the High Court of Griqualand and Circuit Courts:

	£	s.	d.
For every summons for a defendant or witness	0	5	0
For every warrant of attorney to sue or defend	0	3	0
For every declaration, special case, first plea or subsequent pleading	0	5	0
For every notice, entering or setting down any case for hearing, trial, argument, or judgment	0	5	0
For every affidavit	0	3	0
For every certified copy of any document not exceeding four folios	0	5	0
For every additional folio	0	1	0

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	£	s.	d.
For every writ or process of execution, writ of arrest, or for the attachment of the person or of property to found jurisdiction	0	5	0
For every petition to appeal to the Queen in Council	2	0	0
For every recognizance in appeal or bond of security for restitution	0	5	0
For affixing the seal of the Court to Commissions for examination of witnesses or to any other document	0	5	0
For every order of rehabilitation or release from sequestration of an insolvent	1	0	0
For every other rule or order of Court	0	5	0
Searching for any entry, record or document:			
Through one year	0	2	0
For every additional year	0	1	0
For every petition, memorial, notice of motion, or other application to the Court, filed	0	3	0
For every certificate of completion of security on application for rehabilitation	0	5	0
On every balance sheet on application for rehabilitation	0	5	0
On bills of costs, for each £1 or fraction of £1 allowed on taxation	0	1	0
On any separate certificate of the amount at which costs have been taxed	0	1	0
The stamps in respect of search fees shall be affixed in such books or to such instrument or record as the Governor may determine.			

Tariff No. 4.

In Proceedings in Execution of Real Property and Attachment.

	£	s.	d.
On extract or certificate from debt registry	0	5	0
On copy of writ filed	0	5	0
On report of sale to Court	0	10	0
On plan of distribution of proceeds of sale, two pounds and ten shillings per £100 on amount received and distributed when such amount does not exceed £250, and one pound per hundred pounds in addition upon the excess of such amounts beyond £250.			
On report of account of the Court	0	10	0

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(1) TARIFF No. 5. Rep. by act 32 of 1917 No. 43—1898.

In Courts of Resident Magistrates, including Courts of Assistant Resident Magistrates, and in Courts of Chief Magistrates, including Courts of Assistant Chief Magistrates.

	£	s.	d.
On every original summons, including interpleader summons, threepence in the pound or fraction of a pound upon the amount demanded, but not to exceed	0	5	0
On every writ of execution or attachment (whether against person or property), threepence in the pound or fraction of a pound upon the amount (including costs) specified therein, but not to exceed...	0	5	0
On every original subpœna	0	1	0
On every authority to sue or defend...	0	1	0
On every substitution of an authority to sue or defend	0	0	6
On every affidavit	0	3	0
On every bill of costs, threepence in the pound or fraction of a pound ... ... on the amount allowed on taxation.			
On notice of appeal...	0	5	0
On certified copy of record in appeal or otherwise ...	0	5	0
On certified copy of any single document...	0	1	0
On any separate certificate of the amount at which costs have been taxed...	0	1	0
In any case where the fee cannot be estimated by any rule in this Schedule it shall be estimated on £15.			
In any case in which any process shall be prepared by the Clerk of the Court and not by the attorney or agent of the party, the same fee shall be payable to the clerk as is allowed to agents for the preparation of such process. Such fee shall be in addition to the fee prescribed by this Schedule in respect of any such process.			
No more than four witnesses shall be included in any one subpœna.			

[1] See also 2nd Schedule to Act 15, 1905 (p. 4839), for fees of Court issued in respect of process taken out by private persons (Small Debts Recovery Act).

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No. 44—1898.] [January 6, 1899.

ACT

To Amend Act No. 27 of 1882, commonly called "The Police Offences Act, 1882."

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 fifth Section of "The Police Offences Act, 1882," or of any other Law as may be repugnant to or inconsistent with the provisions of this Act, is hereby repealed.

Increased fine for soliciting.

2. The penalty for the commission of the offence created by sub-section twenty-nine of section five of the said Act shall, from and after the taking effect of this Act, be a fine not exceeding five pounds or, in default of payment, imprisonment with or without hard labour for any period not exceeding thirty days unless such fine be sooner paid: Provided that in the case of a second or any subsequent conviction, the Magistrate may sentence to imprisonment without the option of a fine.

3. [Sections 3—6 repealed by Act 36, 1902.]

Section 19 of Act 27 of 1882 amended.

*7. The Nineteenth Section of the said Act is hereby amended by inserting the words "not exceeding" before the word "ten" in the eighth line thereof.

Where Act to apply.

8. This Act shall apply within the limits of every Municipality, Corporate Town, or area under the jurisdiction of any Village Management Board.

Effect and Short Title.

9. This Act shall be read as one with the said Act, and may be cited as "The Police Offences Act Amendment Act, 1898."

*Repealed by Act 31 of 1901.

[pp. 4023—4024.]

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No. 1—1899.] [July 28, 1899.

ACT

To Apply a Sum not exceeding One Million Pounds Sterling towards the Service of the Year ending the 30th day of June, 1900.

[Spent.]

Repealed by Act. No 25 of 1934

No. 2—1899.] [July 28, 1899.

ACT

To Apply a further Sum not exceeding Forty-seven Thousand Eight Hundred and Sixteen Pounds Sterling for the Service of the Year ended the 30th June, 1899.

[Spent.]

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No. 3—1899.] [August 22, 1899.

ACT

To Amend the "University Incorporation Amendment Act, 1896.

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 University Incorporation Amendment Act No. 6 of 1896.

1. Notwithstanding anything to the contrary contained in the fifth section of the "University Incorporation Amendment Act, 1896," it shall be lawful for the Supreme Court to admit persons to practise as Advocates therein who, having, on or before the 14th day of August, 1896, obtained the degree, after examination, of Bachelor of Arts of the University of the Cape of Good Hope, shall thereafter have been admitted to the *ad eundem* degree of Bachelor of Laws of the said University.

Short Title.

2. This Act may be cited for all purposes as "The University Incorporation Amendment Act, 1899."

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No. 4—1899.] [22nd August, 1899.

ACT

To Provide for the Refund of a Portion of the Customs Duties Levied by this Colony on Goods Imported for Removal to Southern Rhodesia.

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 Customs Union Tariff Act, 1889.

1. Section five of the Customs Union Tariff Act, 1899, shall be read and construed as if the following words were added thereto:—"And provided further that, in the case of goods intended for Southern Rhodesia, and as to which, by the law in force in Southern Rhodesia, the duties prescribed by the Customs Union Tariff are imposed, it shall be lawful, in lieu of such rebate, to pay over to the Government of that territory eighty-five per centum of the full Customs Union duties collected on such goods, in conformity with the agreement set forth in the Schedule to the Rhodesia Customs Duties Collection Act, 1899."

Removal of goods under bond, without payment of duty, from this Colony to Southern Rhodesia, subject to regulations.

2. With the authority of the proper Officer of Customs, and subject to such regulations as are referred to in the next section of this Act, any of the goods herein referred to, warehoused under bond in any bonded warehouse lawfully appointed at any free warehousing port in this Colony, may, without the payment of duty before removal, be removed overland under bond from such warehouse to and into Southern Rhodesia, which bond shall be in accordance with regulations made under the next succeeding section of this Act, and shall secure the due rewarehousing of the said goods in Southern Rhodesia, whether such goods be, or be not, intended for consumption therein.

Regulations governing removal and conveyance of goods under bond, and providing for collection of duty.

3. The Governor may, by notice in the *Gazette*, from time to time make and alter regulations governing the removal and conveyance under bond of such goods as are referred to in the last preceding section of this Act, and providing for the due collection on behalf of the Colonial Treasury by Southern Rhodesia of the duties of Customs to which this Colony is lawfully entitled in respect of such goods, to all which regulations the provisions of the eighth section of the Act No. 1 of 1889, commonly called the Customs Union Tariff Act, 1889, shall apply.

Short Title.

4. This Act may be cited for all purposes as "The Rhodesia Customs Duties Collection Act, 1899," and shall come into force from a date to be proclaimed by the Governor.

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No. 4—1899.

SCHEDULE.

AGREEMENT.

Entered into between the Government of the Colony of the Cape of Good Hope on the one part and the Administration of Rhodesia on the other part for the collection by the said Government of duties on certain articles when imported into the Colony, but intended for consumption in Southern Rhodesia, and the payment over to the said Administration of an equitable share of such duties:—

I. The Government of the Colony, subject to the provisions of this Agreement, undertakes to levy and collect on goods imported into the Colony for consumption in Southern Rhodesia and removed to that Territory in accordance with regulations mutually agreed upon, the duties as set forth in the annexed Schedule, so long as they remain the duties under the South African Customs Union Tariff; and also the duties on such further articles as may be added by the Legislature of Southern Rhodesia, provided they are in accordance with the said Customs Union duties; and shall pay over to the said Administration the duties so collected subject to a deduction of fifteen per centum.

II. Should any such goods be returned to the Colony the eighty-five per centum so paid over shall be refunded to the Government of the Cape Colony.

III. No duties shall during the currency of this Agreement be levied in Southern Rhodesia on any animals bred or articles grown, produced or manufactured within the South African Customs Union, or on any animals or other articles described in the free list attached to the said Customs Union Tariff.

IV. All accounts as between the two parties to this Agreement shall be made up to the last day of each quarter of the calendar year, and all such accounts shall be adjusted and settled within two months from that date.

V. Notwithstanding anything to the contrary contained in this Agreement the goods referred to in Article I and in the Schedule hereto annexed may be removed in bond from this Colony to Southern Rhodesia, and *vice versa*, under conditions similar to those laid down in Articles 8 to 13 of the South African Customs Union Convention.

VI. This agreement may be terminated by six months' notice on either side, or earlier by mutual agreement; provided, however, that, save by common consent, the date from which such notice shall take effect shall be the end of the quarter next after the expiration of the six months aforesaid.

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VII. Subject to ratification by the Legislature of the Colony this Agreement shall come into effect on a date to be determined and agreed upon between the said two parties.

Given under my hand and the Public Seal of the Colony of the Cape of Good Hope, at Cape Town, on this twenty-seventh day of July, One Thousand Eight Hundred and Ninety-nine.

Governor.

Given under my hand and the Public Seal of Southern Rhodesia, at Bulawayo, on this thirty-first day of July, One Thousand Eight Hundred and Ninety-nine.

Administrator.

SCHEDULE.

CUSTOMS TARIFF.

CLASS I.—SPECIAL RATES.

No.	ARTICLE.		RATE.
			£ s. d.
1	Ale, Beer and Cider: all kinds of strength exceeding two per cent. of proof spirit—		
	(A) in vessels of not greater content than one Imperial quart	per Imp. gal.	0 1 6
	(B) in other vessels, bulk or wood...	"	0 1 3
2	Beads, known as "Kafir Beads"	per lb.	0 0 3
3	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 100 lbs.	0 18 9

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No. 4—1899.

SCHEDULE (*continued*).

No.	Article.		Rate. £ s. d.
4	Fruits: preserved of all kinds, bottled, tinned or otherwise preserved, including pulp and candied peel	per 100 lbs.	0 18 9
5	Almonds and nuts	per lb.	0 0 2
6	Gunpowder and other explosives suitable for use in firearms ... (and 7½ per cent. *ad valorem* in addition)	„	0 0 6
7	Guns & Gun Barrels, Firearms—		
	(A) Single	per barrel	1 0 0
	(B) Double and other ... (and in either case 7½ per cent. *ad valorem* in addition)	„	0 15 0
8	Picks and Hoes, Kafir	each	0 0 6
9	Pistols and Revolvers	„	0 5 0
10	Spirits—		
	(A) Perfumed	per Imp. gal.	1 0 0
	(B) Liqueurs and cordials exceeding two per cent. of proof spirit, and methylated spirits	„	0 15 0
	(C) Other sorts, exceeding two per cent., but not exceeding the strength of proof by Sykes' Hydrometer, and so on in proportion for any greater strength ...	„	0 15 0
11	Tobacco—		
	(A) Cigars and Cigarillos ... (and in addition 7½ per cent. *ad valorem*)	per lb.	0 6 0
	(B) Goorak or Gooracco and Hookah mixture and all imitations or substitutes...	„	0 6 0
	(C) Snuff	„	0 4 0
	(D) Cigarettes	„	0 4 0
	(E) Manufactured and cut ...	„	0 3 6
	(F) Manufactured but uncut...	„	0 3 0
	(G) Not Manufactured but Stemmed	„	0 2 6
	(H) Not Manufactured and unstemmed leaf ...	„	0 2 0

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SCHEDULE (*continued*).

No.	Article.		Rate.
12	Wine—		£ s. d.
	(A) Claret, not exceeding 20 per cent. of proof spirit ...	per Imp. gal.	0 6 0
	(B) other than (A) exceeding two per cent. but not more than 50 per cent. of proof spirit	„	0 9 0
	(and in addition 7½ per cent. *ad valorem* on all wines when imported not in wood).		

NOTE.—*Wine exceeding 50 per cent. of proof spirit to be classed as spirits.*

No.	Article.
	CLASS II.—SPECIAL: AD VALOREM 20 PER CENT.
	The following articles shall be liable to a duty of 20 per cent. *ad valorem*.
13	Blankets and sheets or rugs, cotton or woollen, or manufactures of cotton and wool, commonly used as cotton or woollen blankets or rugs, the single article, in pairs or in the piece, and coats, jackets, or other apparel made of blanketing or baize.
14	Bon-bons, surprise packets and crackers, and other similar fancy confectionery.
15	Carriages, carts, coaches, wagons and all other wheeled vehicles intended for the conveyance of persons or goods: including finished or fashioned parts thereof, not being metal parts not usually made in the South African Customs Union, but required in the manufacture of wheeled vehicles therein, but not including bath chairs, perambulators, toy carts, store trucks or barrows.
16	Extracts and essences of all kinds used as a flavouring or perfumery, including saccharine.
17	Medicinal preparations, not being drugs for dispensing purposes.
18	Perfumery, cosmetics, dyes, powders and soap, or other preparations for toilet use, and soap powders and extracts.
19	Shawls.

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No. 5—1899

SCHEDULE (*continued*).

No.	Article.
	CLASS III.—Ad Valorem 7½ per cent.
	The following articles shall be liable to a duty of 7½ per cent. *ad valorem*:—
20	Articles of wearing apparel and personal adornment, including boots, shoes and slippers (exclusive of articles under item No. 13).
21	Cottons, linens, silks and woollens, or mixtures thereof, in the piece or otherwise (exclusive of articles under item No. 13).
22	Drugs and chemicals (exclusive of articles under item No. 17 and chemicals for use in the extraction of metal from ores or other mining or gold recovery purposes).
23	Furniture, including brushware, cabinetware, carpets, glassware, household utensils, lampware and musical instruments.
24	Haberdashery, drapery, and millinery.
25	Jewellery, plate, clocks, and watches.

None of these duties shall extend or apply to any articles grown, produced, or manufactured within the South African Customs Union, or to any articles described in the free list attached to the said Customs Union Tariff.

No. 5—1899.] [September 19, 1899.

ACT [1]

To Regulate and Control the Location of Natives on Private Property in areas in which large numbers of them are employed in Mining or other Works.

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:—

Provisions relating to locations on private property may be suspended in certain areas.

1. In any area, defined by Proclamation, within which large numbers of natives reside or are located with a view to their employment in or at any coal mine or any other mine or any public or private work, the Governor may by such Proclamation suspend the operation of all or any of the provisions of the "Native Locations Act, 1884," and of the "Native [2] Locations Act, 1892," relating to native locations on private property.

[1] The provisions of Act 30, 1899 (Native Locations on private property) do not apply to this Act. See § 27 (p. 4148).

[2] This Act is repealed by Act 30, 1899 (p. 4143).

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2. The Governor may by Proclamation from time to time amend or repeal any such Proclamation as in the last preceding section mentioned.

Proclamation may be amended or repealed.

3. If the effect of any such amendn nt or repeal as in the last preceding section mentioned is, withi the meaning of any Law relating to native locations, to constitute any one or more Native Locations on private property in such area, then the person on whose land any location so constituted exists, shall, within six months of the date of such amendment or repeal, duly apply for and obtain under the provisions of the said Acts, a licence for the establishment of such location, failing which he shall be liable to the penalty in the sixth section of the said "Native Locations Act, 1884," mentioned.

Effect of amendment or repeal.

4. From and after a date to be fixed by a Proclamation under this Act all or any of the provisions of the succeeding sections of this Act which may be specified in such Proclamation shall be in operation in the whole or any portion of any area, hereinafter described as a "proclaimed area," defined and proclaimed in such Proclamation.

Provisions in operation in proclaimed area.

5. The manager, overseer, or person in charge of any coal mine or other mine or work situated within any proclaimed area shall keep a true and correct register, in respect of the whole or such portion of such area, as the case may be, as may be under his management or charge, of:—

Registers to be kept and open to inspection.
Penalties for neglect.

(1) The number of huts or dwellings therein, each of which shall have a number assigned to it in the register and shall have the said number painted on or affixed to it in some prominent place;

(2) The names, which shall be numbered in the register, of the native male adults occupying each of such huts or dwellings;

(3) The numbers, marks, or other description of the horses, horned cattle, sheep, goats, ostriches, mules and donkeys owned by such native male adults or by members of their families, not being male adults, residing within such area.

The said register shall at all reasonable times be open to inspection by any Resident Magistrate, Justice of the Peace, Fieldcornet or Policeman, or by any Inspector appointed by the Governor under the provisions of this Act.

If the said Inspector shall at any time ascertain that the said register is not written up to date, or if he find it to be incorrect or incomplete in any material particular, the said manager, overseer, or person in charge, as the case may be, shall, unless such manager, overseer, or person in charge, as the case may be, shall prove to the satisfaction of the Court, before which he may be tried under this section, that the omission to have the said register written up to date, or any other incorrectness or incompleteness, is not due to wilful default or neglect on his part, be liable

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to a fine not exceeding twenty pounds, or in default of payment to imprisonmnnt with or without hard labour for a period not exceeding three months.

Badge or tickets for every male.

6. The manager, overseer or person in charge of any coal mine or other mine or work in such proclaimed area, shall furnish every native male adult upon his registration, as in the last preceding section mentioned, with a ticket numbered in accordance with the number opposite his name in the register of the said section mentioned. Any such manager, overseer, or person in charge who fails or neglects to furnish a native male adult in his employ with such a ticket shall be liable to a penalty not exceeding two pounds.

Penalty for being without ticket.

7. Any native male adult found in a proclaimed area and not having permission, in writing, from any manager, overseer, or person in charge of the coal mine or other mine or work in such area, or unable to produce, or not having in his possession the ticket with the number corresponding with the one opposite his name in the register in the fifth section of this Act mentioned, shall be liable to be summarily arrested by any Police Officer or by any person acting on the order of any Resident Magistrate, Justice of the Peace, or Inspector appointed under this Act, and shall be deemed and taken to be an idle and disorderly person, and upon conviction shall be liable to the penalties provided by section 4 of Act 23 of 1879, as amended by subsequent legislation.

Searching powers for spoor of stolen stock.

8. When the spoor of any stolen animals is traced to any proclaimed area, any Policeman, or any Inspector appointed under this Act, or any other person duly authorised thereto in writing by a Resident Magistrate or Justice of the Peace, may search for any traces of such animal in any hut, dwelling, kraal, enclosure or lands within such area.

Effect of non-registration of stock.

9. In case any native inhabitant of any proclaimed area shall be charged with having stolen any cattle, sheep, goats, horses, ostriches, mules or donkeys, or with having received any such animal knowing it to have been stolen, the fact of the animal in respect of which the charge is made having been found in the possession of such person without the same having been registered as aforesaid (a reasonable time to enable such person to have had such animal registered as aforesaid having elapsed from the time he became possessed of the same) shall be *prima facie* evidence of the guilt of such person, and the onus of proving that he is not guilty shall be thrown upon him.

Hut tax.

10. An amount of ten shillings each shall be annually payable as hut tax on all huts in any proclaimed area occupied by natives cultivating land within such area, under lease or otherwise, and in case any native occupying any hut shall fail to pay such tax after reasonable notice that it is due, the proprietor of the land on which such hut is situate shall be liable for the payment thereof. It shall be lawful for any Inspector appointed under

Repealed by act 28 of 1902 sec 7

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the provisions of this Act within the area for which he has been appointed, or any other person authorised thereto by the Governor, to demand and sue for the amount of hut tax payable under the provisions of this Act.

Sale of goods in compounds.

11. Where any native is located or resident in any building or within any compound or place within any proclaimed area, wherein or whereat he may be detained under any restrictions imposed lawfully by the terms of his contract or employment, it shall not be competent under any circumstances for the employer of such native or for any one acting for such employer or under any agreement with him, to sell any wares, goods, or merchandise other than those that shall be reasonably necessary for the use and well-being of such native during the period of his location or residence as aforesaid, and every person who shall contravene any of the provisions of this section shall, upon conviction thereof before any competent court, be liable for the first offence to a fine not exceeding five pounds, or to be imprisoned for any period not exceeding one month, and for the second and each subsequent offence to a fine not exceeding ten pounds, or to be imprisoned with or without hard labour for a period not exceeding two months.

Access to buildings and compounds.

12. Any Inspector appointed under this Act or any other officer authorised by the Governor shall at all times have access to every building or compound mentioned in the last preceding section, and it shall be his duty to report any contravention of this Act to the Resident Magistrate of the district.

Inspectors of Locations.

13. It shall be lawful for the Governor to appoint one or more officers, to be styled "Inspectors of Native Labour Locations," who shall be charged with the duty of prosecuting any persons contravening the provisions of this Act or the regulations framed thereunder, and the collection of any hut tax payable under this Act.

Penalty for obstructing.

14. Any person who shall obstruct any Inspector as aforesaid in the execution of his duty, shall, on conviction, be liable to a fine not exceeding five pounds, and in default of payment thereof to imprisonment with or without hard labour, and with or without spare diet, for a period not exceeding three months, or to such imprisonment without the option of paying a fine.

Removal of persons found in a proclaimed area without authority.

15. Any person found without right or authority in any proclaimed area may be directed to remove therefrom, by order, in writing, signed by the Resident Magistrate of the district in which such proclaimed area is situated or to whom the Governor may specially by Proclamation assign jurisdiction over the said area for the purposes of this Act, such person having been first summoned before the Court of the Resident Magistrate to show cause why he should not remove from such proclaimed area, and no sufficient cause to the contrary having been proved to the satisfaction of such Court. Provided that nothing herein contained shall be taken to affect the right any owner of land, or his duly

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authorised representative, may have under contract with such person or otherwise, to remove him from such land. Any person who may be so ordered to remove as aforesaid, who shall disobey such order, shall be liable to be summarily removed from such proclaimed area by the Inspector of such area or by any Policeman to whom the said order may be delivered and to a fine not exceeding twenty pounds or to imprisonment with or without hard labour for any period not exceeding three months.

Regulations.

16. It shall be lawful for the Governor, from time to time, to make regulations any of which may be applied to the whole or any portion of any proclaimed area for:—

(1) prohibiting overcrowding of huts or dwellings;
(2) regulating the sanitary appliances in connection with mines, works, huts, dwellings, buildings or compounds, and for prohibiting the use of such appliances as in the opinion of the Inspector should not in the interests of health be allowed;
(3) suppressing nuisances;
(4) regulating and providing for the supply of water for the use of persons residing within such area;
(5) preserving public decency;
(6) preventing the spread of contagious or infectious diseases and for preserving the public health;
(7) regulating the removal of night soil, filth, and refuse;
(8) fixing hours within which natives shall not be permitted to leave or be beyond certain limits which may from time to time be defined within such proclaimed area;
(9) restricting or regulating the sale of liquor within such proclaimed area to any native; Provided that any restrictions imposed under such Regulations shall be in addition to, and shall not supersede or affect, any conditions that may be imposed, and be in force in any proclaimed area or portion thereof, under the provisions of section one of Act [1] No. 28 of 1898, in regard to the sale of liquor to natives; and also generally for
(10) maintaining order and the better carrying into effect of the provisions of this Act.

Any person contravening any such regulation shall, on conviction thereof before any Resident Magistrate, be liable to a fine not exceeding twenty pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

Definition of "Native."

17. For the purposes of this Act the term "native" shall mean any Kafir, Zulu, Fingo, Basuto, Damara, Hottentot, Bushman, Bechuana, Koranna, or any other aboriginal native of South or Central Africa.

Application of Act to Municipalities and Village Boards.

18. The provisions of this Act or any of them or of any regulation made thereunder may by Proclamation be extended to the

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on satisfying the Civil Commissioner that he is a person of good character. Such licence shall have a stamp, of the value of two shillings and sixpence, for each month.

Extent of Prospecting Licence. (Act 19. 1883, Section 3.)

5. A prospecting licence, issued under the preceding section, shall be in the form set forth in the second schedule to this Act, and shall give to the holder for the period therein mentioned, but not exceeding twelve months, the right to prospect and search for precious stones throughout the Colony, on Crown lands, and, subject to the consent of the owner, on private property. No one shall be allowed to prospect or search for precious stones on such lands without such a licence.

No Proprietor to prospect without owner's consent; right to enter into agreement with such owner. (Act 44. 1887, Section 5 (2).).

6. No owner of private property shall be bound or obliged to permit or allow any licensed prospector to prospect upon his land, but he may give and grant to any prospector duly licensed leave to prospect thereon or upon such portion thereof as he may point out for such lawful consideration and subject to such lawful terms and conditions as may be agreed upon between them.

Prospecting area on Crown lands defined.

7. A duly licensed prospector shall have the exclusive right of prospecting on Crown Land within a circular area, hereinafter called a prospecting area of one thousand yards in diameter, at the centre of which it shall be his duty to erect a beacon and affix thereon a signboard bearing the words "Centre of Prospecting Area under Licence No..... issued by the Civil Commissioner for the Division of..... ....." and the name of the prospector: Any such prospector shall, during the currency of his licence, be at liberty to move such beacon to any other spot on Crown land lawfully open to him, provided such spot or area does not interfere with the prospecting area of any other duly licensed prospector.

Penalty for destroying the centre beacon of a prospecting area or for prospecting in such area without the prospector's consent. (Act 19, 1883, Section 10.)

8. Any person who shall knowingly and wilfully remove or destroy any licensed prospector's beacon, and any person who, without the consent of the prospector, shall knowingly and wilfully prospect within such prospector's prospecting area, shall be liable on conviction to a penalty not exceeding fifty pounds (£50) sterling, and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

Grazing right secured to holder of licence. (Act 19. 1883, Section 4.)

9. Every holder of a prospecting licence shall have the right on Crown lands of grazing for six horses or mules, or for sixteen oxen, and of taking wood and water for his domestic use.

Places where prospecting is prohibited. (Act 19, 1883, Section 11.)

10. No person shall be entitled, under a prospecting licence, to dig or search for precious stones on Crown land nor upon any lands under cultivation or required for the purposes of irrigation; nor in any squares, streets, roads, railways or cemeteries; nor in any mine which has been duly declared abandoned, as hereinafter provided; nor in any duly proclaimed mining area actually used for any mining purposes; nor in any claim in an alluvial digging.

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DIVISION II.

No. 11—1899.

Discovery of Precious Stones.

Duties and Rights of the Discoverer.

Information to be given by the discoverer of the finding of precious stones, and declaration of finds to be made by him.

11. It shall be the duty of any person who shall find any precious stones while prospecting under a licence, within one month to give notice thereof to the Civil Commissioner of the division in which he has found them, and thereafter to make, once in each month, during any part of which he prospects at the place where he has found precious stones as aforesaid, a solemn declaration of the number and value of the precious stones found by him, and of the amount of ground measured in loads of sixteen cubic feet to each load which has yielded the same, and to lodge such declaration with such Civil Commissioner aforesaid; and any person who shall fail to give the notice aforesaid or to make the declaration duly required, shall upon conviction thereof before any Magistrate forfeit his licence and all benefits under it and be liable to pay a fine of fifty pounds sterling, and in default of payment to be imprisoned with or without hard labour for a period not exceeding twelve calendar months.

Discoverer's Claims. (Act 19, 1883, Section 9).

12. Any holder of a prospecting licence under the provisions of this Act or of any of the Acts referred to in the first schedule hereto, who shall prove to the satisfaction of the Civil Commissioner with whom he has lodged the declaration mentioned in the preceding section, that he has discovered precious stones in payable quantities shall be entitled to select fifty claims in block at the place where such precious stones have been found on its being proclaimed a mine, and shall receive a certificate from the Civil Commissioner that he is so entitled. The said claims shall be selected prior to the allotment of any other claims in such mine, and shall be free of licence money as long as they are held by such discoverer.

Upon the granting of such certificate as aforesaid the discoverer's rights of prospecting under his licence within the place to which the certificate refers shall cease.

Prospector's claims when his prospecting is included in a proclaimed mine.

13. No other prospector shall be entitled to "Discoverer's Claims" in the same mine or any extension thereof; provided that if any prospecting area be included in a proclaimed mine, any prospector holding a prospecting licence current within the boundaries of the mine at the date of its proclamation or any extension thereof, shall be entitled on payment of licence money thereon one month in advance to select two (2) claims within the boundaries of the mine after the discoverer and owner have selected the claims to which they are entitled and to have the same registered in his name.

Discoverer's rights if Governor does not see fit to proclaim a mine at place where discovery made.

14. It shall be lawful for the holder of the certificate mentioned in the twelfth section of this Act, should the Governor not see fit to proclaim a mine at the place referred to in the certificate within three months after the granting of the same, to beacon

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(Act 44, 1887, Section 7.)

off and hold subject to the terms and conditions of any agreement between himself and the owner, where such place is on private property, the claims to which the said certificate entitles him in the same manner and with the same rights and obligations in every respect as if such place had been proclaimed a mine; provided that nothing herein contained shall be deemed or taken in any way to interfere with the rights and power of the Governor at any time to proclaim a mine including the claims so beaconed off; and provided further that all such claims and any transfer of them shall be registered with the Registrar of Claims in the same way as if such claims were in a proclaimed mine in manner hereinafter provided.

Governor to take steps to test payability and extent of of place where precious stones are discovered. (Act 19, 1883, Section 13.)

15. The Governor may, at any time, and shall, prior to proclaiming any place where precious stones have been discovered a mine or alluvial digging, take such steps as he may deem fit for the purpose of testing the character, payable qualities and extent of such place, and for this purpose may appoint such duly qualified person on such salary or allowance as he may think fit, and may authorise the expenditure of such sums of money as shall be deemed necessary for the purpose of such testing: Provided that in no circumstances shall any responsibility whatever attach to the Government in case any proclaimed mine or alluvial digging should, after the proclamation thereof, prove to be, or become, unpayable.

Penalty for making false declaration of discovery of precious stones. (Act 19, 1883, Section 14.)

16. Any person who shall make any declaration referred to in the eleventh section of this Act, well knowing that the precious stones declared to have been found were, by himself or by some other person, placed or deposited in or on the spot, or in the soil or stuff dug out or removed from the spot in which such declarant was prospecting, or where the discovery of such precious stones is declared, as aforesaid, to have been made and were not naturally situated in or on the spot or in the soil or stuff where they were declared to have been found or discovered, or well knowing that the said precious stones were not found or discovered in or on the place where they were declared to have been found or discovered shall, upon conviction, be liable to such punishment as is by law provided for the crime of perjury.

The placing of precious stones on places where not naturally found, in order to induce prospector to make declaration, punishable as fraud. (Act 19, 1883, Section 15.)

17. Any person who shall wilfully place or deposit or be accessory to the wilfully placing or depositing of any precious stones or minerals in any spot or place with intent to persuade or induce any person to make such solemn declaration as aforesaid, or for the purpose of misleading the Governor or any other person as to the payable nature of a spot or place where precious stones have been declared to have been found, and previous to such spot being proclaimed an alluvial digging or mine, or being let out on a lease as hereinafter provided, shall be guilty of the crime of contravening the provisions of this Act, and shall, upon conviction thereof, suffer such punishment as if he had been convicted of the crime of fraud.

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Onus of proof when persons charged under last section. (Act 19, 1883, Section 16).

18. In any proceedings taken for the contravention of the last preceding section, if the accused person shall be proved to have placed or deposited, or to have been accessory to the placing or depositing of any precious stones in any place where the finding thereof would be likely to lead any person to make a declaration of the finding of the same, or would tend to mislead the Governor, or any other person, he shall be taken to have so placed or deposited such precious stones in contravention of the last preceding section, unless he shall produce satisfactory evidence to the contrary.

DIVISION III.

Distribution of Claims in a "Mine."

Inspector to attend at mine on day appointed in *Gazette* to allot claims.

19. After the place where precious stones have been declared to have been found, has been proclaimed a mine, and on a day, notice of which shall be published in the *Gazette* and in some newspaper published in or circulating in the division in which the said mine is situate, at least once in each week for a period not less than four weeks prior to such day, the Inspector or some other person appointed in that behalf shall attend at the said mine for the purpose of allotting the claims therein, and shall have with him a plan of the said claims, properly surveyed and numbered, together with a plan showing generally the shape, dimensions and boundaries of the whole area available as depositing sites. The cost of the requisite surveys and plans shall, when the mine is on private property, be borne, as to the claims, equally by the Government and the owner, and as to the depositing sites, by the owner.

Claims to be publicly sold after allotment of discoverer's, owner's and prospector's claims.

20. On the said day, after the discoverer, owner and prospector, referred to in the thirteenth section of this Act, have selected the claims to which they are entitled, the remaining claims in the said mine shall be publicly sold either singly or in blocks (no block consisting of more than twenty claims) as the Minister may determine.

Purchase price to be secured by two sureties.

21. The purchase price, together with the licence money, referred to in section twenty-three, for the first month, shall, in each case, be paid within one week of the sale, and shall be forthwith secured on the day of sale by two good and sufficient sureties to the satisfaction of the Inspector or other official conducting the allotment, which sureties shall bind themselves in regard to such payment as sureties in solidum and co-principal debtors.

If security not given claims to be resold.

22. If the purchaser shall fail to give the security required in the preceding section, the claims shall be declared not sold and shall be again immediately put up to auction.

Purchaser liable for licence moneys in addition to purchase price.

23. In addition to the purchase price, the purchaser shall from the day of the purchase be liable on each claim for the licence money provided for in Division IV of this Act, as long as such claim is held by him.

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Discovery by claimholder that claim allotted him is outside mine.

24. Any holder of a claim in a mine satisfying the Inspector at any time within two months of the first allotment of the claim held by him that it is on the surface wholly outside the diamondiferous area, shall be entitled to abandon such claim and demand a refund of all moneys paid by him in respect thereof.

Every person to whom claim allotted to take out certificate of registration.

25. Every person to whom a claim has been allotted as aforesaid shall be obliged within six days of such allotment to take out a certificate of registration thereof, and on his failure to do so he shall be deemed to have abandoned the same, and the Inspector shall thereupon declare the same to be abandoned. Abandoned claims, when there is no Mining Board, or Board appointed under section seventy of this Act for the time being representing the claimholders in the mine, shall be under the control of the Inspector, and shall be allotted by him on such terms and conditions as he may determine.

Disposal of claim in a mine not publicly sold.

26. Any claims in the said mine not sold by public auction as aforesaid shall be treated by the Inspector as abandoned claims, and shall be allotted as provided by the last preceding section.

DIVISION IV.

REGISTRATION, TRANSFER AND HYPOTHECATION OF CLAIMS IN A MINE.

Governor's power to declare an area a mine. (Act 19, 1883, Section 18.)

27. Whenever precious stones shall be discovered on Crown lands or on private property, and the Governor shall be satisfied after taking the steps mentioned in section fifteen of this Act that precious stones do exist in payable quantities, it shall be lawful for the Governor to proclaim the area described in the proclamation a mine, and the Governor shall be empowered to make all such rules, orders, regulations or bye-laws as he may deem necessary or expedient for the proper laying out, surveying, enlargement or contraction of any mining areas and depositing floors in connection with such mine and generally all matters and things connected with the proper and efficient working thereof.

Appointment of inspectors, &c. (Act 19, 1883, Section 19.)

28. At every mine the Governor may appoint such inspectors, registrars, or other officers as may be deemed requisite, who shall receive such salaries or allowances out of the public funds as may be deemed necessary, and whose duties and authorities shall be fixed and determined from time to time by the Minister.

Griqualand West Ordinance No. 6, 1880, made applicable to other parts of Colony.

29. The Griqualand West Ordinance No. 6 of 1880, which provides for fixity of tenure in certain mines and diggings in Griqualand West to the extent to which the provisions thereof are applicable to such mines and diggings, shall be and is hereby made applicable to all mines and alluvial diggings within the Colony.

Certificates of Registration to be issued. (Act 19, 1883, Section 20.)

30. Every claimholder not holding a title under the provisions of Griqualand West Ordinance No. 6 of 1880 shall receive a certificate of registration in the form contained in the third schedule

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to this Act; provided that no firm or joint-stock company shall be entitled to be registered as holding claims in a mine, except in the name or names of not more than two persons resident in the division in which the mine is situated, as the duly accredited agent or agents of such firm or joint-stock company, and such agent or agents shall be responsible for all matters connected with the claim or claims for which he or they shall be so registered exactly as if such claim or claims were registered in his or their own name or names as his or their property.

Stamp chargeable for certificate. (Act 19, 1883, Section 21).

31. Every certificate of the registration of a claim or portion of a claim in any mine hereafter proclaimed shall be written on or covered by a stamp of twenty shillings for each month for which such claim or portion of claim is registered, payable in advance.

Hypothecation of claims. (Act 19, 1883, Section 22).

32. Any claimholder desirous of hypothecating his holding in any mine may effect such hypothecation at the office of the Registrar of Claims, and the same shall be duly entered in a book to be kept for that purpose, and a certificate of hypothecation shall be granted in the form contained in the fourth schedule to this Act.

Stamp chargeable for each hypothecation. (Act 19, 1883, Section 23).

33. Every certificate of hypothecation shall bear a stamp of two shillings and six pence for every claim or portion of a claim hypothecated in every mine.

Stamp chargeable for certificate of transfer. (Act 19, 1883, Section 24).

34. Every certificate of transfer of a claim or portion of a claim in any mine shall have a stamp of not less than two shillings and sixpence, but if the sum for which such claim is sold shall be more than fifty pounds (£50) whether the same is paid in cash or other valuable consideration, then the certificate shall have stamps, being for transfer duty, at the rate of ten shillings for every hundred pounds (£100) or portion of one hundred pounds of the declared value of such claim or portion of a claim, but in no case shall transfer dues exceed the sum of fifty pounds (£50) in respect of any one claim or portion of a claim.

Conditions under which transfer of a claim shall be made. (Act 19, 1883, Section 25).

35. No transfer of any claim in a mine shall be made until the same shall have been registered by the proper officer duly appointed in that behalf and no such registration shall be made until all rates, liens, licence moneys, royalties, or rents due and payable in respect of the property to be transferred shall have been paid.

Stamps chargeable on amalgamation of claims in a mine. (Act 19, 1883, Section 27).

36. In all cases where two or more claimholders in any mine or mines shall amalgamate their respective claims the certificate of the transfer effected for the purpose of carrying out such amalgamation shall bear stamps at the rate of ten shillings for every hundred pounds (£100) or portion of one hundred pounds of the assessed value, or if there should be no assessment, of the declared value of the claim so amalgamated: Provided that the amount of stamps shall in no case exceed the sum of twenty-five pounds (£25); and provided further that the certificate or deed of transfer granted under the provisions of Griqualand West Ordinance No. 6, 1880, shall have stamps at the rate of five shillings for every

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hundred pounds of the assessed or declared value, and that the stamps aforesaid or transfer duty shall in no case exceed the sum of two hundred pounds.

Inspector to demand payment of licence moneys due in respect of any claim and to declare such claims abandoned when licence money six months in arrear.

37. The Inspector of any mine or other officer duly appointed in that behalf is hereby empowered to ask, demand, sue for, recover and receive all licence moneys, royalties, rents or transfer dues in respect of any claims in such mine: Provided that when the payment of such licence moneys or rents is six months or more in arrear the Inspector shall demand payment thereof by a letter addressed to the claimholder or his duly authorised agent at his last known address, or, if the address of such claimholder or his duly authorised agent is not known to the Inspector, then by notice in any newspaper circulating in the Division in which the mine is situated, or, if there be no such paper, in the *Gazette*; and provided further that, if within one month after such demand any claimholder fails to pay the amount in arrear, his claim or claims in respect of which he is in arrear as aforesaid may be declared abandoned by the said Inspector, and he shall take such proceedings as he may be advised, to recover the amount in arrear. The provisions of this section shall apply to mines proclaimed prior to the taking effect of this Act, notwithstanding anything to the contrary in section two thereof.

DIVISION V.

Mining Areas, Depositing Floors, Abandoned Mines.

Surveys of mines and mining areas. (Act 19, 1883, Section 34).

38. For the purpose of working any mine situate on Crown land or on private property the Minister shall be and hereby is empowered to cause the claims in such mine to be surveyed by some duly qualified person, as also a sufficient area, hereinafter described as a mining area, around such mine for the purpose of depositing floors, tipping sites and all other matters and things connected with the proper and sufficient working of the mine; and to frame a plan of the said survey, which plan shall lie at the office of the Civil Commissioner of the division in which such mine is situate, and shall be opened for public inspection at all reasonable times. The area so surveyed shall be proclaimed by the Governor as mining area and may from time to time by proclamation in the *Gazette* be altered and enlarged at the discretion of the Governor, as the necessities of the mine may require.

No proclamation of a mine or mining area on private property can be issued before three months after notice to owner thereof. (Act 44, 1887, Section 5 (3).

39. No private property or any portion thereof shall without the consent of the owner be proclaimed by the Governor as forming the whole or any portion of a mine, alluvial digging, or mining area, until the expiration of three months from the date of a notice, in writing, to be given by the Civil Commissioner of the division wherein such land is situate, to the owner thereof, and every such proclamation shall reserve to such owner the free

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and uninterrupted use of his homestead, meaning thereby a circular area of two hundred yards in all directions round the principal house as a centre, together with all buildings and kraals that may be situated outside that area and of all cultivated lands, which shall not be deemed to be included in such proclaimed area, and also the full and preferent right to so much water as such owner shall require for domestic purposes and for the purposes of irrigation and watering stock or driving any mill or machinery in existence at the time of the area being proclaimed as aforesaid.

Landowner to survey and beacon off portions of land reserved to him in a proclaimed area under last preceding Section.

40. It shall be the duty of the owner of such land prior to such proclamation as aforesaid to cause to be surveyed and beaconed off at his own expense the portions of his land reserved to him in the preceding section; in default thereof the Inspector may cause the same to be done at the expense of such owner.

Not competent for Governor to proclaim mine or mining area on private property on which owner does not himself prospect for precious stones or allow others to do so.

41. It shall not be lawful for the Governor to proclaim any portion of private property a mine or alluvial digging so long as the owner thereof does not himself prospect thereon for precious stones or give permission to any duly licensed prospector to do so; nor shall it be lawful for the Governor to proclaim any portion of private property a mining area for a mine or alluvial digging situate on some other property without the consent of the owner thereof.

Depositing sites. (Act 19, 1883, Section 35).

42. To every licensed claim in any mine which may hereafter be established under the provisions of this Act there shall be attached the right to use and occupy free of charge not more than one acre of ground, hereinafter called a depositing site, in the neighbourhood of or in proximity to such mine to be pointed out by the Inspector (but so as not to encroach on a reserve of one hundred yards round the margin of such mine, which shall be used exclusively for hauling ground from the claims and transporting it to the depositing sites) for the purpose of depositing soil, reef or shaly ground and for the purpose of sinking wells, laying tramways, or doing and performing other works, matters and things in connection with mining operations. The Inspector shall cause each such depositing site to be surveyed and beaconed off at the expense of the holder thereof as and when he shall require it. When several claims are held by one person, the depositing sites attached thereto may be surveyed and beaconed off in one block.

Mine declared abandoned. (Act 19, 1883, Section 30).

43. Any mine situate on Crown lands or on private property in which mining operations shall not be and shall not have been for a period of three months carried on in five claims in all such mine, to the satisfaction of the Inspector, and in respect of which the licences on nine-tenths or more of all the claims in such mine shall not have been paid for a period of three months, may be proclaimed abandoned; and shall forthwith on such proclamation be closed; but such mine, or any portion thereof, may at any time, under and subject to the provisions of this Act, be again proclaimed a mine: Provided that if in any continuous portion of a proclaimed mine situated upon Crown land or private property, being in extent not

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less than one-fourth of the total area of the proclaimed mine, all the claims therein shall have been declared abandoned, such portion of the mine may be declared abandoned and excluded from the area proclaimed as a mine; provided further that at any future date the area so declared abandoned may be reproclaimed as portion of the original mine, or a separate mine.

Lease of abandoned mine or abandoned portion of mine. (Act 19, 1883, Section 31).

44. It shall be at all times lawful for the Governor to grant a lease of any abandoned mine or any abandoned part of a mine or any portion of either, when the same is situate on Crown land or private property, after the same has been declared abandoned, or any Crown land adjoining such abandoned mine, and to frame regulations for the granting of such leases; and in any lease so granted the following terms and conditions shall, amongst others, be inserted:—

(*a*) The lease shall be for a term of two years with a right of renewal from time to time at the option of the lessee for the same period.

(*b*) The rent reserved shall be a royalty of not less than one pound per centum on the gross amount realised by the sale of precious stones yielded by the property leased, to be paid from time to time as the same are sold, and payment of a sum at a rate per morgen or portion of a morgen as may be fixed by the Governor, which latter amount shall be payable half-yearly in advance.

(*c*) The lease shall be granted solely for the purpose of mining for precious stones.

(*d*) The lessee shall be bound, during the term of his lease, to carry on mining operations to the satisfaction of the Inspector or other officer duly appointed, due regard being had to the special circumstances of each case.

(*e*) The lessee shall have power to cede or sub-let, subject to the approval of the Governor, and any such cession or sub-lease shall be registered in the office of the Registrar of Deeds.

(*f*) In case of an extension or expansion of an abandoned mine or of an abandoned portion of a mine being discovered by the lessee thereof, he shall be entitled to have the same included in his lease, on payment of an extra rent per morgen or part of a morgen in proportion to the rent paid for the ground in the original lease.

(*g*) The lessee shall keep proper books in which shall be entered the quantity of precious stones realized from the land leased, and all such books shall be open to the inspection of the Civil Commissioner of the division, or other person duly appointed, at all reasonable times;

Provided that the lessee as aforesaid shall be entitled to occupy a sufficient area for depositing floors and sites for reef-tipping or other mining purposes beyond the margin of the mine proper, and in the case of any abandoned mine or abandoned portion of a

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mine being situated on private property, the proprietor of such property shall be entitled to receive from the lessee by way of compensation for the ground required or leased with such abandoned mine or such abandoned portion as aforesaid, such sum as may be determined by mutual agreement or by arbitration in the manner provided by the Lands and Arbitration Clauses Act No. 6, 1882.

DIVISION VI.

Rights of Owner of Property on which a Mine has been declared.

Owner of land free right to prospect thereon without a licence; rights of a "discoverer" in any discovery of precious stones made by him. (Act 44, 1887, Section 5 (1).

45. Every owner of private property may without taking out any licence lawfully prospect thereon for precious stones, and shall be deemed and taken in law to be entitled, in respect of every discovery of precious stones made by him while so prospecting to the same rights to which any licensed prospector would have been entitled had he made such discovery; provided, however, that every such owner shall be under the same obligations as a licensed prospector of giving information to the Civil Commissioner of the division in which such land is situated of any discovery by him of precious stones, and of making the declarations required by the eleventh section of this Act; and if he shall fail to do so he shall be liable to forfeit all rights reserved to him under this Act.

Owner's claims in a proclaimed mine.

46. When the place where precious stones have been discovered shall be proclaimed a mine or portion of a mine under the provisions of this Act, the owner of the property on which the said mine or portion thereof is situate shall be entitled to select, next after the discoverer, fifty claims therein on payment by him of the licence moneys thereon one month in advance. If such owner is also the discoverer he shall be entitled to the claims mentioned in this section in addition to the discoverer's claims.

Owner's share in the licence moneys received by the Government in respect of claims in a mine or abandoned mine situate on his property.

47. (1) The owner of any private property on which a mine or portion thereof shall be proclaimed under the provisions of this Act, shall be entitled to demand and receive from the public Treasury, three-fourths of the licence money collected by the Government in respect of each claim for which he provides to the satisfaction of the Inspector a depositing site as aforesaid. When any abandoned mine or portion thereof on private property shall be or shall have been leased for mining operations as aforesaid the owner of such property shall be entitled to receive from the Government one-half of the rents and royalties collected by the Government in respect of such lease, and the persons appointed in that behalf shall be bound to keep books showing the account of all such moneys, and shall account for and pay over to such

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owner at the end of every half year all sums of money due to such owner as aforesaid, and shall afford to such owner, at all reasonable times, inspection of such books.

(2) The owner of any private property on which a mine has been proclaimed under the provisions of Act 19 of 1883, shall, from the date of such proclamation, be entitled to the benefit of section thirty-three of that Act, as if the words "or mine" were inserted after the word "digging" in that section wherever it occurs. Such owner may, notwithstanding anything to the contrary in Section 3 of this Act contained, by giving notice to the Minister and every registered claimholder in the mine, accept the rights conferred under the last preceding subsection on any owner in lieu of the rights conferred on an owner by Act No. 19 of 1883, as amended by this subsection; and thereupon from the date of such notice as aforesaid, the licence money payable in respect of the claims in the said mine shall be twenty shillings a month payable in advance.

Holders of land on lease from the Crown and lessees who have hired owner's rights to have, *mutatis mutandis*, same rights as owner. (Act 44, 1887, Section 9).

48. Every holder of land on lease from the Crown, under any law, and every lessee of private property, in the lease of which the owner shall have stipulated and agreed to let and such lessee to hire such land together with the rights of the owner in respect of precious stones and minerals shall, *mutatis mutandis*, and provided that such lease shall be duly registered in the office of the Registrar of Deeds, with the title deeds of such land, be entitled, during the term of his lease, but no longer, to all rights and privileges conferred upon any owner of such private property under and by virtue of this Act.

Ordinary lessee of such land not to have rights of owner, but may claim compensation for disturbance. (Act 44, 1887, Section 10).

49. No lessee of lands, in the lease of which there shall be contained no such stipulation or agreement as is referred to in the last section, shall be entitled to any of the rights or privileges specially conferred upon owners of such land under the provisions of this Act; but every such lessee who shall be disturbed in his possession or damaged or injured in any way by reason and in consequence of the exercise by any person of any right or power conferred or reserved under the provisions of this Act shall be entitled to claim from the owner and lessor compensation in respect of such disturbance, damage, or injury, the amount of which compensation shall in all cases of disagreement be determined by arbitration, and such arbitration shall, *mutatis mutandis*, be regulated by the provisions of the "Lands and Arbitration Clauses Act, 1882."

Term "owner" defined. (Act 44, 1887, Section 13).

50. The term "owner" shall include all persons duly registered as the proprietors of land in the office of the Registrar of Deeds but if in any case two or more persons shall be registered as the owners *pro indiviso* of any land, or as the holders or lessees of any land referred to in this Act, all rights and powers conferred upon or reserved to the owners of such land, or to such

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holders or lessees, by the provisions of this Act, shall be deemed and taken to be jointly and not severally conferred upon or reserved to such persons.

DIVISION VII.

Mining Boards.

Mining Boards, election and qualification of. (Act 19, 1883, Section 39).

51. Whenever a mine shall be or shall have been declared as such it shall be lawful for the Minister to order the election of a Mining Board, and (subject to the provisions hereinafter contained) to frame all such rules and regulations as he may deem expedient for the more efficient management and control of such mine and of its mining area by such Mining Board and each Mining Board shall elect a chairman and frame rules for its own guidance in its proceedings, and bye-laws for the management of the mine or mining area of the mine for which it is elected, and for the payment of the chairman and officers of the Board, which rules and bye-laws shall have legal force and effect on being promulgated in the *Gazette*, with the approval of the Governor, and shall remain in full force and effect, and shall govern every Mining Board or any body for the time being invested with the powers of a Mining Board, and the mine for which they are passed, until cancelled, altered or amended by any Mining Board, or representative body having proper authority so to cancel, alter, or amend the same. The Governor may from time to time fix and determine the number and mode of election of members of any such Mining Board. The following persons shall be qualified as members of Mining Boards, to wit:—

(*a*) Claimholders in the mine for which such Board is to be elected.

(*b*) Directors or nominees of companies holding claims as aforesaid.

(*c*) Registered accredited agents of holders of claims as aforesaid.

(*d*) Resident nominees of companies having their head office beyond the boundaries of the Colony in which this Act shall be in force.

Who qualified to vote for members of Mining Board. (Act 19, 1883, Section 40).

52. Save as hereinafter excepted every *bona fide* holder of rateable claim property in the mine, and every duly authorised representative of such *bona fide* holder or of any Company *bona fide* holding rateable claim property in the mine, shall be entitled to vote for candidates to be elected for the Mining Board in manner hereinafter provided. The assessed value of rateable claim property in any mine at the time of election, whether such assessment has been made under any Act in force previous to the framing of this Act, or whether the same has been made under the provisions of this Act, shall be divided by the number of claims registered in such mine, and the amount so arrived at shall be the unit voting power and unit value, and shall carry one vote.

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Any voter possessing either individually or in his representative character, claim property assessed as aforesaid at double the value of such unit voting power, shall be entitled to two votes; if possessing property aforesaid of treble such unit value, he shall be entitled to three votes, and so on in like proportion.

Holders of property may unite to acquire property qualification to vote. (Act 19, 1883, Section 41.)

53. Any person holding or representing property in the mine which is assessed at a value below the unit value or voting power aforesaid, may unite with any other person or persons in a like position, and such united or amalgamated value shall carry a right to vote to the number of unit values or voting powers made up by such amalgamation. No vote shall be given in respect of any property in a mine the rates upon which shall be in arrear and unpaid for a period of three calendar months; or which shall be held or owned by any person who shall be insolvent, or shall have assigned his estate for the benefit of his creditors. Any member of a Mining Board deriving his qualifications from any such property, shall, *ipso facto*, cease to be qualified or to hold office as a member of such Mining Board.

Conditions for voting. (Act 19, 1883, Section 42).

54. All voting for candidates may be cumulative, and each voter shall be entitled to multiply the number of votes he is entitled to, according to the number of unit values as aforesaid, by the number of members to be elected, and may distribute such votes amongst the candidates as he may think fit.

Assessment of claims. (Act 19, 1883, Section 43).

55. In every mine in which an assessment of claims is required to be made for the election of a Mining Board or for rating purposes, such assessment shall be made as soon as possible after the taking effect of this Act, and thereafter in the same month of each year a fresh assessment shall be made. In case any assessment of any mine exist at the time of the promulgation of this Act such assessment shall remain in full force and effect until an assessment of such mine under the provisions of this Act shall have been made.

Existing bye-laws, &c., to be retained until altered under this Act. Act 19, 1883, Section 44).

56. All existing resolutions, rules, regulations, or bye-laws having the force of law at any mine at the time of the passing and promulgation of this Act shall, in so far as they are inconsistent with or repugnant to any of the provisions of this Act, continue in full force and effect until cancelled, altered, or amended by any resolution, rule, regulation, or bye-law, made or passed, respectively, under the provisions of this Act.

Mode of assessment of value of claim property. Act 19, 1883, Section 45).

57. For the purpose of assessing the value of claim property in a mine for rating purposes, two competent persons shall be appointed as assessors, one by the Mining Board and the other by the Minister, and the said assessors as soon as they shall have been so appointed, and shall have accepted office, and before proceeding to their duties as assessors, shall choose a referee. There shall be a fresh election or appointment of assessors, and a referee under the provisions of this Act for each assessment to be made: provided that the same assessors, or assessor or referee, may be appointed in manner herein provided for any subsequent assessment.

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58. In the event of there being no Mining Board in existence at any mine, and no assessment of the rateable claim property in such mine upon which the election of a Mining Board can proceed, it shall be lawful for the Minister to appoint a person or persons for the purpose of making such assessment.

Under certain circumstances Minister may appoint Assessor. (Act 19, 1883, Section 46).

59. In the event of the assessors so appointed as aforesaid failing or refusing to appoint a referee, within one week after the acceptance of such appointment, the Minister shall have power to appoint a referee. Every referee shall, if the assessors fail or refuse to assess the value of the claim property in any mine for which they may be appointed, or any portion of such property, proceed to assess the value of such property or portion thereof.

Referee, power of Minister to appoint. (Act 19, 1883, Section 47).

60. The assessors, or assessor, or referee, as the case may be, shall have power to summon witnesses and take evidence upon oath, and the decision of the assessors, or in case of dispute, of the referee, or in case there be only one assessor as hereinbefore provided, then of such assessor, as to the assessment of any claim property in any mine, shall be final.

Power to take evidence by assessor. (Act 19, 1883, Section 48).

61. All assessments made under the provisions of this Act for any mine shall remain in full force and effect until another and fresh assessment shall have been made for such mine.

Duration of assessment. (Act 19, 1883, Section 49).

62. The expenses incurred in connection with the assessment of any mine shall be borne by the Mining Board of such mine, or if there be no Mining Board by the owners of claim property in such mine *pro rata,* according to the assessed value of the claims in such mine. As soon as any assessment or valuation as aforesaid shall have been completed, an assessment roll embodying the same shall be compiled and placed in the office of the Mining Board, or in case there be no Mining Board, then outside the office of the Resident Magistrate for the district in which such mine is situated, for the inspection of any owners of property in the mine at all lawful and reasonable times, and a day or days fixed by the assessors to hear and consider objections thereto.

Defrayment of expenses of assessment. (Act 19, 1883, Section 50).

63. Every Mining Board shall be empowered to levy from time to time rates for the general purposes of the mine upon the claims in the mine, and to fix tariffs for the removal of reef and water from the time or the margin thereof, and the rates so levied, and the tariffs so fixed, shall be passed as bye-laws: provided that reasonable notice, to the satisfaction of the Minister, shall in all cases be given of the intention of any Mining Board to submit any such bye-laws to the Governor for his approval.

Rates may be levied by Mining Boards on claims. (Act 19, 1883, Section 51).

64. Every Mining Board shall be empowered to levy from time to time rates upon all property in the mining areas, used or held to be used for mining purposes, and all moneys so received by rates shall be applied to the general purposes of the mine.

Rates may be levied on property in Mining areas. (Act 19, 1883, Section 52).

65. When any rate is duly levied, the Mining Board shall give reasonable public notice of the day on which the same shall become due and payable, and all persons liable to pay the same shall do so on or before the day fixed in the said notice.

Notice of rate to be made public. (Act 19, 1883, Section 53).

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Regulations under Act to have force of law on publication in *Gazette*. (Act 19, 1883, Section 54).

66. All rules, regulations, and bye-laws framed under the provisions of this Act shall, on due promulgation in the *Gazette*, have the full force and effect of law; provided that the same may be at all times repealed, altered, or amended by means of other rules, regulations, or bye-laws framed and promulgated as aforesaid.

Exemption from divisional or municipal rates. (Act 19, 1883, Section 55).

67. All claim property in any mine shall be exempted from the payment of any Divisional Council or Municipal rate.

Power of Governor to dissolve Mining Board. (Act 19, 1883, Section 56).

68. The Governor may upon petition from the majority of voters for the Mining Board, representing not less than half of the assessed property in the mine, dissolve the Mining Board, and may, by notice in the *Gazette*, direct the election of a new Mining Board for such mine, or appoint a Board in terms of the provisions of the seventieth section of this Act.

Voting at Mining Boards. (Act 19, 1883, Section 57).

69. No resolutions of any Mining Board shall have any force or effect unless a quorum to be fixed by bye-laws approved by the Governor, be present and assisting at the passing thereof, and in every case of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote.

Dissolution of Mining Board and appointment of a Board by Governor. (Act 19, 1883, Section 58).

70. If any Mining Board shall not for a period of two months have a sufficient quorum for the transaction of business or shall not for the same period meet for the transaction of business, or shall for a like period fail, neglect, or refuse to deal with the requirements of the Inspector, or to submit the same to arbitration as hereinafter provided, such Mining Board shall *ipso facto* be dissolved, and in case of such dissolution, or in case there shall not be for other reasons any Mining Board in existence, it shall be lawful for the Governor to appoint a Board of three persons, of whom the Inspector shall *ex officio* be a member and chairman, and who shall have all the power and exercise all the duties of a Mining Board, and shall do all things necessary for the working of the mine until such time as the Governor may direct that a Mining Board or another Mining Board shall be elected, and such Board so elected shall have taken office.

When greater part of mine becomes private property, Mining Board to be dissolved. (Act 19, 1883, Section 59).

71. In the event of nine-tenths in assessed value of any mine becoming the property or subject to the exclusive control of one person, or firm, or partnership, or company, the Mining Board or Board appointed as aforesaid then existing shall be dissolved, and no fresh Mining Board, whilst the mine is so held, shall be elected or appointed.

Settlement of claims against Mining Boards. (Act 19, 1883, Section 60).

72. In case any Mining Board shall cease to exist, or shall have ceased to exist, or shall be dissolved under the provisions of either of the two last preceding sections, and until the election or appointment of a fresh Mining Board, it shall be lawful for any person having any claim against such Board to continue any action already instituted, or to commence legal proceedings against the members of the outgoing or last subsisting Mining Board, as representing such Board, and to proceed with such proceedings to the final end and determination of the same, just as if such Mining Board had not ceased to exist or been dissolved,

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and such person shall have the same remedies at law as if such Mining Board were duly constituted under the provisions of this Act. And in the event of the election or appointment of a fresh Mining Board, such Mining Board shall stand and be in the same position as regards outstanding liabilities as the outgoing Mining Board, and all actions previously instituted shall be continued and carried on against such fresh Mining Board without interruption of any kind. The term Mining Board in this section shall include the "Board" appointed under section 70 of this Act.

Borrowing powers of Mining Boards. (Act 19, 1883, Section 61).

73. Every Mining Board shall be, and is hereby, empowered to borrow from time to time such sum or sums of money as may be required for the purpose of liquidating debts incurred, or for the due and efficient working of the mine under its control, on debentures, or otherwise, upon security of special rates to be levied upon the claims under its control, and on such terms and conditions as may be agreed on: Provided that the sanction and approval of the same by registered holders of claims in such mine representing not less than three-fifths of the assessed value of such mine shall previously have been obtained by the Mining Board at a meeting of claimholders to be specially called for that purpose by public notice of not less than fourteen days in the *Gazette* or local newspapers (if any), or in such other manner as the Governor may from time to time order and direct.

Proceedings against Mining Boards under "Public Bodies Debts Act." (Act 19, 1883, Section 62).

74. In the event of proceedings being taken under the "Public Bodies Debts Act, 1867," upon any judgment obtained against any Diggers' Committee, Mining Board, or Board appointed under the provisions of this Act, in respect of any debt or liability contracted for any loan or moneys raised, or any other debt lawfully incurred either before or after the passing of this Act by such committee or board, the third section of the said "Public Bodies Debts Act" shall be read and construed as if both the provisos therein contained were omitted therefrom.

Period for which Mining Boards elected under the Act hold office.

75. Any Mining Board elected under the provisions of this Act shall hold office until the thirty-first December of the year after that in which it was elected, and thereafter the term of office of each successive Mining Board shall be until the thirty-first December in the year for which it may be elected: provided that every Mining Board shall retain office until its successor has been duly elected, and shall exercise the same duties and powers as theretofore.

Purchase of claims at execution sales by Boards. (Act 19, 1883, Section 64).

76. In the event of any Mining Board or Board appointed under section seventy of this Act, recovering judgment in any competent court against any defaulting claimholder for liens registered or for arrear rates, and the claim property in respect of which liens shall be registered or rates shall be so in arrear shall be attached in execution of the judgment aforesaid, the said Board shall be empowered to buy in such claims at the execution sale for any sum not exceeding the amount of liens or arrear rates and taxed costs under levy.

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Definition of abandoned claims. (Act 19, 1883, Section 65).

77. From and after the promulgation of this Act, a claim in any mine shall be considered as abandoned whenever the same shall have been declared abandoned by the Inspector under the provisions of this Act, or when the registered holder of the same shall give notice in writing to the Inspector, or, if held under the provisions of Griqualand West Ordinance, No. 6 of 1880, to the Registrar of Deeds, of his intention to abandon the same.

Power of Boards, &c., to dispose of claims, or otherwise for benefit of mine. (Act 19, 1883, Section 66).

78. Any claim legally abandoned or purchased in terms of the seventy-sixth section shall be the property of the Mining Board or Board appointed under section seventy of this Act, at the mine where such abandoned claim is situate, and such Board shall, saving all lawful demands of any creditor holding a lien against such claim, and subject to the provisions of the last preceding sections, be entitled to dispose of, hold, or otherwise deal with the same, as it may deem expedient for the benefit of the mine generally, but shall not be liable for any registration fees, taxes or charges in respect of such claim, nor to work down or make safe the same, unless the bye-laws of any mine shall determine otherwise: provided that any neighbouring claimholder shall be entitled to work down and make safe any claim so purchased or abandoned at his own expense should he desire to do so on being served with a notice by the Inspector or other officer appointed in that behalf that such claim is dangerous to life and limb, and shall be entitled to register a lien for the value of the work so done according to the tariff fixed by the Mining Board as hereinbefore provided against such claim.

Granting of certificates to persons entitled to register a lien against claim. (Act 19, 1883, Section 67).

79. Any person entitled under the provisions of this Act, or of any ordinance, rule, regulation or bye-law now in force, or which may hereafter be promulgated, to register a lien against any claim or claims in any mine shall apply to and obtain a warrant in that behalf from the Inspector of the mine in which such claim or claims shall be situated, which warrant shall be filed in the office of the Registrar of Claims; and the Registrar or other officer duly appointed in that behalf, shall grant to such person a certificate in the form contained in the fifth schedule to the Act, and every such certificate shall bear a stamp of ten shillings.

Liens existing or registered to be recoverable in any competent court. (Act 19, 1883, Section 68).

80. All existing liens and all liens which shall be registered hereafter against any claim or property in any mine, shall entitle the person in whose favour such liens are registered to recover the amount thereof by action in any competent court from the owner or registered holder of such claim or property: provided, however, that no greater sum shall be recoverable under or by virtue of any lien than the amount which may be realised by the sale of the claim or property against which the same is registered, and such claim or property shall alone be liable to be taken or sold in execution of any judgment given in any such action aforesaid.

Provisions in event of expansion or divergence of diamondiferous soil

81. In the event of its being discovered at any depth from the surface of any mine, that the soil containing precious stones shall

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registered claimholders to pay to Government 2½ per cent. on gross returns.

expand or diverge in any direction, the registered claimholders in such mine shall be entitled to follow such soil in all its dips, angles, and variations, and the soil containing precious stones lying outside of the actual declared boundaries of claims at the time of the discovery of such expansion or divergence shall be held to be the common property of the then registered claimholders in such mine, and shall be worked at the expense and for the benefit of such claimholders in *pro rata* shares and proportions according to the assessed value of the several holdings in such mine; provided that the then registered claimholders in such mine shall pay to the Government, or person in whom the reservation of precious stones and minerals is vested, an amount equal to two and a half per centum on the gross returns of all precious stones found in such additional area of soil as aforesaid: provided, always, that in case of any mine under the control of any Mining Board, or Board appointed under section seventy of this Act, it shall be the duty of any person who shall make the discovery of the mine expanding or diverging beyond the known or declared boundaries to notify the same to the Registrar of Claims or other officer charged with the duty of registering claims, within seven days from such discovery, and the Registrar shall thereupon post a certificate of such information on the office door of the Registrar of Claims, and shall forward written notice thereof to the said Board, who shall be, and hereby is, empowered to test the alleged discovery, and should the same be verified, shall forthwith convene a meeting of claimholders for the purpose of considering in what manner such divergence or expansion of additional area shall be worked or dealt with, claimholders voting on the basis of the provisions of the fifty-second section of this Act: provided, further, that the person so discovering the divergence or expansion of additional area aforesaid shall be entitled to claim from the said Board a refund of all reasonable cost, charges, and expenses to which he may be put in sinking shafts, tunnels, or works necessary for the purpose of reporting the nature of the mine at such greater depth; and should such person neglect or refuse to notify the discovery by him of any divergence or expansion of the mine within the time limited as aforesaid, he shall not be entitled to claim any refund of moneys laid out by him as aforesaid, and shall, in addition, be liable to a penalty not exceeding five hundred pounds sterling, to be recovered by the said Board, in any competent court; and provided, lastly, that any claimholder shall be at liberty at the meeting called by the said Board, on the notification of the Registrar of Mines or other officer as aforesaid, to decline forthwith to share in the expenses or profits derived from the working and development of any such divergence or expansion of additional area so discovered; and such claimholders so electing not to share as aforesaid, shall not be entitled to take part or vote at such meeting or in any further proceedings connected with such additional area.

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DIVISION VIII.

ALLUVIAL DIGGINGS.

A.

Duties and Rights of Discoverer.

Discoverer's claims in a proclaimed alluvial digging.

82. The holder of a licence to prospect for precious stones who shall prove to the satisfaction of the Civil Commissioner, with whom he has lodged the declaration mentioned in the eleventh section of this Act that he has found precious stones in alluvial in payable quantities under such licence, shall receive a certificate from the said Civil Commissioner that he is entitled to select twenty claims of a size hereinafter provided in black at the place where such precious stones have been found upon the proclamation by the Governor of such place as an "Alluvial Digging" prior to the allotment of any other claims therein; and no licence money shall be payable on the said claims whilst they are held by such discoverer in his own right. Upon the granting of such certificate the discoverer's right of prospecting under his licence within the place to which the certificate refers shall cease and determine.

Section 15 of this Act to apply to alluvial diggings.

83. Section fifteen of this Act shall apply to alluvial diggings exactly as if the words "Alluvial Diggings" were substituted for the word "Mine" wherever it occurs in that section.

B.

Distribution of Claims in an Alluvial Digging and Rights of Holders of Claims therein.

Proclamation proclaiming alluvial digging to be read on ground before pegging off of claims on area proclaimed.

84. No Crown land or private property on which an alluvial digging has been proclaimed shall be available for pegging off claims until the Proclamation proclaiming the same shall have been read by the Inspector or some other person appointed in that behalf on the ground proclaimed and on a day of which notice shall be given in the *Gazette* at least two weeks prior thereto.

One claim to be pegged off by each male person of full age.

85. At any time after the reading of the said Proclamation as aforesaid it shall be lawful for any person of full age to peg off one claim on the area proclaimed after the discoverer and owner have pegged off the claims to which they are entitled under this Act.

Pegging off between sunset and sunrise and on Sundays and public holidays prohibited.

86. No such pegging off as aforesaid shall be done between sunset and sunrise or on Sundays and public holidays. Pegging off at such prohibited times shall be considered illegal and shall give no rights whatever.

How claim pegged off to be marked.

87. In pegging off claims as aforesaid a peg not less than two feet above the ground, shall be erected at each corner of the claim, one at least of such pegs to bear the name of the claimholder and the claim to be kept marked by such pegs at the expense of the claimholder, to the satisfaction of the Inspector or other officer duly

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appointed; provided that every claim not so marked out and not so kept marked may be declared abandoned by the Inspector; and provided further that in case of blocks of amalgamated claims four corner pegs shall be sufficient for each block, but the names of the claimholders in the block must be legibly marked on each peg with the date of amalgamation.

Penalty provided for wilfully pegging off a claim in excess of size provided by Act.

88. Any person who shall wilfully peg off a claim in excess of the size provided by this Act shall be liable on conviction thereof to a fine not exceeding one hundred pounds sterling or to imprisonment with or without hard labour for a period not exceeding six months.

Size of claims in alluvial diggings. (Act 31, 1893, Section 1 (*a*), (*b*), (*d*)).

89. The size of all claims in alluvial diggings:

(1) Marked out at the date of the taking effect of this Act,

(2) Marked out after the said date,

shall be such as may be or has been fixed by the Governor by Proclamation from time to time in regard to each class; provided that nothing herein contained shall apply to the surveyed portion of Gong Gong alluvial diggings, as proclaimed by Griqualand West Proclamation No. 34 of 1871, and Proclamation No. 59 of 1887; and provided further that the size of all claims not yet fixed by Proclamation shall be thirty feet square until altered by the Governor as aforesaid.

Licence moneys on claims in alluvial diggings. (Act 31, 1893, Section 1 (*c*)).

90. The licence money payable by the holders of claims or portions of claims in any alluvial digging situate on Crown lands or on private property shall be such as may be fixed by the Governor from time to time; provided that when such licence money has not yet been fixed it shall be ten shillings per month payable in advance for each claim or portion of claim until altered by the Governor as aforesaid.

Certificate required of person seeking to be registered as claimholder. (Act 31, 1893, Section 3).

91. In lieu of the certificate provided for by section two of the Griqualand West Proclamation 14 of 1872, or by section seven of the rules and regulations published under Griqualand West Proclamation No. 8 of 1880, no person shall, after the taking effect of this Act, be registered as the holder of any claim or part of a claim in any alluvial diamond digging unless and until he shall produce to the registering officer a certificate obtained at that or some other alluvial digging in accordance with the following provisions:—

(*a*) He shall apply to the Diggers' Committee having jurisdiction in the digging or part of a digging in which he proposed to take out a claim, for a certificate that he is of good character and a fit and proper person to be registered as a claimholder. The decision of the committee shall be by a majority of members present at a meeting called to consider the application.

(*b*) If there is no Diggers' Committee having jurisdiction in such digging or part of a digging as aforesaid, then he shall apply for such certificate to the Inspector of Claims. The Inspector shall thereupon summon two registered

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claimholders or holders of certificates under this section resident within the area of the said digging, or part of a digging, to assist him in deciding upon the said applications; and the decision shall be by a majority of the Inspector and registered claimholders or certificate holders aforesaid.

(*c*) If the Diggers' Committee or the Inspector and residents, as the case may be, shall refuse any application for such certificate, then the person desirous of obtaining the same may apply to the Chief of the Detective Department at Kimberley for such certificate. The Chief of the Detective Department may, after enquiry into the case and after communicating with the Diggers' Committee or Inspector aforesaid, grant a certificate that the applicant is of good character and a fit and proper person to be registered as a claimholder.

(*d*) No application for a certificate shall be considered until the name and description of the applicant shall have been posted for at least seven days in such conspicuous place and manner in such digging as the committee, or, if there be no committee the Inspector of Claims, may determine.

A certificate obtained in terms of this section shall be produced to the registering officer by the person therein referred to when he seeks to be registered as a claimholder.

Removal of name of claimholder from Register. (Act 31, 1893, Section 4).

92. The Diggers' Committee, or if there be no Diggers' Committee having jurisdiction, then the Inspector may give not less than one month's notice to any person registered as the holder of any claim or part of a claim in any such alluvial digging, that at the expiration of the period for which he holds a licence, in respect of such claim or part of a claim, his name will be removed from the register and his licence will not be renewed, and unless such person shall show cause to the satisfaction of the said Diggers' Committee or Inspector, as the case may be, or if neither the said Committee nor Inspector, as the case may be, shall consent to withdraw such notice, then to the Chief of the Detective Department, why such notice should be withdrawn, the name of such person shall at the expiration of the said period be removed from the register of holders, and his licence shall not be renewed: provided that during the said period such person may sell and dispose of his right in respect of such claim or part of a claim to any person registered or admitted to registration as the holder of any claim at the same alluvial digging.

Register of refused applications under Section 89, and of names removed under Section 90 to be kept. (Act 31, 1893, Section 5).

93. A list of persons whose applications shall have been refused under section ninety-one, or whose names have been removed from the register under section ninety-two of this Act, shall be preserved by the Inspector at every such alluvial digging, and it shall be the duty of every Inspector to forward to every other Inspector at other alluvial diggings, for insertion in such list, the name of every

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person whose application has been refused or whose name has been removed as aforesaid at the alluvial digging of which he is Inspector.

Governor may appoint any other officer to perform functions of Chief Detective Department. (Act 31, 1893, Section 6).

94. It shall be lawful for the Governor at any time to appoint any other officer to exercise the powers of the Chief of the Detective Department under sections ninety-one and ninety-two of this Act.

Right of claimholder to piece of ground as residence (Act 18, 1886, Section 1).

95. Every registered claimholder in any alluvial digging which may have been already proclaimed or shall hereafter be proclaimed under the provisions of this Act shall be entitled to the use and occupation, without extra payment, of a piece of ground within the proclaimed area of such digging for the purpose of a residence for such claimholder. The said piece of ground shall be marked out for each claimholder by the Inspector, and shall not be more than fifty feet square in extent.

Provisions for claimholders in alluvial diggings desiring to sink a shaft. (Act 18, 1886, Section 2).

96. Any person who has taken out a claim in any alluvial digging may give notice to the Inspector that he intends to sink a shaft in the said claim to a depth of more than fifteen feet; and, if his said claim be situated at a distance of more than two hundred yards from all the other claims in the said digging which are actually being worked, he shall immediately upon the giving of such notice be entitled to mark out for himself ten claims adjoining his said claim; and thereafter, so long as he shall continue to sink the said shaft to the satisfaction of the Inspector, no other person shall have the right to dig or search for precious stones in any of the ten claims so marked out as aforesaid. Any person who shall in contravention of this section dig or search for precious stones in any claim so marked out as aforesaid, shall be liable upon conviction to a penalty of fifty pounds sterling, and in default of payment to imprisonment with or without hard labour for any period not exceeding six months.

Finds of diamonds below fifteen feet to be reported to Inspector (Act 18, 1886, Section 3).

97. If any person as aforesaid shall find any precious stones in his claim at a depth of more than fifteen feet, it shall be his duty within a period of three days after finding the same to make a report thereof to the Inspector of the digging, and any such person who shall fail to make such report as aforesaid shall be liable upon conviction there to a penalty not exceeding fifty pounds sterling, and in default of payment to imprisonment with or without hard labour for any period not exceeding six months; and he shall further forfeit all right of claim to the ten claims which he may have marked out as aforesaid.

On proof thereof finder entitled to registration of claims. (Act 18, 1886, Section 4).

98. So soon as any person shall prove to the satisfaction of the Inspector that he has found any precious stones in his claim at a depth of more than fifteen feet, he shall be entitled to receive certificates of registration of the ten claims so marked out by him as aforesaid, upon payment of the fees provided for by the provisions of this Act.

On failure to get registration, claim to be considered as abandoned.

99. Any person, save as in the two preceding sections mentioned, marking out a claim in any alluvial digging who shall fail to take out a certificate of registration of the said claim within

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(Act 18, 1886, Section 5).

a period of three days shall be deemed to have abandoned the same, and the Inspector of the digging shall thereupon declare the same to be abandoned.

Claimholder allowed to move pegs to another spot in same digging once during month for which he holds licence.

100. It shall be lawful for any claimholder in an alluvial digging, once during the month for which he holds a claim licence in such digging, and under such licence to move the pegs defining the boundaries of his claim to any other unoccupied place in the same digging and there select a claim: Provided that notice thereof shall be given to the Inspector of such digging, in default of which he shall be liable to a fine not exceeding ten pounds, or in default of payment to imprisonment, with or without hard labour, for a period not exceeding three months.

Registration transfer and hypothecation of claims in an alluvial digging.

101. Sections twenty-seven, twenty-eight, thirty, thirty-two, thirty-three, thirty-four and thirty-five of this Act shall apply to alluvial diggings in the same manner as if the words "alluvial digging" were substituted for the word "mine" wherever it occurs in those sections: provided that no claimholder in any alluvial digging shall be bound to accept a title under the provisions of the Griqualand West Ordinance No. 6, 1880, in place of the certificate registration referred to in section thirty of this Act.

Stamp chargeable for certificate of registration.
(Act 19, 1883, Section 21).

102. Every certificate of registration of a claim or portion of a claim in any alluvial digging shall be written on or covered by a stamp of the amount fixed by the Governor as provided in section ninety of this Act for each month for which each claim or portion of a claim is registered, payable in advance.

Stamps of ten shillings per £100 chargeable for certificate of transfer when claim is held by two or more persons.
(Act 19, 1883, Section 26).

103. In all cases where two or more claimholders in any alluvial digging or diggings shall amalgamate their respective claims, the certificate of the transfer effected for the purpose of carrying out such amalgamation shall bear stamps at the rate of ten shillings for every hundred pounds or portion of one hundred pounds of the assessed value, or if there should be no assessment, of the declared value of the claims so amalgamated: Provided that the amount of stamps shall in no case exceed the sum of twenty-five pounds.

Inspector to receive licence money or dues.
(Act 19, 1883, Section 28).

104. The Inspector of any alluvial digging or other officer duly appointed in that behalf is hereby empowered to ask, demand, sue for, recover and receive all licence moneys, royalties, rents, or transfer dues in respect of any claims in such diggings; and to declare as abandoned any claims in respect whereof any such licence moneys, royalties or rents shall be in arrear for a space of thirty days.

Release of liability of claimholder in case of floods.
(Act 19, 1883, Section 29).

105. In the event of any claim in an alluvial digging situate on Crown lands or private property becoming submerged in consequence of the rising of any river near to which or on the bed of which such claim is situated, and in the event of such claim by reason thereof becoming practically unworkable, the registered owner of such claim shall, if such claim be practically unworkable on the day when the monthly licence money, royalty or rent is

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due and payable be relieved from the payment of the ordinary monthly licence money as aforesaid in respect of such claim for the next ensuing month; and in lieu thereof the Inspector shall grant him a certificate of reservation, bearing a stamp of one shilling for the next ensuing calendar month, and in like manner from month to month, which certificate shall entitle him to be registered for each month, so long as the said claim shall continue to be so submerged.

Governor may grant lease of Crown lands in which precious stones exist. (Act 19, 1883, Section 32).

106. Whenever it shall be shown to the satisfaction of the Governor that precious stones occur in any tract or area of alluvial deposit upon Crown land, and if after due publication of the application for the lease of such tract or area, there shall not have been received by the Inspector of Claims for the district, before a time specified in the notice, applications from ten or more duly qualified miners for mining claims in such tract or area, it shall be lawful for the Governor to grant a lease of such tract or area, and also of sufficient ground adjoining thereto as shall be deemed necessary for the working of the same to the person making application therefor, upon similar terms and conditions as those in the forty-fourth section set forth.

C.

Abandoned Alluvial Diggings.

Abandoned alluvial diggings. (Act 19, 1883, Sections 30 and 31).

107. The provisions of sections forty-three and forty-four of this Act (save and except sub-section (*f*) and the proviso in sub-section (*g*) of section forty-four) shall apply to alluvial diggings exactly as if the words "alluvial diggings" were substituted for the word "mine" wherever it occurs in those sections, provided that the period of lease mentioned in section forty-four of this Act shall be, in the case of an abandoned alluvial digging, only twelve months with the right of renewal from time to time for the same period.

When a claim shall be considered as abandoned.

108. From and after the taking of effect of this Act a claim in an alluvial digging shall be considered as abandoned whenever it has been so declared under the provisions of this Act, or whenever the registered holder thereof shall give notice to the Inspector of his intention to abandon the same, and shall be available for pegging off by any duly qualified person.

D.

Diggers' Committees.

Governor to make rules for Diggers' Committees. (Act 19, 1883, Section 36).

109. It shall at all times be lawful for the Governor to make such rules and regulations for the election of Diggers' Committees at all alluvial diggings as may deem fit, and to define from time to time as occasion may require, the duties, powers, functions and authorities of such Diggers' Committees, and to make rules for the guidance of the same.

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Governor to direct mode of election of such committees. (Act 19, 1883, Section 37).

Governor may abolish committee. (Act 19, 1883, Section 38).

Diggers' Committee. (Act 31, 1893, Section 2).

110. The Governor may direct that one Diggers' Committee shall be elected for one or more alluvial diggings as he may deem advisable, and in such manner as he may deem fit.

111. The Governor may at any time direct that any Diggers' Committee shall be abolished or dissolved.

112. It shall be lawful for the Governor from time to time by proclamation to declare that any portion of a duly proclaimed alluvial digging shall constitute a separate area for the election of a Diggers' Committee or to declare that two or more such adjoining diggings or parts thereof, or one or more diggings together with any adjacent land occupied as a digging, whether proclaimed or not, shall together form an area for the said purpose: Provided that

(1) No such area shall be declared unless there are fifty registered claimholders resident within it; and

(2) If it be necessary for the constitution of such area to abolish any existing Diggers' Committee, it shall be lawful for the Governor, by proclamation, to abolish it, so soon as due provision has been made, by arrangement, for the taking over of the assets and liabilities, if any, of the Committee to be abolished by one or more other Committees.

(3) Every registered claimholder shall be eligible to be a member of a Diggers' Committee, and shall have one vote, and no more, in the election of members of such Committee, but no such claimholder shall be eligible or be a voter,

(*a*) Whose estate shall be sequestrated as insolvent; or

(*b*) Who shall have been convicted of an offence against the laws for the regulation of the trade in diamonds; or

(*c*) Who shall have been convicted of treason, murder, rape, theft, perjury, or other infamous crime, and who shall not have received a free pardon.

If, after election, any member shall cease to hold the necessary qualifications, his seat shall, *ipso facto*, become vacant.

E.

Rights of Owner of Private Property in an Alluvial Digging declared thereon.

Owner entitled to select fifty claims.

113. When the place where precious stones have been discovered shall be proclaimed an alluvial digging, or portion of an alluvial digging under the provisions of this Act, the owner of the property on which the said digging or portion thereof is situate shall be entitled to select next after the discoverer fifty claims therein on payment by him of the licence moneys thereon one month in advance. If such owner is also the discoverer he

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shall be entitled to the claims mentioned in this section in addition to the discoverer's claims.

Compensation to owners of property where Crown reservation exists. (Act 19, 1883, Section 33).

114. The owner of any property on which any alluvial digging is declared, or any abandoned alluvial digging, or alluvial tract or area as aforesaid is leased for digging operations, shall be entitled to demand and receive from the Public Treasury as full compensation for any surface damage he may sustain or may have sustained by the declaring and opening of such digging, half of the licence moneys, rents or royalties collected by the Government in respect of such digging, or leases as aforesaid, and the persons appointed in that behalf shall be bound to keep books showing the amount of all such moneys, and shall account for and pay over to such owner at the end of every half year all sums of money due to such owner as aforesaid, and shal afford to such owner, at all reasonable times, inspection of such books.

Mine on or near alluvial diggings.

115. In case of a mine being discovered on or near an alluvial digging, the Governor may at any time by Proclamation eliminate from the area of such digging so much ground as may be required for the purposes of the mine.

DIVISION IX.

General Provisions.

Order of preference for amounts due on any claim. (Act 19, 1883, Section 70).

116. The following order of preference for amounts which may now be due and owing or may hereafter become due and owing upon or in respect of any claim in any digging or mine, is hereby established, viz.:—

1. Claim licences.
2. Rates and dues lawfully imposed in respect of such claim or claims.
3. Expenses of work done by any Diggers' Committee or Mining Board by order of the Inspector.
4. Liens for work done to or on claims by virtue of this Act or any bye-law.
5. Conventional hypothecations.
6. Fines or penalties recovered in any court in respect of such claim or claims.

Governor may proclaim regulations, &c., for working of claims and machinery. (Act 19, 1883, Section 71).

117. It shall be lawful for the Governor from time to time to proclaim rules and regulations concerning the manner of working claims and machinery at any digging or mine and for the regulation of all works within the mining area, in so far as the protection of life and limb is concerned, and generally for the proper management of all diggings and mines, and to fix the penalties for the breach of such rules and regulations not exceeding those in the next succeeding section mentioned, and such rules and regulations shall, on being proclaimed, have the force and effect of law at the digging or mine referred to in such proclamation as

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aforesaid, until the same are cancelled, altered, or amended by any subsequent proclamation made under and by virtue of the provisions of this section.

Penalty for mining or digging without prospecting licence. (Act 19, 1883, Section 72).

118. Any person mining or digging for precious stones without a prospecting licence, or without a claim licence on Crown land or on private property shall, on conviction, be liable to a penalty not exceeding one hundred pounds, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding twelve months, and any person who may be convicted before a competent court of contravening any of the regulations framed under the provisions of this Act, shall be liable to such penalties as may be by the said regulations prescribed, not in any case exceeding one hundred pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

Transfer dues, limits of. (Act 19, 1883, Section 73).

119. The transfer dues payable under the provisions of the Griqualand West Ordinance No. 6 of 1880 shall in no case exceed the transfer dues payable under the provisions of this Act, anything in any ordinance, act, proclamation, or legal enactment to the contrary notwithstanding.

Recovery of fines, &c., by law. (Act 19, 1883, Section 74).

120. All offences created by this Act shall be cognizable, and all fines and penalties imposed under the provisions of this Act or of any rules, regulations or bye-laws to be framed and proclaimed in manner hereinbefore provided shall be recoverable in the court of the Resident Magistrate for the district in which such digging or mine is situate.

By or against whom actions are to be brought. (Act 19, 1883, Section 75).

121. All actions brought by or against a Diggers' Committee or Mining Board or Board appointed under section seventy of this Act shall be brought by or against the chairman of such Committee or Board.

How disputes between claimholders to be settled. (Act 18, 1886, Section 6).

122. All disputes between claimholders in any alluvial digging as to the ownership of any claim, or as to the boundaries of their respective claims, shall be dealt with and decided by the Inspector of the digging and two assessors to be nominated by the said Inspector: and for this purpose the Inspector and assessors aforesaid shall and may examine witnesses on oath and take down their evidence in writing, and shall do all things which they may deem necessary in order to arrive at a proper decision in the case: and the Inspector shall have authority to summon all defendants and witnesses to appear before him, and in default of their appearing he may issue warrants for their being brought before him, and for non-attendance he may fine them any sum not exceeding five pounds sterling.

Service of summons on defendant or witness. (Act 18, 1886, Section 7).

123. The service of any summons on any defendant or witness in any case to be heard and decided as aforesaid, shall be performed by any person appointed for that purpose by the Inspector, and the said person shall also have authority to execute the warrant mentioned in the last preceding section.

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Native reserves in British Bechuanaland to be treated as Crown lands for the purposes of this Act.

124. The Native Reserves in British Bechuanaland defined in the schedule to Proclamation No. 220 B.B., 1895, shall, for the purposes of this Act, be treated as Crown lands; provided that as compensation for surface damage caused by the proclaiming of any mine or alluvial digging on any such reserves the provisions of sections forty-seven and one hundred and fourteen shall apply to such reserve as if it were private property and the Civil Commissioner of the division in which it is situated the owner thereof. The moneys received by such Civil Commissioner under the provisions of those sections shall be applied by him to the purposes mentioned in section seven of Proclamation No. 220 B.B., 1895.

Short Title.

125. This Act may be cited as "The Precious Stones Act, 1899."

FIRST SCHEDULE.

Enactment.	Title.	Extent of Repeal.
(*a*) Act No. 19, 1883	"The Precious Stones and Minerals Mining Act, 1883."	So much thereof as has not already been repealed, except in so far as its provisions apply to Mines and Alluvial Diggings on private property the title to which contains no reservation of precious stones and minerals in favour of the Crown, and which are at the time of the promulgation of this Act duly proclaimed Mines and Diggings within the meaning of Section 79 of Act 19, 1883.
(*b*) Act No. 22, 1885	"The Precious Stones and Minerals Mining Act Amendment Act, 1885."	So much thereof as has not already been repealed, with the same exceptions as in (*a*).
(*c*) Act No. 18, 1886	"The Precious Stones and Minerals Act Further Amendment Act, 1886."	So much thereof as has not already been repealed, with the same exceptions as in (*a*).
(*d*) Act No. 44, 1887	"The Precious Stones and Minerals Mining Law Amendment Act, 1887."	So much thereof as has not already been repealed.
(*e*) Act No. 13, 1888	"The Joint Stock Companies Act, 1888."	Section one.
(*f*) Act No. 12, 1889	"The Precious Stones and Minerals Mining Act (Diamond Mines) Amendment Act, 1889."	The whole, with the same exceptions as in (*d*).
(*g*) Act No. 31, 1893	"The Alluvial Diamond Diggings Law Amendment Act, 1893."	The whole except section seven.
(*h*) British Bechuanaland Proclamation No. 16 B.B., 1886.	... ...	So much as has not already been repealed by Proclamation No. 63 B.B., 1889.

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No. 11—1899.

SECOND SCHEDULE.

Prospecting Licence.

Civil Commissioner's Office,

..... 189 .....

Whereas A.B. has duly complied with the provisions of Act ....., licence is hereby granted to him to search and prospect for Minerals throughout the Colony for the period of ..... from ..... to .....

.....

Civil Commissioner.

Note.—This licence does not give any right to prospect on private property without the consent of the owner; nor on land held under lease from the Crown without the consent of the lessee; nor within the prospecting area of any licensed prospector without his consent; nor within two hundred yards of any house or building occupied or used by the owner or lessee thereof without his con ent; nor on any land under cultivation or required for the purpose of irrigation; nor in any public squares, streets, roads, railways or cemeteries; nor in any mine or diggings duly declared abandoned; nor in any duly proclaimed mining area, actually used for mining purposes; nor in any claim in an alluv al digging.

THIRD SCHEDULE.

Certificate of Registration.

This is to certify that ..... of .... is the registered holder of Claim No. .... Mine or a claim in an Alluvial Digging (as the case may be), and that the licence money for the same has been paid in advance up to the ..... 189 .....

Office of the Registrar of Claims of ..... Mine (or Alluvial Diggings, as the case may be).

.....

Registrar.

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FOURTH SCHEDULE.

Certificate of Hypothecation.

This is to certify that Claim No..... in the..... .....Mine (or Alluvial Digging, as the case may be), has this day been hypothecated by.....the registered holder of such claim to.....of..... .....for the sum of £.....

Office of the Registrar of Claims of ..... Mine (or Alluvial Digging, as the case may be).

.....
Registrar.

FIFTH SCHEDULE.

Certificate of Lien.

This is to certify that.....of.....is the registered holder of a lien against Claim No....., situated in.....Mine, in the sum of £.....

Office of the Registrar of ..... 189.....

.....
Registrar.

No. 12—1899.] [October 6, 1899.

ACT

To Amend in certain respects Act No. 19 of 1885, entitled the "Queen's Town Municipality Act Amendment Act of 1885."

Repealed by Ordinance No 2 of 1914

Preamble.

Whereas it is expedient to Amend in a certain respect the Act No. 19 of 1885, entitled the "Queen's Town Municipality Act Amendment Act of 1885," and whereas it is expedient that the Council for the Municipality of Queen's Town should have larger powers to hypothecate and charge by debentures the Municipal Rates and other sources of revenue of the said Municipality in security for any sum or sums of money borrowed by the said Council.

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No. 13—1899.

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 19 of 1885 amended (Section 9).

1. The 9th Section of Act No. 19 of 1885 shall, from and after the date of the promulgation of this Act, be read and construed as if the words "not exceeding in the aggregate the sum of One Thousand Pounds in any one year" had not been included in the said Section but had been entirely omitted therefrom.

Costs of passing this Act.

2. The Council may defray any costs incurred in the passing of this Act out of the ordinary revenues of the Council or out of the proceeds of any special rate levied for this purpose.

Short Title.

3. This Act may for all purposes be cited as the "Queen's Town Municipality Act Amendment Act of 1899."

No. 13—1899.] [October 6, 1899.

(1) ACT

To Provide for the Examination, by interrogatories, of persons resident in the Colony, whose evidence shall be required in civil cases pending in any Resident Magistrate's Court in any neighbouring State, Colony or Brtish Possession.

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 purposes of this Act the words "Resident Magistrate" shall be construed to include "Landdrost," unless there is something in the context repugnant to such construction.

Interrogatories to persons whose evidence is required in civil cases in Magistrates' Courts in neighbouring states or colonies.

2. Whenever any witness in any civil case brought in any Court of Resident Magistrate in any neighbouring State or Colony or British Possession to which the provisions of this Act shall apply shall reside or be in this Colony, and it shall be certified to the Resident Magistrate of the District in which such witness resides or is, by the Resident Magistrate of such Court aforesaid, that the evidence of such witness is required in such civil case in such Court, and that interrogatories to be put to such witness have been duly framed and approved under the laws as to interrogatories in force in such State, Colony, or British Possession, it shall be the duty of the Resident Magistrate of the District in which such witness resides or is, upon the receipt of such interrogatories together with the reasonable expenses of such witness for his appearance, and of the amount of fees or stamps due in respect of the issue and service of process for his appearance, to summon such witness to appear in his Court, and upon his appearance to take his evidence in manner and form as of a witness in a case pending in such last mentioned Court, and to put to such witness

This act, so far as it applies to other provinces of the Union, has been repealed by Act 27 of 1917. Sec. 1.

[1] Applied to Natal by P. 89, 1900; to Southern Rhodesia by P. 142, 1900; to Orange River Colony by P. 70, 1905.

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No. 14—1899.

the interrogatories aforesaid and all other questions calculated to obtain full and true answers to such interrogatories, and to take down or cause to be taken down in writing, the evidence of such witness, and to transmit the same certified as correct to the Resident Magistrate in whose Court such civil case should be pending. The amount paid in respect of the expenses of appearance of all witnesses examined under the provisions of this section, and of the cost of the issue and service of process as abovementioned, shall be certified by the Resident Magistrate by whom such witness is examined to the Resident Magistrate in whose Court such case shall be pending.

See act 27 of 1912. Sec. 1.

Penalty on witness for non-attendance.

3. Every witness so summoned by any Resident Magistrate to appear to answer any such interrogatories as aforesaid shall be summoned in like manner and be liable to the like penalties in case of non-attendance as if such summons was a summons to give evidence in the Court of such Resident Magistrate.

Interrogatories taken in neighbouring states admissible as evidence.

4. If at any time provision shall be made by law in any such State, Colony or British Possession for taking, by means of interrogatories, the evidence of witnesses who shall reside or be in such State, Colony or British Possession and whose evidence shall be required in any civil case pending in any Court of Resident Magistrate in this Colony, such evidence, certified as correct by the officer proper for the purpose, shall be received as evidence in such case (subject to all lawful exceptions).

When Act to take effect.

5. This Act shall take effect so far as concerns any such State, Colony or British Possession as soon as the Governor shall, by Proclamation, declare that such State, Colony or British Possession has made due provision for taking, by interrogatories, the evidence of witnesses who reside or are in such State, Colony or British Possession and whose evidence is required in civil cases in the Courts of Resident Magistrates in this Colony, and for the transmission of such evidence to such Resident Magistrates.

Short Title.

6. This Act may be cited for all purposes as the "Neighbouring States and Colonies Witnesses Interrogatories Act, 1899."

No. 14—1899.] [October 6, 1899.

ACT

To Amend "The Legal Practitioners' Act, 1892."

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:—

Admission of Attorneys, Act 30 of 1892, amended.

1. For the purposes of the second section of Act 30 of 1892, the following shall, from and after the taking effect of this Act, be an additional requirement for the enrolment and admission of an Attorney under that section, namely, that the person applying

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No. 15—1899.

for admission has, if articled since the taking effect of this Act, to serve as a Clerk to any enrolled Attorney in any of the territories mentioned in the said Act, passed the Matriculation Examination of the University of the Cape of Good Hope, or some examination which, in the opinion of the Council of the said University, is equivalent to the said Matriculation Examinaton.

Short Title.

2. Ths Act may be cited for all purposes as "The Legal Practitioners' Amendment Act, 1899."

No. 15—1899.] [October 6, 1899.

ACT

To Amend the "Glen Grey Act, 1894."

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:—

Surrender of Allotment and cancellation of title.

1. Whenever any registered holder under the provisions of Act No. 25 of 1894 shall desire to surrender his allotment, the Governor may accept such surrender and may cause the title to such allotment to be cancelled upon production, on payment of the quitrent and any unpaid instalments of the costs of survey due thereon by the registered holder at the date of such acceptance, and of the Council rate payable in respect thereof.

The Governor may upon cancellation of any title reallot the land to any approved claimant not in possession of an allotment.

Extent of Building Lot.

2. From and after the promulgation of this Act section eleven of Act No. 25 of 1894 shall be read and construed as if the words "half an acre" in the said section were deleted, and the words "two thirds of an acre" inserted in their place.

Quitrent on Building Lots.

3. The provisions of section fourteen shall be amended by the addition of the following proviso to the said section, viz.:—

> Provided that in respect of any building lots granted under the provisions of section eleven the amount of quitrent payable thereon shall be at such rate, not exceeding five shillings for each lot, as the Governor may direct."

Leper patients exempt from payment of quitrent.

4. Notwithstanding anything to the contrary contained in Act No. 25 of 1894, whenever the registered holder of an allotment has been or shall be removed to an asylum under the provisions of "The Leper Refression Act, 1884," the Governor may direct that during his detention under the said Act such registered holder shall be exempted from payment of the whole or any portion of the annual quitrent due from time to time on his allotment or building lot, or both, upon satisfactory proof being shown that the family of such registered holder is or has been left in indigent circumstances.

Location at Mount Arthur—special provision for.

5. Notwithstanding anything to the contrary contained in section sixty-eight of Act No. 25 of 1894, or any existing Proclamation,

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the Governor may proclaim the location of Mount Arthur to be for the purposes of the said Act established as a separate location, as fully and effectually as though it were a location constituted under the provisions of section three of the said Act.

Summary removal after notice of unauthorised occupiers on location commonage.

6. The Resident Magistrate, with the approval of the Minister first had and obtained, may, by notice, in writing, addressed to such occupier and duly delivered, order the removal, within such reasonable time as the Minister may direct, of any Native, not being the registered holder of an allotment, who shall be the occupier, either alone or with his family, of any hut or homestead situate on the commonage of any location; and, failing compliance with such order, such occupier may be dealt with as an idle and disorderly person under the provisions of Act No. 23 of 1879 as amended by subsequent laws: Provided that the powers conferred by this section shall be construed to be in supplement and not instead of the powers existing before the passing of this Act for the prevention or abatement of trespass or squatting upon any commonage.

Hut tax by occupiers permitted on commonage.

7. Subject to the provisions of the preceding section there shall be paid into the public revenue by every occupier who may be permitted to remain on any commonage a sum of ten shillings as and for hut tax: provided that such permission and the payment and acceptance of such tax shall in no wise be regarded as giving authority for the otherwise unauthorised occupation of any hut or homestead on the commonage of any location by such person beyond the period for which such occupation may be permitted and the tax shall be paid.

The said tax shall fall due on the first day of January, 1900, and shall be paid annually, and in the event of default of payment the provisions of section thirty-six of Act No. 25 of 1894 shall be deemed to apply.

Amendment in Table of Succession.

8. The following proviso shall be read as inserted after clause (*c*) of the table of succession contained in section twenty-four of Act No. 25 of 1894, viz.:—

[Repealed by Act 14, 1905, page 4833.]

Appropriation of rates for educational purposes.

9. Sub-section (fourteen) of section fifty-three of Act No. 25 of 1894 shall be amended by the insertion of the words "and providing generally for the educational requirements of the people" after the words "agricultural schools."

Trading licences on land. Minister's approval.

10. Notwithstanding anything to the contrary in the law of the Colony regarding licences, no licence to carry on any trade on any land in the district of Glen Grey, not being land specially excluded from the operation of provisions of Act No. 25 of 1894 as in section forty-seven provided, shall be granted without the approval of the Minister being first had and obtained after consultation with the District Council.

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No. 16—1899.

Commonage reserve for Church or School purposes.

11. Notwithstanding anything to the contrary contained in Section six of Act No. 25 of 1894, the Governor may, after consultation with the Location Board, reserve for occupation for Church or School purposes, such extent of land in any Commonage as may be deemed necessary, subject to such terms and conditions as the Governor may in each case determine.

Short title.

12. This Act shall be read as one with the "Glen Grey Act, 1894," and may be cited for all purposes as the "Glen Grey Amendment Act, 1899."

No. 16—1899.] [October 6, 1899.

ACT

To Provide for the granting of Certain Crown Lands to certain Native Chiefs or Headmen, and to provide by law for similar grants in deserving cases.

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:—

Grant of Crown Land to certain Native Chiefs.

1. It shall be lawful for the Governor, on the conditions hereinafter set forth, to make the following grants of Crown Land, to wit:

(*a*) To Dalindyebo, Chief or Headman of the Tembus, a piece of Crown Land situate at Tyalara near the Bashee River, on the site occupied by the late Chief Gangelizwe, in the district of Umtata, Territory of Tembuland, in extent 4,000 morgen, more or less.

(*b*) To Makaula, Chief or Headman of the Bacas, a piece of Crown Land bounded on the North by a stream of water running into the Mbanda Stream, on the East by Dabula's Location, on the South by the Mount Frere Commonage and on the West by Zibokwana's Location, in the District of Mount Frere, Territory of East Griqualand, in extent 3,000 morgen, more or less.

(*c*) To Mvuzo, eldest son of the late Matanzima, and now Chief or Headman of the Emigrant Tembus, a piece of Crown Land comprising part of the Qamata Valley and situate opposite the property known as "O'Grady's Hotel" in the District of St. Mark's, Territory of Tembuland, in extent 3,000 morgen, more or less.

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(*d*) To Mgudlwa, Chief or Headman of the Amajumba tribe, a piece of Crown Land situate in the Qumanco Location and including the site of his present kraal, in the district of Engcobo, Territory of Tembuland, in extent 2,000 morgen, more or less. No. 16—1899.

2. The said grants shall be subject to survey and the following conditions which shall be embodied in each of the said grants: Conditions of grants.

1. That the grantee or his heirs and successors in the ownership of the said land shall punctually pay, or cause to be paid, on the first day of January, 190..., the Quitrent from..... (the date of the grant)..... to the thirty-first day of December, ..., and thereafter in advance at the expiration of every twelfth month from the first-mentioned date, unto the Resident Magistrate of the District in which the said land is situate, or unto such other officer as the Governor may appoint to receive the same, the sums of.....:...., sterling, ... sterling, ... sterling, ... sterling, respectively (to be calculated at the rate of one shilling sterling per 100 morgen), as Quitrent for the said piece of land hereby granted, and paying stamp duty thereon.
2. That the said grantee or his heirs and successors in the ownership of the said land shall pay unto the Resident Magistrate of the District in which the said land is situate, or other duly authorised officer, before title to the piece of land hereby granted is issued, the amount certified by the Surveyor-General to be due and payable as the cost of the survey of the said land and by way of legal stamps and fees of office.
3. That the piece of land hereby granted shall not be alienated or transferred, unless the consent of the Governor to such alienation, and the approval of the new holder, shall have been first had and obtained.
4. That no canteen or shop for the sale of wines, spirituous liquors, beer, or malt liquors of any description, shall at any time be kept on the land hereby granted, on pain of the cancellation of the grant.
5. That no licence for carrying on any trade or occupation on the land hereby granted shall be issued without the consent of the Governor.
6. That the grantee or his heirs and successors in the ownership of the said land shall be bound to erect and maintain conspicuous landmarks, so that the piece of land hereby granted may be properly defined.
7. That the land hereby granted shall not be liable to execution for debt.

See Reclamation No 89 1938. 5-4-1938 Gazette 2520 14-4-38.

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No. 16—1899.

8. That all roads and thoroughfares being or existing on the land hereby granted, whether described on the diagram or not, shall remain free and uninterrupted unless the same be closed or altered by competent authority.
9. That the Governor shall at all times have the right to make roads, railways, dams, aqueducts, drains and water furrows, and to conduct telegraphs over the land hereby granted, for the benefit of the public, and to resume the whole or any portion of the said land, if required for public purposes, on payment to the registered holder of compensation for any damage or loss so caused, and in case of disagreement as to the compensation to be awarded; such disagreement shall be settled by arbitration in the manner set forth in, and in accordance with the provisions of, the "Lands and Arbitration Clauses Act, 1882."
10. That all rights to precious stones and minerals, including coal and copper, found on or in the land hereby granted, shall be reserved to the Crown, together with the right of prospecting, working for, and development of any such precious stones and minerals by any person authorised by the Governor; but subject always to the provisions of any law for the time being regulating the working and prospecting for deposits of precious stones and minerals.
11. That the land hereby granted shall not be sub-divided or sub-let without the consent of the Governor.
12. That in case of rebellion of the grantee or his heirs or successors in the ownership of the said land, or in the event of any of the above-mentioned conditions not being fulfilled, the land shall be liable to be forfeited to the Governor.
13. That the piece of land hereby granted shall be also subject to all such duties and regulations as either are already, or shall in future, be established with regard to such lands.
14. That the piece of land hereby granted shall not be capable of being devised by will, but upon the decease of the grantee shall devolve upon and be claimable according to the rule of primogeniture by one male person to be called the heir and to be determined by the table of succession contained in Section 24 of the "Glen Grey Act, 1894."

Grants in future to deserving Chiefs or Headmen regulated.

3. If, in recognition of special services heretofore or hereafter rendered by any Native Chief or Headman to the Government of this Colony, and in fulfilment of promises heretofore or hereafter made by the said Government in consideration of such services, there shall at any time be passed resolutions of both Houses of Parliament recommending a grant to such Chief or Headman of some piece or portion of Crown Land specified and described in such resolutions, it shall be lawful for the Governor

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to cause to be issued to such Chief or Headman the land so specified and described, to be granted and held subject to the conditions set forth in section 2 of this Act, with such modifications thereof or additions thereto as may be recommended by such resolutions. No. 17—1899.

4. This Act may be cited "The Crown Lands Native Chiefs Grant Act, 1899." Short Title.

No. 17—1899.] [October 6, 1899.

ACT

To Provide for the satisfaction of Claims of certain Griquas and for the disposal of all vacant Erven in the Township of Kokstad.

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, notwithstanding anything to the contrary contained in any law, to grant vacant erven being the property of the Crown in the township of Kokstad, in the District of Mount Currie, in the Territory of Griqualand East, to approved Griqua claimants within the said Territory, provided that the number of such erven so granted shall not exceed one hundred. Grant of vacant erven to Griqua claimants.

2. The titles to the aforesaid erven shall be issued substantially on the same terms and conditions as those in respect of grants of land made in the said township of Kokstad in confirmation of titles issued by the late Adam Kok. Titles to erven.

3. The following erven in the said township of Kokstad shall be and are hereby reserved in favour of the Commissioners of the Municipality of Kokstad, for the purposes hereinafter specified, and so long as they shall be required for the said purposes, namely:— Reserved erven in favour of Municipality.

(*a*) Erven Nos. 4 to 13 in Block XI and Nos. 9 to 16 in Block XII, for the purposes of a show yard and recreation ground, subject to such regulations for the management and control thereof as may be approved by the Governor from time to time.

(*b*) Erf No. 7 in Block V, for the accommodation of the town gang and rolling stock.

(*c*) Erf No. 8 in Block V, for the purposes of a Municipal Pound.

4. All erven being the property of the Crown in the said township of Kokstad, which shall be vacant after those referred to in the first and third sections of this Act shall have been granted and reserved respectively, shall be and are hereby vested Remaining vacant erven property of Crown, vested in Municipality.

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in the said Commissioners; and the said Commissioners shall appropriate, subject to the consent of the Governor being first obtained, so many of such vacant erven as may be necessary, for the purpose of erecting a Town Hall thereon; and shall from time to time, subject to the consent of the Governor, sell or lease by public competition any of the remainder of the said vacant erven; and the proceeds accruing from such sale or lease shall be applied in aid of the construction of the said Town Hall, or of some other purpose, in terms of the eighth section of this Act.

Erven becoming vacant by surrender, &c.

5. All erven in the said township of Kokstad which shall from and after the promulgation of this Act become vacant by surrender, resumption or forfeiture under any law shall be and are hereby vested in the said Commissioners.

Sale, &c., of erven Sections 161 to 163 of Municipal Act of 1882 apply.

6. Notwithstanding anything to the contrary contained in any law, the provisions of sections one hundred and sixty-one to one hundred and sixty-three, inclusive, of the "Muncipal Act, 1882," shall apply to the sale, alienation, lease, appropriation, occupation or enclosure of any of the lands referred to in the fourth and fifth sections of this Act; and the said Commissioners shall not be authorised to sell, alienate, lease, appropriate or permit to be occupied or enclosed, the said lands or any portion thereoof without first having complied with the provisions of the said sections of the "Municipal Act, 1882."

Right of resumption by Government.

7. The Government shall at all times have the right of resuming, without compensation except for improvements, any of the erven referred to in the fourth and fifth sections of this Act, if required for public purposes; and the amount of such compensation shall be agreed upon by the parties concerned, or, failing such agreement, shall be determined by arbitration.

Proceeds of sale of erven how applied.

8. The proceeds accruing from the sale, alienation, lease, occupation or enclosure of any of the erven referred to in the fifth section of this Act shall not be used for or on account of the ordinary expenditure of the said Municipality, but shall be applied for the use and benefit of the inhabitants of the said Municipality in such manner and upon such works or improvements as the Governor may approve.

Quitrents on certain erven payable to Municipality.

9. The quitrents payable on erven granted in terms of the first section of this Act, and from and after the 1st day of January, 1900, the quitrents leviable under title deeds that shall then have been issued by the Colonial Government in confirmation of sales or grants by the late Griqua Government and quitrent grants by the Colonial Government of erven situated within the limits of the Municipality of Kokstad, shall be paid direct to and collected by the Municipality for the time being of Kokstad, who shall grant a receipt for the same, and the amount so received shall be held by the Town Council of Kokstad and devoted to the maintenance of the streets in and the provision of a water supply for the said Municipality.

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No. 18—1899.

10. From and after the promulgation of this Act section two of the "Kokstad Quitrents Act, 1898," shall be read as if the words "direct to and collected by the Municipal Council" had been substituted for the words "over as soon as may be after the collection thereof at the end of each half-year to the Mayor."

Amendment of "Kokstad Quitrents Act, 1898."

11. This Act may be cited as the "Griqua Claims and Kokstad Erven Disposal Act, 1899."

Short title.

No. 18—1899.] [October 6, 1899.

ACT

To Amend the "Divisional and Municipal Councils Permissive Ballot Act, 1892."

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. From and after the taking effect of this Act, the "Divisional and Municipal Councils Permissive Ballot Act, 1892," shall be read and construed as if the words "twenty-five" were inserted instead of the words "a majority of" where they appear in the third and sixth sections of the said Act.

Amendment of Act 27 of 1892.

2. This Act shall be read as one with the said Act, and may be cited as "The Divisional and Municipal Councils Permissive Ballot Act, 1899."

Effect and Short Title.

No. 19—1899.] [October 6, 1899.

ACT

To Amend the "Audit Act, 1875," and the "Audit Act Amendment Act, 1888."

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. 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 expediture cash accounts of that Department for each month, and for any financial year, may be kept open for not more than fifteen 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, anything in the eleventh and fourteenth sections of Act 30 of 1875 to the contrary notwithstanding.

Railway Department monthly expenditure accounts may be kept open for 15 days.

[1] Extended to Native Territories by Proclamation 166, 1904.

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No. 20—1899.

Departmental audit may be withdrawn in any department.

2. It shall be lawful for the Governor on the recommendation of both Houses of Parliament to withdraw any Department from the Schedule to Act 30 of 1875, or any Head of Revenue from the Schedule to Act 32 of 1888.

Separate deposit account of interest or sinking fund contributions to be kept.

3. 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 to be kept in the Treasury, and audited by the Controller and Auditor-General, and shall forthwith become a final charge to the Vote entitled "Public Debt," anything in Act 30 of 1875 to the contrary notwithstanding.

Interest on Public Debt, &c., charged to Deposit Account.

4. 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.

Members and officers of public bodies deemed public officers for audit purposes.

5. For the purpose of any enquiry under the twenty-third section of the "Audit Act, 1875," whether conducted by the Controller and Auditor-General personally or by some person authorised by him under the preceding section hereof, every member, officer, or employé of any such public body shall be deemed to be a public officer, and the twenty-fourth section of the Act aforesaid shall *mutatis mutandis* apply to every such enquiry.

Audit Act 30 of 1875 amended.

6. In the eighth, fifteenth and twenty-fifth sections of Act 30 of 1875, the word "Governor" shall be read for "Government."

Short Title.

7. This Act shall be read as one with the "Audit Act, 1875," and may be cited for all purposes as the "Audit Act Amendment Act, 1899."

[No. 20—1899.] [October 13, 1899.

ACT

To Provide for Lightening the Labours of Shop Assistants.

Repealed by Act No 41 of 1939 Sec 24

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 purposes of this Act the following terms shall bear the meaning set against them respectively—that is to say:—

"Shop" shall mean any building, or portion of a building, or place in which goods are offered or exposed for sale by retail.

"Shop Assistant" shall mean any person who works in a shop for hire or maintenance.

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No. 21—1899.

"Shopkeeper" shall mean the person, company or association, employing any person in any shop, for hire or maintenance, and shall include any agent, manager, foreman or other person acting in the general management or control of such shop.

Sitting accommodation for female shop assistants.

2. Every shopkeeper shall provide proper sitting accommodation for female shop assistants employed in his shop, in the proportion of one seat to every three such assistants, such sitting accommodation shall be conveniently situated for the use of the persons for whom the same is provided, and the shopkeeper shall allow every such person to make use of such sitting accommodation at all reasonable times during the day. If any shopkeeper fail to comply with the requirements of this section he shall be liable to a penalty not exceeding five pounds.

Offences and penalties.

3. No shopkeeper shall

(*a*) Directly or indirectly prohibit or prevent or make any rule or regulation prohibiting any female assistant employed in his shop from being seated when not actually and immediately engaged in the course of her employment.

(*b*) Require any such female assistant to be so continuously employed in an employment the course of which requires her to remain standing, as that reasonable intervals are not allowed to her in each day, during which she may use the sitting accommodation provided.

(*c*) Dismiss from his employment or reduce the wages of any such female assistant on the ground that she has made use of such sitting accommodation, unless it be proved that she has used it for an unreasonably long time or an unreasonable number of times on any day.

Any shopkeeper who shall offend against any provision of this section shall, for every such offence, be liable to a penalty not exceeding Ten Pounds.

Short Title.

4. This Act may be cited as "The Shop Assistants Act, 1899."

No. 21—1899.] [October 13, 1899.

ACT

To Impose a Duty on the Export of Angora Rams and Ewes.

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:—

Export duty on Angora rams and ewes.

1. Upon every Angora ram or ewe exported from this Colony, after the taking effect of this Act, except as hereinafter provided, there shall be payable to the officer appointed to receive the same,

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a duty of one hundred pounds; provided however that no such duty shall be payable on the export of any such ram or ewe to any South African State, Territory or Colony which shall by its own Legislature have imposed a duty on the export of Angora rams and ewes not less than the amount imposed by this Act.

Penalty.

2. Every person who shall contravene the provisions of this Act by exporting any Angora ram or ewe (except as hereinbefore excepted) without payment of the duty imposed by this Act, shall on conviction be liable to a fine of not less than twenty-five pounds nor exceeding one hundred pounds for every such ram or ewe so exported or in default of payment to imprisonment with or without hard labour for any term not being less than one month nor more than six months, unless such fine be sooner paid.

Recovery of penalties.

3. All penalties under this Act may be recovered and enforced in the Court of the Resident Magistrate of the District in which the offence was committed.

Regulations how framed.

4. It shall be lawful for the Governor from time to time to make such rules and regulations as he may deem fit for carrying out the provisions of this Act.

When Act to take effect.

5. This Act shall take effect from the date to be fixed by a Proclamation which shall not be made until the Governor shall have ascertained that the Governments of the Colony of Natal and of the Province of Mozambique have made similar provision for prohibiting or restraining the export of Angora rams and ewes.

Short Title.

6. This Act may be cited for all purposes as "The Angora Export Duty Act, 1899."

No. 22—1899.] [October 13, 1899.

ACT

To Enable the Municipal Council of East London to provide the inhabitants of the Town and District of East London with an additional water supply and for that purpose to impound and take water in and from the Buffalo River and the Tributaries thereof and to acquire Government and other lands required for the construction of the necessary waterworks.

Preamble.

WHEREAS it is desirable that the inhabitants of East London and others in the District, should be provided with a sufficient supply of good water.

And whereas surveys have been made and the Municipal Council of East London are advised that such supply can be obtained by impounding water in and taking water from the Buffalo River and its tributaries, at or near Fort Jackson, and whereas its is expedient that the said Council should be authorised to construct and maintain such reservoirs, lines of pipes and other waterworks as

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may be necessary for such purpose and for the purpose of conveying water to the Town of East London and elsewhere 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 Council should be authorised to borrow sums not exceeding in all £110,000 for the purpose of defraying the costs of the works aforesaid, and 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 House of Assembly in manner following, to wit:

Power to impound water from Buffalo River and its tributaries.

1. The said Council shall be and are hereby empowered to take, appropriate, impound, divert and convey such a supply of water as they may require in and from the Buffalo River and the tributaries thereof at a point at or near Fort Jackson aforesaid, and may construct an impounding reservoir across the Buffalo River upon Farm No. 23 the property of J. J. Tesner, Farm No. 24 the property of J. K. F. Holl, and certain Crown land known as Klabati Reserve and Needs Camp Reserve or some one or more of such properties within the lines of deviation shown on the plans lodged with the Clerk of the House of Assembly, and may from thence convey such water by a line of pipes running within the limits of deviation shown on the said plan across the boundary between the divisions of King William's Town and East London into the division of East London, along the Valley of the Buffalo River and after crossing the Cambridge Commonage and portion of the East London Commonage terminating within the Municipality of East London near the existing Filter Beds upon such last mentioned Commonage: Provided that the plans and specifications shall be submitted to the Government for their approval.

Grants of Government land in aid of

2. For the purpose of enabling the Council to do the acts authorised in the preceding section of this Act it shall and may be lawful for the Governor of this Colony and 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 such Government land as may seem to him desirable as is situate at or immediately adjoining the point on the said Buffalo 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 the use of any water which he may at the time of the taking effect of this Act possess in reference to the said Buffalo River or the tributaries thereof or in any way interfere with or lessen the use of such water such person shall be entitled to recompense or compensation to be settled in case of difference as in the eighth section of this Act provided. Provided

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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.

Power to construct works.

3. The said Council is hereby empowered to construct and make or cause to be constructed and made all such works as may in the opinion of the said Council be necessary or expedient for the purpose of impounding, storing, diverting, appropriating or conveying the said water whether by reservoirs, dams, water courses, or leading 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 all such purposes as the said Council may deem necessary or expedient within or without the Municipality of East London.

Powers of entry, &c., on lands.

4. The said Council is hereby empowered to enter upon, occupy, enclose, take and use for the purposes of this Act any land belonging to Her Majesty the Queen 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 construction or maintenance of any works aforesaid, for the obtaining of the necessary drainage area, or for any of the purposes 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 works and may break up or excavate any land for the purpose of laying down, repairing, inspecting, maintaining, or removing 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 acquire Crown land, commonage, etc.

5. It shall be lawful for the said Council to acquire and take possession in the manner hereinbefore and hereinafter provided of any land whether belonging to Her Majesty the Queen commonly called "Crown Lands" or land set apart as "Commonage" aforesaid or land belonging to private persons that may be required for the purposes of protecting the banks of the Buffalo River or any of its tributaries the drainage area required for the collection of water or 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 water of the said river or any of its tributaries.

Powers relative to Crown lands limited.

6. The powers relative to Crown land, including any Native or other Reserve or Commonage vested in the Crown, conferred by Sections two, four and five 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

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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.

Power to lay pipes and conduits.

7. 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 land as a street or thoroughfare without making or being liable to make any compensation in respect thereof.

Rights of way and access to works.

8. It shall be lawful for the said Council or any member thereof or any person or persons acting on their behalf or by their order or direction 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 to 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 said Council acquired or to be 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 provided however that such right of way shall in no case exceed a space of ten feet on each side of the line of works.

Arbitration clause

9. Any person or persons from whom any water or use of water land or right of way or any stone gravel or other material may be required to be taken for the purpose 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 she or they shall claim to be entitled to for such water land 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 three months after such taking as aforesaid and for that purpose the necessary plans specifications and reports in connection with the said works 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 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, then the said Council shall cause to be served upon the person or person 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

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writing to the said Council or some other person by them appointed within a certain limited time to be specified in the said notice, being not 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 said Council or other person aforesaid 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 said Council or other person aforesaid, and for that purpose to transmit to the said Council or other person aforesaid within a reasonable time to be specified in the last mentioned notice, the name of some person whom he, she or they shall select 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 said Council or other person as aforesaid shall cause a Deed of Submission to be prepared which shall be signed by or on behalf of the said Council or other person as 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 of the said arbitrators or a majority of them 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 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 said Deed of Submission then the said Council or other person as aforesaid 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 said Council or other person as aforesaid upon so lodging the said sum shall be authorised and entitled to take and 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 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 said Council or other person as aforesaid a sufficient title to the use of or property in the land or materials aforesaid had been duly done and approved.

Lands or property of minors and persons under curatorship.

10. In case the said Council or other person as aforesaid shall require to take or use any water land or right of way or to dig out and carry away any materials belonging to any minor or other person under Guardianship or Curatorship then the Guardian or

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Curator as the case may 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 rights or materials required and to execute any contract that may be needful for carrying out any agreement which may be made 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 or other person as aforesaid for or on account of any land or materials in this Section mentioned, shall be paid by the said Council or other person as aforesaid to the Master of the Supreme Court administering the Guardian's 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 remainder or expectancy when the whole of the lands as fixed by contract or by appraisement 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 the interest on the sum so paid in provided however 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 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 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 in regard to such money. And in case the said Council shall require to take or use any land or materials as 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 author- authorised to cause a notice to be inserted in the *Government Gazette* and in one or more local papers for four or more successive weeks, describing as accurately as may be, the land or materials which are required to be used or taken and calling on the owner or owners of the said land 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 authorised by him or them for the recompense or compensation to be made by the said 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

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day of its first publication to the said 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 two preceding Sections 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 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 of East London 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 whatever sum such person shall have valued such land 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 July, 1833, in regard to moneys 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 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 said Council sufficient title to the use of or property in the land or materials as aforesaid had been duly done and performed.

Penalties for injuries to works.

11. Any person or persons 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 to forfeit for the use of the said 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 both fine and imprisonment and any such offender or offenders as aforesaid may be prosecuted in the Court of the Resident Magistrate for the district of East London whether his or their offence or offences be committed in the district of East London or the district of King William's Town. 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 both under this Act and any other Law for or in regard to one and the same act.

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Penalties for pollution of river or water works.

12. No person or persons shall wash any clothes, wool or hides in the Buffalo River, or any tributary thereof between the lower side of the confluence of the stream known as Sweet Waters with the said Buffalo River on the boundary of King William's Town and the Impounding Reservoir, or in any dam or reservoir belonging to the said Council, or place or throw or permit to allow to run off, or drain into the same any rubbish, dirt or filth or any noisome thing, whereby the water to be supplied to the inhabitants of East London shall or may be defiled, contaminated or polluted; or establish any Woolwashery, Laundry, Tannery or manufactory of any description from which any refuse—liquid or otherwise—or any injurious contaminating matter whatever, which might or would pollute, contaminate or defile the water to be supplied to the said inhabitants of East London; but nothing in this clause contained shall be taken to repeal or curtail the rights, powers or privileges conferred on the Borough of King William's Town, by Ordinance No. 9 of 1864 (British Kaffraria), and the Water Supply Act No. 21 of 1881 and Act No. 12 of 1894, or to confer on the Municipal Council of East London any greater rights or privileges in and to the Buffalo River and its tributaries above the said lower side of the confluence of the said stream known as Sweet Waters with the said Buffalo River than it possessed prior to the passing of this Act. Nor shall any person or persons bathe or wash in any Dam or Reservoir belonging to the said Council, or any stream flowing directly into such Dam or Reservoir below the said confluence, or suffer or permit any dog or other animal to enter therein; but nothing herein contained shall have the effect of closing or interfering with the legitimate traffic over any thoroughfare or drift across the said Buffalo River or its said tributaries, or be taken to hinder or prevent the occupiers of properties upon the banks of the said Buffalo River or its tributaries from irrigating their lands above the Impounding Reservoir, or from watering in such river or its tributaries their stock, horses, cattle and sheep. Any person or persons contravening this Section shall, for every offence, on being convicted thereof by the Resident Magistrate, be liable to a penalty 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 for water.

13. The said Council are hereby empowered from time to time to make and publish a tariff of charges and fix a date when payment shall become due by which the supply of water by private water leadings or meters shall be regulated, and the payment for all such private water leadings or meters shall be in accordance with such tariff. The said Council are also hereby empowered from time to time to fix meters together with all other appliances and appurtenances as they may deem fit to any property or properties whether belonging to private owners or Government, or other public bodies within or without the Municipality of East

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London and for the supply of water to shipping to the port of East London, and such supplies of water shall be subject to and regulated by the tariff of charges as aforesaid, and furthermore the said Council or any person duly authorised by them shall have access at all reasonable times to enter, inspect and regulate all such water leadings or meters.

Rules and bye-laws.

14. 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 delivery of water to the consumers or for regulating the water supply to the town of East London and District, 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 Act, 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 Bye-law or Regulation 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. 23 of 1880 entitled "The East London Municipality Act of 1880" as amended by Act No. 12 of 1881.

Borrowing powers.

15. It shall be lawful for the said Council from time to time either separately or in conjunction with any other loan or loans the said 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 £110,000 as may be required for the purposes of this Act and to charge the Municipal Rates and properties of the said Municipality as security for any such sum so to be borrowed by the said Council.

Interest and sinking fund on loans.

16. In order to pay the interest on any loan raised under the authority of this Act and to provide for an annual contribution of not less than one per cent. per annum on such loan to provide a Sinking Fund for the payment thereof and for all other claims under this Act 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 said Municipality and every rate and assessment so imposed and made by the said Council shall be of the same force and

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effect and be levied in the same manner as if it had been a rate imposed upon owners of immovable property other than such property as may be specially exempted under section 4 of Act No. 36 of 1891 under the provisions of the said 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. Provided always that the Council may set aside so much of the rate imposed under the provisions of this Act as they shall see fit for meeting all claims and demands for interest and the provision for a sinking fund as required by Act No. 15 of 1882.

Assessment roll.

17. 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 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.

Paym nt of rates

18. 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 hereto, and shall become due and payable upon some certain day to be fixed by the said 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 liable for interest at the rate of six per cent. per annum upon such rate or assessment as aforesaid, and such interest shall be recovered and collected in like manner as in the

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next following Section of this Act provided for the recovery and collection of such rate or assessment as aforesaid.

Collection of rates.

19. 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 thereof be recoverable as a separate and distinct rate by action in the Resident Magistrate's Court having jurisdiction.

Public Bodies' Debts Act applicable.

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

Repealing clause.

21. Section 19 of Act 15 of 1882 is hereby repealed.

Accounts to be kept separate.

22. The said Council shall keep or cause to be kept separate and distinct accounts of all monies borrowed under this Act and under Act 15 of 1882, and of the expenditure of such monies, but all revenues arising from the water works authorised by this Act or Act 15 of 1882, or 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.

Costs of Act.

23. The necessary costs charges and expenses of obtaining this Act may be paid by the said Council out of the monies to be borrowed as aforesaid.

Rights of Council under various Acts not affected.

24. Nothing in this Act contained shall be taken to deprive the said Council of any rights and privileges it may possess or of which it may be entitled to avail itself under the provisions of the Acts No. 8 of 1877 intituled "The Irrigation Act of 1877," No. 28 of 1877, intituled "An Act to assist Municipalities to carry out Irrigation Works," No. 7 of 1880 intituled "The Irrigation Amendment Act, 1880," No. 23 of 1880 intituled "The East London Municipality Act, 1880," No. 12 of 1881 intituled "The East London Municipality Amendment Act, 1881," and No. 15 of 1882 intituled "The East London Water Supply Act, 1882," or any or either of them, the true intent and object of this present Act being to add to and increase, and in no way to derogate or detract from such rights and privileges.

Penalties paid to Council.

25. 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.

Repealing clause.

26. All provisions of Act 15 of 1882 inconsistent with or contrary to the provisions of this Act shall be and are hereby repealed.

Meaning of "Municipality" and "Council."

27. The word "Municipality" in this Act shall mean the Municipality of East London as established by the said Act No. 23 of 1880, and the word "Council" the Municipal Council of East London.

Short Title.

28. This Act may be cited as "The East London Additional Water Supply Act of 1899."

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No. 23—1899.] [October 13, 1899.

ACT

To Enable the Mayor, Councillors and Townsmen of East London to alienate under certain conditions and restrictions certain piece of land for the purposes of the East London Agricultural Society.

Preamble.

WHEREAS the Trustees of the East London Agricultural Society hold under lease from the Mayor, Councillors and Townsmen of East London a certain piece of ground, part of the lands vested in the said Mayor, Councillors and Townsmen by Act No. 23 of 1880, and have erected certain buildings on the said piece of ground;

And whereas the said Trustees have applied to the said Mayor, Councillors and Townsmen for the grant or alienation to them of the said piece of ground for the purposes of the said Agricultural Society, which grant or alienation the said Mayor, Councillors and Townsmen are willing to make subject to the conditions hereinafter mentioned;

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

And whereas doubts exist whether such proposed grant or alienation can legally be made, and it is expedient to remove such doubts, and to empower the said Mayor, Councillors and Townsmen of East London to effect the said grant or alienation; 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:

Transfer of Agricultural Show Ground authorised to East London Agricultural Society.

1. It shall be lawful for the Mayor, Councillors and Townsmen of East London to transfer to the Trustees of the East London Agricultural Society for the time being and their successors a 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 Cape Measure known as the Agricultural Show Ground bounded North-eastwards, South-eastwards and South-westwards by Commonage and North-westwards by the Recreation Ground. Provided that the said land be used by the said Society as an Agricultural Show Ground and for other purposes connected with or for the benefit of the said Society but not otherwise, and provided that the said Society shall not sell, exchange, alienate, hypothecate, lease or transfer the same or in any way part with the possession thereof at any time whatever without the previous consent in writing of the Mayor, Councillors and Townsmen of East London. Provided always that if the said Society cease to exist at any time, the said land shall revert to the said Mayor, Councillors and Townsmen, subject to the encumbrances thereon.

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No. 24—1899.

2. The Trustees of the said Society shall be interpreted to mean the persons from time to time elected as such by the subscribers to the said Society.

Consent to sale of ground, how given.

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 said Trustees, a certificate in writing under the Common Seal of the Mayor, Councillors and Townsmen of East London or their successors addressed to the Registrar of Deeds, certifying that the said Mayor, Councillors and Townsmen 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.

Repealing clause.

4. So much of Act 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.

Short Title.

5. This Act may be cited for all purposes as the "East London Agricultural Society's Ground Transfer Act, 1899."

No. 24—1899.] [October 13, 1899.

ACT

To Provide for compensation to Arthur Blum for losses arising out of the cancellation of the lease of his Trading Station in the Phokwane Reserve, in the District of Taungs.

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:—

Grant of land to Arthur Blum.

1. Notwithstanding anything to the contrary contained in the "Crown Lands Disposal Act, No. 15, 1887," or any other Law, it shall be lawful for the Governor to grant the following lands unto Arthur Blum in satisfaction of the claim to compensation from the Government preferred by the said Arthur Blum as set forth in the Petition presented to the Honourable the House of Assembly on the 12th day of October, 1898, the said grants to be subject to the general conditions set forth in Section 5 of the said Act No. 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:—

(*a*) The farm Phokwane, being Lot No. 13, in extent 1,349 morgen and 65 square roods, situated in the District of Taungs, exclusive of 5 morgen of ground surrounding and including the buildings erected on the said farm by the Church of England, such grant to be free of payment except for expenses of survey and cost of title,

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and further subject to a reservation in favour of the owner or occupier for the time being of the aforesaid 5 morgen, of a right of way to the fountain on the said farm and a right to use a reasonable quantity of water from the fountain, for domestic and live-stock purposes. No. 25—1899.

(*b*) The farm Bawtree, being Lot No. 7, in extent 1,431 morgen and 137 square roods, situated in the District of Taungs, such grant to be upon payment by the said Arthur Blum in manner set forth in Section 2 of the said Act No. 15 of 1887, of the sum of Seven hundred and forty pounds sterling.

2. This Act may be cited as "The Blum Compensation Act, 1899." Short Title.

Repealed by Act No 25 of 1934.

No. 25—1899.] October 13, 1899.

ACT

To Amend the Law relating to the Extradition of Criminals.

[Pages 4118—4127.]

See note to Act 22, 1882, p. 1876.

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No. 26—1899.] [October 13, 1899.

ACT

To Provide for Granting Relief to Purchasers of Crown Lands.

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:—

Appointment of Board.

1. It shall be lawful for the Governor, for the purposes of this Act, by Proclamation to appoint a Board of five persons, hereinafter called the Board, for the period of twelve months, reckoned from the first day of November, 1899: Provided that the period for which such Board shall act may be extended by resolution of both Houses of Parliament to that effect.

Constitution of Board.

2. The "Board" shall consist of the Secretary for Agriculture, who shall be the president thereof, the Surveyor-General and three other persons, two of whom shall be members of the Civil Service of the Colony or, having been members thereof, shall be in receipt of pension.

Vacancies.

3. If any vacancy occurs on the Board through the death, resignation or incapacity of any member thereof, it shall be lawful for the Governor by Proclamation to appoint some other qualified person to fill the vacancy.

Jurisdiction.

4. The Board shall have jurisdiction to hear and determine all applications for relief in respect of the reduction of quitrent or of the purchase price paid for Crown Land sold under the several Land Acts of this Colony, or British Bechuanaland, and all applications for the remission of the whole or any part of the arrears that may be outstanding at the time of the passing of this Act in respect of the quitrent or interest on the purchase price of the said Land.

Applications for reduction of quitrent.

5. The Board shall, in every application submitted to its determination for a reduction of the quitrent on, or the purchase price of, such land as aforesaid, fix and determine the quitrent or purchase price which shall be, in its opinion, a fair rent or price, and the date from which such reduction, if any, shall take effect: Provided that in determining what is a fair rent or price as aforesaid the value of the improvements effected by the owner or his predecessor in title shall not be taken into account.

Applications for remission of arrear quitrent.

6. The Board may, on every application for the remission of arrear quitrent or interest on the balance of purchase price unpaid in respect of such lands as aforesaid, remit the whole of the amount in arrear or reduce it to such an amount as shall, in its opinion in the circumstances, be fair and reasonable, or direct that such arrear quitrent or interest, whether reduced or not, be paid in such manner and at such times as the Board shall determine.

Effect of decision of Board.

7. The decision of the Board under the two preceding sections of this Act shall subject to the provisions of section ten thereof be given effect to by the Governor, and the fair rent or price fixed

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by the Board under the fifth preceding section shall be payable on the same terms and conditions as the original rent or price was made payable, and the original grant or transfer deed in case the land granted shall have been transferred by the original grantee, and the mortgage bond passed under the provisions of Act 15 of 1887 shall be amended in accordance with the decisions of the Board.

Recommendations by Board

8. The Board may make recommendations providing for the gradual reduction, by annual or periodical instalments by way of sinking fund, of any debt due to the Government in respect of any purchase of land from the Government, and the Governor may frame regulations for such purpose to be submitted to Parliament, and to be of full legal validity when approved by resolutions of both Houses: Provided that any increased rate of interest fixed by such regulations shall not be less than one per cent. or some multiple of one per cent. of the capital sum representing the price of the land in respect of which such payment is made.

Powers of Board.

9. The Board shall have power, if it deem fit, to take evidence on oath, inspect, or order an inspection of, any land the subject of investigation and incur, subject to the approval of the Minister, such expenditure as may be necessarily required for the purpose of its investigations and proceedings under this Act.

Decisions of Board to be laid before Parliament.

10. The decisions of the Board on all applications to it under this Act shall be laid before Parliament within fourteen days after the commencement of the next sitting thereof, and shall be subject to the approval of both Houses of Parliament: provided that the decisions shall, subject to the provisions of section seven, be given effect to by the Governor from the date hereof pending the said approval, and in case any decision shall not be approved of as aforesaid the same shall cease to have any force or effect and the applicant shall be deemed to be in the same position as if the decision had not been given and as if it had not been given effect to. If no notice of motion disapproving of, altering or modifying any decision be given within fourteen days after the same has been laid before both Houses of Parliament, the said decision shall be deemed to have been approved of under this section.

Rules.

11. Subject to the approval of the Governor, the Board shall have power to make rules

(*a*) Prescribing the manner of submitting to it applications under this Act.

(*b*) Prescribing the times of the sittings of the said Board and the conduct of all proceedings before it.

(*c*) Prescribing the number of members required to form a quorum, and the payment of its members.

(*d*) Prescribing the amount to be deposited by applicants for relief under this Act and the costs and expenses to be paid by each applicant, provided that such rules shall, when approved, be published in the *Gazette*.

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No. 26—1899.

Reduction of quitrent on farms mentioned in Schedule.

12. Notwithstanding anything to the contrary in any law, it shall be lawful for the Governor to reduce the quitrent payable under any of the grants of the farms in the Schedule to this Act mentioned, to the extent therein shown, such reduction to take place from the date of the taking effect of this Act: Provided that, in respect of the quitrent in arrear prior to the taking effect of this Act, the Governor may, on the recommendation of the Board, remit the whole or any portion of such amounts, or make such arrangements in respect thereto as may to him seem fit.

Reductions to be recorded on grants, &c.

13. The reduction of such quitrent shall be recorded on the face of such grants by the Surveyor-General or in the Deeds of Transfer by the Registrar of Deeds in case the land granted shall have been transferred from the original grantee.

Short title.

14. This Act shall be called "The Land Grants Relief Act, 1899."

Schedule.

SCHEDULE.

Lot No.	Name of Farm.	Extent.		Original Quitrent.			Reduced Quitrent.			May be further reduced to		
		Morgen.	Square Roods.	£	s.	d.	£	s.	d.	£	s.	d.
5094	Alba	592	102	37	0	0	12	0	0	3	0	0
5099	Aardnamurchan ...	962	274	32	0	0	20	0	0	7	2	6
5100	Ardtornish ...	867	69	30	0	0	20	0	0	4	10	0
5098	Arisaig ...	453	509	22	0	0	9	0	0	2	5	0
5104	Aapiesdraai ...	225	100	12	0	0	6	0	0	1	1	0
5206	Ailleandall ...	317	178	35	0	0	11	0	0	1	10	0
5208	Crimora ...	584	75	37	0	0	18	0	0	3	0	0
5207	Inivaig ...	290	596	21	0	0	10	0	0	1	10	0
5201	Cairbrernadh ...	235	373	25	0	0	6	0	0	1	5	0
5016	Balard ...	930	352	51	0	0	20	0	0	4	15	0
5110	Gelukfontein ...	358	550	26	0	0	8	0	0	2	12	6
5109	Lagg	538	450	30	0	0	14	0	0	2	15	0
5126	Benbecula ...	339	480	18	0	0	7	0	0	1	15	0
5111	Boschies Kloof ...	418	100	41	0	0	12	0	0	3	0	0
5117	Spits Kop ...	374	350	23	0	0	10	0	0	1	0	0
5142	Borva... ...	1246	70	54	0	0	20	0	0	6	5	0
5141	Bendoran ...	732	286	26	0	0	13	0	0	1	17	6
5140	Salgar ...	464	152	23	0	0	6	0	0	1	5	0
5130	Lunga ...	1734	...	141	0	0	36	0	0	13	2	6
5224	Balclutha ...	1817	12	143	0	0	30	0	0	11	5	0
5233	Beriegoniam ...	1453	146	140	0	0	30	0	0	10	17	6

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SCHEDULE—*Continued.* No. 26—1899.

Lot No.	Name of Farm.	Extent.		Original Quitrent.			Reduced Quitrent.			May be further reduced to		
		Morgen.	Square Roods.	£	s.	d.	£	s.	d.	£	s.	d.
5223	Glenalvon ...	1587	573	122	0	0	30	0	0	8	0	0
5180	Borvabost ...	242	899	28	0	0	8	0	0	1	5	0
5154	Brosdill ...	762	131	76	0	0	20	0	0	3	10	0
5153	Kilmun ...	395	580	30	0	0	12	0	0	2	0	0
5174	Bratach Sith ...	842	476	71	0	0	16	0	0	4	5	0
5082	Beeste Kraal ...	934	101	71	0	0	18	0	0	4	15	0
5122	Sonachan ...	1010	118	45	0	0	20	0	0	5	0	0
5193	Ballacholish ...	1828	518	119	0	0	35	0	0	11	5	0
5194	Ballater ...	2319	179	126	0	0	40	0	0	8	12	6
5114	Craignish ...	602	557	44	0	0	12	0	0	1	10	0
5113	Lora	687	319	26	0	0	12	0	0	1	15	0
5112	Peninsula ...	978	...	91	0	0	25	0	0	5	0	0
5121	Charlies Dodge ...	766	545	26	0	0	12	0	0	3	15	0
5116	Landtkroon ...	608	560	42	0	0	12	0	0	3	0	0
5127	Clachan ...	382	433	20	0	0	8	0	0	2	10	0
5189	Cromdale ...	706	260	53	0	0	25	0	0	3	10	0
5192	Cathgarva ...	2343	346	96	0	0	35	0	0	8	5	0
5215	Cnochfraing ...	600	463	78	0	0	30	0	0	3	0	0
5196	Slaate ...	898	195	71	0	0	30	0	0	4	10	0
5119	Cruachan ...	425	200	20	0	0	9	0	0	3	0	0
5212	Craigmaskeldie ...	415	503	38	0	0	12	0	0	2	0	0
5214	Robdon ...	831	406	81	0	0	20	0	0	6	7	6
5202	Clutha ...	373	339	61	0	0	12	0	0	2	0	0
5203	Creag-an-nan-deargan	272	198	28	0	0	9	0	0	1	10	0
5204	Cluny ...	143	41	17	0	0	4	10	0	1	2	6
5166	Comrie ...	259	294	14	0	0	6	0	0	0	12	6
5167	Lubar ...	512	572	16	0	0	8	0	0	1	5	0
5187	Coulterburn ...	524	482	64	0	0	15	0	0	2	12	0
5238	Coilantogle ...	296	538	37	0	0	10	0	0	1	10	0
5237	Tilorna ...	918	227	91	0	0	30	0	0	5	12	0
5216	Cantyre ...	234	298	33	0	0	12	0	0	1	17	6
5217	Kilchamaig ...	2064	157	150	0	0	30	0	0	12	16	0
5186	Colma ...	778	398	67	0	0	20	0	0	4	0	0
5118	Canna ...	926	129	57	0	0	10	0	0	2	6	0
5184	Dorasmhor ...	441	446	35	0	0	25	0	0	2	5	0
5183	Runagaul ...	416	...	33	0	0	12	0	0	2	0	0
5210	Dounachadhban ...	1051	70	71	0	0	40	0	0	7	17	6
5181	Dennymains ...	510	366	58	0	0	18	0	0	2	10	0

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No. 26—1899.

SCHEDULE—*Continued.*

Lot No.	Name of Farm.	Extent. Morgen.	Extent. Square Roods.	Original Quitrent. £	s.	d.	Reduced Quitrent. £	s.	d.	May be further reduced to £	s.	d.
5120	Diura... ...	760	...	38	0	0	12	0	0	2	16	0
5143	Duart ...	549	361	18	0	0	8	0	0	1	7	6
5132	Tweefontein ...	629	213	35	0	0	12	0	0	1	12	6
5185	Dunvegan ...	509	428	46	0	0	18	0	0	2	10	0
5209	Dornock ...	1075	77	55	0	9	25	0	0	5	10	0
5150	Extension ...	347	498	24	0	0	6	0	0	1	15	0
5227	Bowmore ...	914	319	76	0	0	20	0	0	2	5	0
5171	Ettrick ...	1361	59	127	0	0	25	0	0	5	0	0
5235	Elpin	354	528	35	0	0	12	0	0	1	15	0
5240	Fingal ...	638	156	78	0	0	18	0	0	3	10	0
5241	Sasunn ...	556	28	52	0	0	16	0	0	2	15	0
5089	Gierigaar Kasteel...	656	231	37	0	0	12	0	0	1	12	6
5159	Geltsch Berg ...	1911	68	60	0	0	20	0	0	9	10	0
5226	Glen Lochy ...	1165	446	100	0	0	35	0	0	7	3	0
5225	Dalhousie ...	1163	184	101	0	0	25	0	0	5	15	0
5133	Glen Fyne ...	497	570	26	0	0	12	0	0	3	15	0
5221	Strathgowan ...	602	514	60	0	0	17	0	0	3	0	0
5128	Tramore ...	617	150	18	0	0	15	0	0	1	10	0
5222	Gleniffer ...	548	189	61	0	0	17	0	0	2	15	0
5236	Offa	944	192	58	0	0	25	0	0	4	15	0
5188	Ian Lom ...	457	40	37	0	0	12	0	0	2	5	0
5086	Kevitshoek ...	795	268	48	0	0	10	0	0	4	0	0
5107	Keppoch ...	1174	163	59	0	0	20	0	0	6	0	0
	Kippersol ...	508	315	42	0	0	20	0	0	2	10	0
5176	Kerrera ...	665	315	54	0	0	16	0	0	3	5	0
5108	Keills... ...	1116	370	49	0	0	18	0	0	5	10	0
5115	Konings Kroon ...	506	230	33	0	0	12	0	0	1	5	0
5182	Knapdale ...	387	128	28	0	0	12	0	0	1	0	0
5178	Killchollum Kill ...	490	100	61	0	0	20	0	0	3	15	0
5164	Morven ...	506	38	37	0	0	10	0	0	2	10	0
5169	Minard ...	1569	193	73	0	0	25	0	0	5	16	0
5220	Ordfianna ...	680	340	71	0	0	20	0	0	5	1	0
5218	Oithona ...	1783	296	148	0	0	30	0	0	11	5	0
5232	Oransay ...	312	553	36	0	0	10	0	0	2	5	0
5096	Onrust ...	719	516	63	0	0	13	0	0	1	15	0
5097	Teeboom ...	549	524	30	0	0	10	0	0	1	7	6
5199	Poolewe ...	519	263	60	0	0	15	0	0	3	15	0
5146	Ronan ...	543	589	10	0	0	8	0	0	1	7	6

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SCHEDULE—*Continued.* No. 26—1899.

Lot No.	Name of Farm.	Extent.		Original Quitrent.			Reduced Quitrent.			May be further reduced to		
		Morgen.	Square Roods.	£	s.	d.	£	s.	d.	£	s.	d.
5134	Rietvley ...	552	563	27	0	0	12	0	0	1	7	6
5136	Rietfontein ...	501	345	23	0	0	12	0	0	2	10	0
5128	Roag	901	341	51	0	0	22	0	0	6	15	0
5135	Rondavel ...	880	200	53	0	0	18	0	0	4	7	6
5137	Rooipoort ...	886	439	55	0	0	18	0	0	6	15	0
5138	Welbekendt ...	874	302	46	0	0	15	0	0	2	5	0
5160	Rzip	2916	108	67	0	0	30	0	0	10	17	0
5162	Raasay ...	906	390	43	0	6	20	0	0	2	5	0
5124	Sunart ...	1409	590	51	0	0	25	0	0	7	0	0
5165	Scalpa ...	336	41	19	0	0	8	0	0	0	17	6
5170	Skipnish ...	815	87	71	0	0	20	0	0	2	0	0
5191	Struman ...	900	391	34	0	0	12	0	0	3	7	6
5195	Swaran ...	798	534	76	0	0	20	0	0	4	0	0
5229	Scarba ...	1545	...	80	0	0	20	0	0	5	16	0
5139	Tomar ...	1149	115	45	0	0	20	0	0	2	17	6
5857	Turva ...	688	200	70	0	0	22	0	0	3	10	0
5152	Ulin	929	454	129	0	0	40	0	0	7	2	6
5197	Udine ...	451	404	55	0	0	16	0	0	3	7	6
5092	Umgwalana ...	671	550	41	0	0	12	0	0	3	10	0
5213	Uamhnachean ...	537	239	44	0	0	14	0	0	2	15	0
5129	Ulva	1021	281	44	0	0	20	0	0	5	0	0
5144	Firhole ...	488	433	8	0	0	6	0	0	1	5	0
5198	Ulapool ...	976	282	107	0	0	20	0	0	7	10	0
5131	Wonderboom ...	903	490	68	0	0	20	0	0	2	5	0
5083	Zuurmelkfontein ...	775	124	49	0	0	15	0	0	4	0	0
5091	Aultbea ...	1431	134	81	0	0	15	0	0	7	5	0
5105	Boschjespunt ...	854	500	50	0	0	15	0	0	4	5	0
5230	Corryvrechan ...	588	533	31	0	0	10	0	0	2	5	0
5145	Funeray ...	443	303	18	0	0	6	0	0	1	2	6
5177	Kilmeny ...	742	321	71	0	0	14	0	0	3	15	0
5231	Malvina ...	678	460	18	10	0	10	0	0	2	12	0
5228	Tulloch ...	1517	594	66	0	0	25	0	0	5	12	0
5175	Innistore ...	257	589	22	0	0	7	0	0	1	5	0
5101	Gillie Callum ...	1110	441	57	0	0	18	0	0	5	10	0

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No. 27—1899.] [October 13, 1899.

ACT

To Authorise the issue of Title to a portion of the farm "Middeldam" to Edward Egar Hurly and Isaac Sonnenberg.

WHEREAS Willem Pieter Geyer and Antonius Josephus Geyer were the registered owners by Title Deeds duly registered in the Land Registry of the Orange Free State on January 21st, 1869, of the farm "Middeldam," then within the Territory of the Orange Free State, and now within the Division of Griqualand West within this Colony, the said title containing no reservation of precious stones or minerals in favour of the Government of the Orange Free State:

And whereas title was granted on October 4th, 1878, by the Administrator of Griqualand West to the said Willem Pieter Geyer of half the said farm, the said half being known as Geyer's portion, and the said title, with diagram annexed, originally filed in the Land Registry Office of Griqualand West, is now filed in the Surveyor-General's Office, Cape Town, and a copy of the said Title Deed forms Schedule A hereto:

And whereas the said Edward Egar Hurly and Isaac Sonnenberg did in or about the year 1873 acquire from Antonius Josephus Geyer the remaining portion of the said farm but have been unable to obtain title of the said portion, which is known as Hurly's portion, from the Government under the law of this Colony:

And whereas the said portion, known as Hurly's portion, has been duly surveyed and the diagram thereof filed in the Surveyor-General's Office, Cape Town:

And whereas it is expedient that the Government be authorised and empowered to issue title to the said portion, in similar terms to the title annexed as a Schedule hereto, save that the said title be issued free of any reservation in favour of the Government of the rights to precious stones, gold or silver found on or under the surface of the said land:

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:—

Grant on remaining half of Middeldam authorised.

1. It shall and may be lawful for the Governor to issue to and in favour of Edward Egar Hurly and Isaac Sonnenberg a grant of the remaining portion of the farm "Middeldam," known as Hurly's portion, situate in the Division of Kimberley, Griqualand West, and measuring eight hundred and eighty-nine morgen and four hundred and ninety-four square roods, bounded north-west by the farm "Secretaris," southwards by the farm "Weltevreden" and the portion of the farm "Middeldam" known as Geyer's portion, and eastwards by the farm "Wolvedam," as described in the diagram filed in the Surveyor-General's Office of Cape Town.

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2. The said title issued as aforesaid shall be in all respects similar to that issued in respect of the portion of "Middeldam" known as Geyer's portion, save that the clause in the title issued for this latter portion whereunder the Government reserves the rights to all precious stones, gold or silver, found on or under the surface of the land shall be omitted from the title to be issued as aforesaid.

Tenure free of reservation of minerals to Crown.

3. This Act may be cited as "The Middeldam Title Act."

Short Title.

SCHEDULE.

Schedule.

GRIQUALAND WEST.

Audit Office No. 638.
Folio 385.

Lot No. 1009.
Land Register Folio 29.

In the name and on behalf of Her Majesty Queen Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith:—

I do hereby grant on perpetual quitrent unto Willem Pieter Geyer, his Heirs, Executors, Administrators, or Assigns, that certain plot or parcel of land known as Portion of Middeldam, and situate adjoining Klein Karee Pan, in the District of Kimberley, being in extent eight hundred and eighty-nine morgen and four hundred and ninety-four square roods, or thereabouts, and bounded north by Secretaris and another portion of Middeldam, south-east by Rooidam, and south-west by Klein Karee Pan, as will more fully appear by the hereunto attached plan framed by the Government Surveyor, upon the following conditions, namely:

That the said Willem Pieter Geyer, his Heirs, Executors, Administrators, or Assigns, shall punctually pay, or cause to be paid, on the first day of January in each year to the Civil Commissioner of the District wherein the said land now is, or hereafter may be situated, the sum of eighteen shillings sterling (£0 18s. 0d.) quitrent, payable from the 1st January, 1872, taking a receipt therefor, and paying all stamp duty required by law.

That all roads and thoroughfares now existing on the said land shall remain free and uninterrupted, and that the Government reserves the right to make or cause to be made on or across, the said land, for the public benefit, such roads, railroads, railways, stations, paths, aqueducts, dams, drains, reservoirs, water-courses, or other public works as may be required, as also to conduct telegraphs over the said land, and to establish convenient outspans for the use of travellers.

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That the Government reserves also the right, at all times, to enter upon the said land, and to take, excavate, dig or quarry all such stones, earth, gravel, or other materials as shall or may be required for any such public works as in the preceding condition specified without compensation to the proprietor, and that all public officers employed by Government as surveyors, engineers, or the like, shall have the right to travel over and remain upon the said land, with their servants, horses, cattle, and equipages.

That the land thus granted shall be brought into such a state of cultivation as it is, or may be capable of, and that its owner shall have and keep its beacons, or landmarks, and boundaries properly erected and traced out.

That the Government reserves the rights to all precious stones, gold or silver found on or under the surface of the said land.

And lastly that the said land shall be subject to all such duties, rules and regulations as either now are, or hereafter may be in force with regard to lands granted on similar tenure.

Given under my Hand and the Public Seal of the Province of Griqualand West, at Kimberley, this 4th day of October, in the year of our Lord One Thousand Eight Hundred and Seventy-eight.

(Sgd.) W. OWEN LANYON,
Administrator.

(Sgd.) FRANCIS H. S. ORPEN,
Surveyor-General.

No. 28—1899.] [October 13, 1899

ACT

To Amend the Scab Act, 1894.

Repealed by 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:—

Effect and short title of Act.

1. This Act shall take effect on and after a date to be proclaimed by the Governor, shall be read as one with "The Scab Act, 1894," hereinafter styled the principal Act, and may be cited for all purposes as "The Scab Act Amendment Act, 1899," and the two Acts together may be cited as "The Scab Acts."

Repeal of certain sections of Act 20 of 1894.

2. The following sections and provisions of the principal Act are hereby repealed, to wit: section six, and section fifty-four. After the taking effect of this Act, it shall be lawful for the Governor, without notice, to dispense with the services of any inspectors appointed under section six of the aforesaid Act, so soon as an inspector shall have been appointed under this Act in respect of an area including the Field-cornetcy or native location for which such first-mentioned inspector shall have been appointed.

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Meaning of "Inspector."

3. The word "inspector" as used in this Act and in the principal Act shall, instead of the meaning given to it in the fourth section of the latter Act, mean an officer appointed under this Act to have charge of an area which shall in general consist of two or more Field-cornetcies or portions of Field-cornetcies.

The word "area" substituted for other terms.

4. The word "area" shall be substituted for the following expressions wherever they occur in the principal Act, to wit: "Field-cornetcy," "Field-cornetcy or native location as the case may be," "Field-cornetcy or location," "Field-cornetcy or native location."

The Scab Board.

Scab Boards constituted.

5. In each division of the Colony there shall be a Board called "The Scab Board for the Division of ," constituted and elected as follows:—

(1) It shall consist of three members, to be elected as hereinafter set forth, and the Civil Commissioner of the division, who shall *ex officio* be the chairman of the said Board and preside at all meetings thereof. In the event of such Civil Commissioner being unable to be present at any meeting of the Board on account of sickness, absence from the division, or some other cause, the officer for the time being discharging the duties of Civil Commissioner for such division shall preside.

(2) One member of the said Board shall be elected by the Divisional Council at an ordinary monthly meeting thereof. Notice of such election shall be given at least fourteen days before such meeting in the manner in which notices of special or adjourned meetings of the Council are required to be given by "The Divisional Councils Act, 1889."

(3) Two members of the said Board shall be elected by the persons whose names appear on the list of Divisional Council voters, framed under the first section of the principal Act.

(4) Any person shall be qualified to be elected a member of the said Board, either by the Divisional Council, as aforesaid, or by the Divisional Council voters, as aforesaid, who shall be resident in the division, and who shall, in the case of the members of the said Board referred to in sub-section (3) be the owner of more than two hundred and fifty sheep.

(5) The Minister may from time to time appoint a place and time for the election of the members of the said Board referred to in sub-section (3). Such election shall be in manner described by regulations to be framed by the Governor and published in the *Gazette*, and at such election the voting shall be by ballot in manner provided by such regulations.

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(6) Should the Divisional Council fail to elect a member within six weeks after being requested to do so by the Minister, or should the Divisional Council voters not elect one or both of the members required to be elected by them, the Minister shall appoint as members such persons possessing the necessary qualifications, as shall be required to complete the full Board, and any person so appointed shall continue to be a member only until a duly qualified person is properly elected.

(7) Members of the said Board attending any meeting of the Board shall be paid their travelling expenses, at a rate fixed by such Board, as though such Board were a Divisional Council, acting in terms and subject to the provisions of section 128 of Act No. 40 of 1889.

Tenure of office.

6. The members of the Scab Board shall be appointed for a period not exceeding three years, and any member of the said Board who shall lose his qualifications or who shall have been resident out of the division for a period of six months, or who shall become insolvent, or who shall be convicted of a wilful offence against any provision of the Scab Acts, or who shall, in the opinion of the Minister, so negligently or improperly discharge the functions conferred upon him by this Act as to prove himself unfit to continue a member of the said Board shall thereupon cease to be a member: provided that the disabilities of this section created in respect of persons convicted of offences against the Scab Acts shall only apply to such offences as shall, in the opinion of the magistrate before whom the case was tried, have been wilfully committed, and the magistrate shall, for the purposes of this section issue a certificate to that or the contrary effect.

Vacancies.

7. (1) Any vacancy on the said Board caused by the death, resignation, disqualification or otherwise of a member elected by the Divisional Council shall be filled up by the election by the said Council of some other qualified person as soon as may be after being requested by the Minister to do so, and in like manner as is provided by this Act for the first election of a member of the said Board by the said Council.

(2) Any vacancy on the said Board caused by the death, resignation, disqualification or otherwise of a member elected by the Divisional Council voters as aforesaid shall be filled up by the election by the said voters of some other qualified person in like manner as is provided in this Act for the first election of members of the said Board by the said voters.

(3) The Minister may appoint some duly qualified person to any vacancy on the said Board pending the filling up thereof.

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Meetings of Board.

8. A meeting of the Board may be called at any time by the chairman thereof for the purpose of discussing and advising on any matter proper for its consideration under this Act. Save in cases of urgency, at least seven days' notice, specifying the day, the hour and the place of any meeting and the matters to be discussed thereat, shall be given by the chairman to the members of the said Board, who shall attend all such meetings duly convened and every adjournment of any meeting duly notified.

Quorum.

9. The quorum at any meeting of the said Board shall be three, and all questions submitted at any meeting shall be decided by a majority of the members present thereat, provided that

(*a*) the chairman shall only vote in case there be an equality of the votes of other members, and

(*b*) that a quorum of one member shall be sufficient for the adjournment of a meeting.

Appointment of Inspectors.

Appointment of Inspectors.

10. The Minister may appoint and from time to time suspend, dismiss or remove an inspector for any of the areas into which the Colony shall be from time to time divided for the purposes of the Scab Acts, and each such area shall in general consist of not less than two or more Field-cornetcies, or portions of Field-cornetcies, and every inspector so appointed shall be responsible to the Chief Inspector, and shall be charged within such area with the duties imposed upon inspectors by the principal Act, as amended by this Act; provided, however, that in respect of any such appointment of inspector, the Minister shall call for applications in manner prescribed by proclaimed regulations.

Applications for appointment to be submitted to Board

11. Upon receipt of such applications the Minister shall forward them to the chairman of the Scab Board of the division in which the area for which the appointment is to be made is situate. The said chairman shall bring the said applications as early as possible before a meeting of the Board, called for the purpose of considering them, and the said Board shall at such meeting select the names of not more than three applicants, who in its opinion are most qualified for the said office, and shall, through the chairman, forward such names to the Minister, together with such remarks as the said Board or any member thereof may wish to make.

Appointment from amongst names selected by the Board.

12. From amongst the names of applicants selected by the Board and forwarded to the Minister as aforesaid, it shall be competent for the Minister to appoint the inspector: should, however, no suitable applicant be recommended by the Scab Board it shall be competent for the Minister to appoint some person who shall act as inspector until further application can be called for and a suitable person is recommended for appointment.

Temporary Inspectors.

13. In case it may be necessary for the purpose of inspection of flocks or otherwise, to appoint persons to act as inspectors in special cases to which the area inspector may be unable to attend,

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it shall be lawful for the Minister to appoint such temporary inspectors, and they shall have all the powers and discharge all the duties, in these special cases for which they shall be appointed, of inspectors duly appointed under the preceding sections of this Act.

Simultaneous Dipping of Infected Sheep.

Simultaneous dipping of infected sheep.

14. During a period of four consecutive months, commencing on the first day of February, 1900, and during a second period of four consecutive months, commencing on the first day of February, 1901, there shall be simultaneous dipping in manner hereinafter described of all the infected flocks in the Colony.

Special period for each area.

15. Out of each of the abovementioned periods of four months a special period not exceeding six weeks shall be determined for each area by the Governor by notice in the *Gazette*, which notice shall not be published until after consultation between the Minister and the Scab Board; and within the special period as determined and notified, all infected sheep together with all sheep grazing on the same farm; should the owner or person in control of them so desire shall at intervals of not less than ten or more than fourteen days between each dipping be twice dipped under the supervision of the inspector or his recognised substitute, when it shall be deemed necessary to appoint such substitute, and if any owner shall wilfully refuse or neglect to carry out the reasonable instructions given by the inspector or his recognised substitute it shall be lawful for such inspector or substitute to take such sheep and cleanse them, and the costs thereby incurred may be recovered by such inspector in any court of competent jurisdiction. And the Government shall be liable for any loss or damage occasioned to such owner by any proceedings under this section to the extent and subject to the provisions provided for in section fifty-two of the Principal Act. Provided that the owner of any sheep running on a farm adjoining an infected farm, can claim to have such sheep dipped under the same terms and conditions as infected sheep, although such sheep may not be visibly infected.

Scab destroying preparation to be supplied by Government.

16. For the purpose of dipping sheep as mentioned in the preceding section the Government shall provide such effective scab-destroying preparations not exceeding four in number, which shall include such preparations of lime and sulphur and of tobacco as the Governor shall approve to be supplied free of charge at the office of the Resident Magistrate of the District, or at such other place or places as the Government may determine.

Further period may be prescribed.

17. It shall be lawful for the Governor, in accordance with special resolution of both Houses of Parliament, to prescribe during any subsequent year a further period of four consecutive months commencing on the first day of February in that year during which simultaneous dipping may be carried out in manner hereinbefore provided.

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Sections 18 and 19 of Principal Act to apply.

18. The provisions of sections eighteen and nineteen of the Principal Act, for the disinfection of premises and for the removal of stock, during simultaneous dipping, shall *mutatis mutandis* apply to this portion of this Act: Provided that in line 2 of section nineteen of the principal Act the word "sheep" shall be construed to mean "infected sheep."

Suspension temporarily of Part III, of Principal Act.

19. The provisions of Part III of the principal Act, as hereby amended, regarding the intermediate dipping of infected sheep, shall be suspended within any area, as proclaimed under section fifteen of this Act, during the period not exceeding six weeks in which simultaneous dipping shall be in operation in such area.

An order to cleanse under Part III. of Principal Act to specify period.

20. Between the period dating from 1st November to 30th April in any year the order of the inspector to cleanse under Part III of the principal Act shall specify such period not less than four weeks and not exceeding six weeks, as may be prescribed by regulations which shall be framed to suit the circumstances of the various areas.

Dipping during such period.

21. During the period allowed for the purpose of cleansing any infected sheep between 1st November and 30th April in any year, the inspector granting such order shall, unless he shall consider dipping impracticable or dangerous, instruct the owner of such sheep to dip the infected sheep once within seven days of the date on which the order to cleanse was granted, and again a second time within fourteen days of the date of the first dipping, and if any owner shall neglect or refuse to carry out these instructions, the inspector shall then cleanse the said stock at the expense of the owner, subject to the provisions of section fifty-two of the principal Act. Provided that every inspector who shall refrain from granting such order because he shall consider dipping impracticable or dangerous, shall forthwith report to the Chief Inspector the circumstances under which he has so refrained, and such Chief Inspector shall take such steps thereon as after due inquiry to him may seem meet.

Period for cleansing may be extended.

22. If at the expiration of six weeks from the granting of an order to cleanse during the period dating from 1st May to 31st October during any year, the sheep in respect of which such order has been given are still infected, notwithstanding that reasonable efforts have been made to cleanse them, the inspector may at the request of the owner of the sheep extend the time for cleansing, and for that purpose may grant a renewal of the order to cleanse for a period not exceeding four weeks, so as to enable the owner to complete the cleansing of such sheep. If, owing to the severity of the weather or to drought or to the weak condition of the sheep, the dipping of the whole flock of sheep shall in the opinion of the inspector be impossible or dangerous to life, any sheep in respect of which an order to cleanse has been given, and which may after the expiration of the period provided for by such order, or any extension thereof, as aforesaid, be found to be still visibly infected, may be hand-dressed or hand-dipped instead of being dipped as the inspector shall direct.

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North-western District.

Certain divisions to form one District for purposes of of Scab Acts.

23. The Divisions of Calvinia, Carnarvon, Ceres, Clanwilliam, Fraserburg, Kenhardt, Namaqualand, Prieska, Sutherland and Van Rhynsdorp, shall be, for the purposes of the Scab Acts, treated as though they together formed one division or district and more particularly for the purposes of Part IX of the principal Act.

Exclusion of any of the above divisions from operation.

24. Upon application by the Divisional Council of any of the above divisions, made pursuant to resolution passed by a majority of the members of the said Divisional Council, the Governor may proclaim such division to be excluded from the operation of the last preceding section of this Act and no longer to form a portion of the division or district constituted thereunder.

District of Elliot.

Elliot and Maclear for the purposes of the Scab Act to be considered part of the Colony.

25. From and after a date to be fixed by Proclamation the Governor may proclaim the district of Elliot as removed from the operation of the Regulations in force therein relative to the prevention of scab in sheep, and to be subject to the provisions of the Scab Acts, with such modifications as to the appointment of inspectors as may be by such or other subsequent Proclamation established in the territories of the Transkei and Tembuland, and thereupon the abovementioned district shall be deemed and taken to be a portion of the Colony for all the purposes of the Scab Acts, subject to such modifications as aforesaid.

Regulations and Penalties.

Regulations.

26. The Governor may from time to time make rules and regulations in accordance with the provisions of the Scab Acts for the instruction and guidance of all officers appointed under the Scab Acts, for the mode of election and voting by ballot for members of the Scab Board, for providing quarantine stations and regulating the same, and generally for all matters of detail for carrying this Act into full force and effect, so far as the same are consistent with this Act, and may by such rules and regulations impose penalties for the contravention thereof, no such penalty to exceed the sum of twenty pounds, and the Governor may at any time abolish, rescind, or amend any such rules and regulations.

Provisions of Section 55 of principal Act to apply.

27. Section fifty-five of the principal Act shall *mutatis mutandis* apply to contraventions of any of the provisions of this Act.

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No. 29—1899.] [October 13, 1899.

Repealed by Act 25 of 1934

ACT

To Apply a Sum not exceeding Seven Hundred and Seventy Pounds Eleven Shillings and One Penny Sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

[Lapsed.]

No. 30—1899.] [October 20, 1899.

(1) ACT

To Amend the Law with regard to Native Locations.

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:—

Laws repealed.

1. The provisions of this Act shall come into force from and after the first day of January next, and thereupon Act No. 33 of 1892, and sections two, three, four and six of Act No. 37 of 1884, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, shall stand repealed, except as to anything duly done or any liability or penalty incurred in respect of such laws.

Definition of a private location.

2. By "private (2) location" is meant any number of huts or dwellings on any private property, occupied by one or more native male adults, such occupants not being in the *bona fide* and continuous employment of the owner or occupier of such land, either as his domestic servants or in or about the farming operations, trade, business or handicraft, by him carried on upon such land.

Annual licence to be taken out for private location.

3. The owner of any land on which a private location is established or on which such location may hereafter be established, shall be bound and obliged to take out an annual licence for such location, to be issued by the Distributor of Stamps for the district or such other officer as the Governor may appoint for the

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[1] See Act 10, 1902 (p. 4374), indemnifying for non-application of this Act in consequence of war and rebellion.

[2] Urban Districts under Native Reserve Location Acts, 40, 1902, and 8, 1905, not to include any portion of authorised private location. See § 1, Act 8, 1905 (p. 4815).

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purpose: provided that such Distributor of Stamps or other officer shall not issue such licence until a certificate signed by the Inspector of Locations or the Chairman of the Board provided for in section fourteen, is produced to him certifying the number of natives decided by such inspector or board, as the case may be, in accordance with the provisions of sections thirteen, fourteen and fifteen, or sixteen, to be required for the due working of the farm; provided further that no such licence shall be issued in respect of natives other than those mentioned in section eleven, except upon the certificate of the Civil Commissioner that the consent of the Divisional Council and the Governor to the issuing of such licence has been obtained.

Amount to be paid for licence.

4. There shall be paid for every such annual licence, except as hereinafter provided, the sum of twenty shillings for every male adult, which sum shall become due and payable on the 1st day of January in each year or whenever a private location is established: Provided that in respect of any location which shall be established on or after the 1st day of July in any year a half-yearly licence shall be issued upon payment of the sum of ten shillings for each male adult.

Limit as to number of male adults in private location.

5. No licence shall authorise more than forty male adults to be at any time in occupation of a private location.

Penalty for not taking out a licence

6. The owner of any land on which a private location is established, who shall neglect to take out a licence for such location, shall be liable to a penalty not exceeding twenty-five pounds for the first offence, and to double the amount of the last-inflicted fine or penalty for each subsequent offence.

Penalty for having greater number of male adults than is authorised by licence.

7. The owner of any land on which a private location is established who allows such location to be occupied by a greater number of male adults than is authorised by the terms of his licence shall be liable for every such offence to the penalty provided in the last preceding section.

Registrar to be kept of huts, occupants and stock.

8. The owner of any land on which a private location is established shall keep a true and correct register of the number of huts or dwellings within such location, together with the names and occupations of the male adults occupying such huts or dwellings, and the numbers, marks or description of the horses, horned cattle, sheep and goats within the limits of such location.

Inspection of register.

The said register shall be inspected from time to time by the Inspector of Native Locations, or other officer appointed by the Governor, who shall certify the date on which it was inspected and shall at the first inspection, and afterwards at intervals of not less than six months ascertain if the register is correct, and if the register be not written up to date or if it be incorrect in any material particulars, the said owner shall be liable to the penalty provided in section six of this Act. A copy of the register of all private locations shall be kept at the office of the Inspector

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of Native Locations or other officer appointed by the Governor to inspect any location, and shall be open to inspection at all reasonable hours by any registered land-owner or occupier of land in the district in which such private location is situated.

Occupation of private property by native owner or *bona fide* lessee not to constitute private location.

9. The occupation of any private property by any native male adult, who is the sole registered owner thereof, or who is the sole lessee thereof paying a rental in cash of not less than thirty-six pounds per annum under a *bonâ fide* written lease, shall not be regarded as constituting a private location.

Occupation of private property by joint native lessees or owners.

10. Any two or more native male adults joined in any *bonâ fide* written lease and paying in cash a rental amounting to forty-eight pounds, or upwards, in the case of two such lessees, and not less than an additional twelve pounds each for any greater number of lessees, or who shall occupy any private property as registered owners, shall not be subject to the provisions of this Act, in respect of the payment of licence fees and hut tax.

Election or failing election appointment by the the Governor, of one of their number to be owner of land for purposes of this Act.

If the native male adult occupiers be the registered owners of such private property, or otherwise if there be no European resident on the property either as owner or as representing the owner, such joint occupiers or lessees shall after due notice by the Inspector of Native Locations elect one of their number to be the owner or occupier, who shall for the purposes of this Act be regarded as primarily responsible for the discharge of the duties and obligations pertaining to an owner of any land on which a private location is established; and failing such election the Governor may from time to time appoint one of such joint occupiers or lessees for the purpose, or remove any person so appointed.

Nothing in this section shall be taken to authorise exemption from payment of licence fees or hut tax in respect of any occupants of a private location not being the joint lessees or occupiers as aforesaid.

Exemption from payment of licence fees.

11. The owner of any land on which a private location is established shall be exempted from payment of licence fees in respect of the following persons:—

(1) The individual native male adults upon any private property, as long as they continue to reside there, who at the date of the taking effect of this Act shall, by virtue of any notice issued under the provisions of section one of Act No. 33 of 1892, be exempted from the operation of the Location law;

(2) Any native male adults who are *bonâ fide* required for the due working of any private property; and

(3) Any native male adults so old or chronically infirm as to be incapable of rendering service.

Notices issued under section 1 of Act 33 of 1892.

12. Any notices issued under the provisions of section one of Act No. 33 of 1892, and now in force, shall notwithstanding the repeal of the said Act continue to have effect for the purposes of sub-section (1) of the last preceding section.

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Decision as to number of male adults required for due working of private property to rest with Inspector in the first instance.

13. The number of native male adults, other than those in *bonâ fide* and continuous employment, who may be required for the due working of any private property shall in the first instance, upon application for exemption from payment of licence fees, be decided by the Inspector of Native Locations.

Owner of land to have right of appeal to a Location Board against Inspector's decision.

14. The owner of any land on which a private location is established, if dissatisfied with the decision of the Inspector of Native Locations, shall have a right to appeal to a Location Board, to be composed of the Civil Commissioner of the division, the member of the Divisional Council representing the divisional council district in which such land is situated, and such other member as the Divisional Council may appoint to represent it.

And thereupon such Board shall have power to inquire into the matter, if necessary to visit the spot, and, if need be, to take evidence on oath or by solemn declaration, and finally to decide the question.

Three or more Divisional Council voters to have right of appeal to Location Board against Inspector's decision.

15. Any three or more of the Divisional Council voters in the ward in which any location is established, or in an adjoining ward, who desire to object to the decision of the Inspector of Native Locations, shall have the right to appeal to the Location Board, and the Location Board shall adjudge the question, *mutatis mutandis*, as provided by the last preceding section in the case of an appeal by the owner, due notice being given to the Inspector of Native Locations and the owner of the land on which the location is established of the objection lodged and of the time and place of hearing.

Rights of appeal.

16. At any time after the lapse of a year from the date of the decision of the Inspector of Native Locations it shall be competent for any person or persons, who would be entitled to appeal against such decision, to require the Inspector to arrive at a fresh decision as to the number of native male adults, other than those in *bonâ fide* and continuous employment, who may be required for the due working of any private property; and the Inspector of Native Locations may at any time after the lapse of a year from the date of any decision, if satisfied that the number of native male adults previously allowed for the due working of any private property is in excess of the then existing requirements, arrive at a fresh decision in the matter: Provided that in each case there shall be a right of appeal against such fresh decision in the same manner as is provided in sections fourteen and fifteen of this Act.

Governor may cancel any notice under section 1 of Act 33 of 1892, or revoke or modify any licence.

17. The Governor may, upon the recommendation of the Chairman of the Divisional Council, after consultation with the Council, cancel any notice issued under the provisions of section one of Act No. 33 of 1892, in so far as such notice has effect under this Act, or revoke any licence issued under the provisions of section three of this Act, or modify such licence by reducing the number of native male adults authorised to reside in the private location in respect of which such licence is required, if satisfied that

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such cancellation, revocation or modification is in the public interest: Provided that nothing in this section shall be construed as giving any power to remove any occupant of a private location from any land of which he is the registered owner.

Notification of cancellation of notice, or revocation or modification of licence and when it shall take effect.

18. Whenever the Governor shall determine to cancel any notice under section one of Act No. 33 of 1892, as aforesaid, or to revoke any licence for a private location, or to modify such licence, the decision shall be duly notified in the *Gazette*. The date from which such cancellation, revocation or modification shall take effect shall be in the discretion of the Governor and shall be stated in the notice so published: Provided that sufficient time shall be allowed in each case, from the date when the native male adults concerned are informed of the revocation or modification of any licence, to enable them to reap or gather any crops that may already have been planted: Provided, further, that if the time fixed in any notice under this section shall extend beyond the period for which a licence has been taken out, the owner of the land on which the location is established shall not be required to take out a fresh licence or to pay hut tax in respect of the native male adults about to be removed, but otherwise shall comply with the provisions of this Act.

Refund of licence fees and hut tax upon revocation or modification of a licence.

As often as the Governor shall revoke or modify any licence as aforesaid, the licensee shall be entitled to claim a refund of the licence fees and hut tax in proportion to the unexpired period of such licence and, in respect of any modified licence, in proportion also to the number of male adults affected by such modification.

Onus of proof as to *bona fide* and continuous employment to be on owner.

19. The owner of any land on which a private location is established, in any legal proceedings in which the point arises, shall be required to prove the *bonâ fide* and continuous employment of any native male adult claimed to be exempt from the operation of this Act.

Meaning of terms "owner of any land on which a private location is established" and "proprietor of the land."

20. Whenever the words "owner of any land on which a private location is established," or words in that sense, are used in this Act, such words and the words "proprietor of the land" in sections ten and twenty-eight of Act No. 37 of 1884, shall be deemed to include the occupier, or the representative in this Colony of any absentee owner or occupier, of the land on which a private location is established.

In what Court proceedings to be taken.

21. Every owner or occupier of any land on which a private location is established, or representative of any absentee owner or occupier of such land, as the case may be, shall be liable to be sued in the Court of the Resident Magistrate of the district in which such land is situated and shall be responsible for and in respect of any charge, fee or breach of the law with regard to such location.

Proceedings for contravention may be carried on by Location Inspector or Police Officer.

22. Proceedings for contravention of any provision of this Act may be instituted and carried on by any Inspector of Native Locations, or in case there be no such inspector by any police officer.

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No. 31—1899.

Act 37 of 1884 amended.

23. The words "in a private location" shall be read instead of the words "on private property" in sections ten and twenty-eight of Act No. 37 of 1884.

Exemption from hut tax for old and chronically infirm occupants of locations.

24. Notwithstanding anything to the contrary contained in Act No. 37 of 1884, hut-tax shall not be chargeable in respect of any occupant of a native location, so old or chronically infirm as to be incapable of rendering service.

Tax of two shillings to be paid by hut tax payers in Crown locations and to be handed to Divisional Council as and for road rates.

25. On the first day of July in each year there shall be payable to the Inspector of Native Locations, or other duly authorised officer, by each hut taxpayer in a location on Crown land a sum of two shillings, which shall be recoverable in case of default in the same manner as hut tax payable under the provisions of Act No. 37 of 1884.

Repealed by 1925 Act 24 / Sec 20.

The nett amount of such tax shall be annually paid by the Civil Commissioner in each division to the Divisional Council of such division to be used and appropriated by the Council as if the said amount had been road rates collected under the provisions of Act No. 40 of 1889.

Meaning of "native."

26. For the purposes of this Act the word "Native" shall be taken to mean any Kaffir, Zulu, Fingo, Basuto, Damara, Hottentot, Bechuana, Buchman, Koranna or other native of South or Central Africa.

Act not to apply to any municipality or area under operation of Village Management Acts.

27. The provisions of this Act shall not apply to any location under the Act No. 5 of 1899, or situate within any municipality or area under the operation of the Village Management Acts: Provided that it shall be lawful for any Municipality or Village Management Board by any regulations made as by law required to apply the provisions of this Act, or any of them, to any such native location as far as they can be applied.

Short Title and effect.

28. This Act shall be read as one with Act No. 37 of 1884 and shall be cited as the "Native Locations Amendment Act, 1899."

No. 31—1899.] [October 20, 1899.

ACT (1)

For Constituting Additional Fiscal Divisions.

Repealed by Act 9 of 1925

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:—

Repeal of repugnant laws.

1. So much of the Ordinance for constituting a Parliament in this Colony, and commonly called 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.

Fiscal Divisions of Molteno and Montagu may be proclaimed.

2. It shall be lawful for the Governor, from and after a date to be fixed by any Proclamation or Proclamations to be issued for that purpose

[1] Printed as amended by Act 13, 1900.

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(1) To form certain portions of the existing Fiscal Divisions of Wodehouse, Albert and Cradock, into a new Division for fiscal purposes to be named the Fiscal Division of Molteno.

(2) To divide the existing Fiscal Division of Robertson into two Divisions for fiscal purposes to be named the Fiscal Division of Robertson and Montagu, respectively.

Boundaries to be defined by the same Proclamation.

3. The Proclamation or Proclamations authorised by the last preceding section shall define the several boundaries of the Fiscal Divisions of Molteno and Montagu.

No fresh elections for Divisional Councils of Wodehouse and Cradock.

4. Notwithstanding the alteration of boundaries by any Proclamation issued under the provisions of this Act, no fresh election for members of the Divisional Councils of Wodehouse and Cradock shall be necessary; but the members of the said Councils shall retain their seats precisely as if this Act had not been passed.

First elections for Divisional Council of Albert, Robertson and Montagu.

5. On the date fixed by any Proclamation or Proclamations issued by the Governor in that behalf and published in the *Gazette* there shall be fresh elections for members of the Divisional Councils of the Divisions of Albert, Molteno, Robertson and Montagu, as altered or constituted by any Proclamation under this Act, and on the 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 Divisions of Albert and Robertson shall respectively become vacant.

Application of Laws relating to Divisional Councils.

6. The provisions of Act No. 40 of 1889, commonly called "The Divisional Councils Act, 1889," and of every other law relating to Divisional Councils, shall apply to the divisions constituted under this Act, and to the divisions to which the said divisions or any part thereof previously belonged, and such former divisions shall then be limited and bounded precisely as if no Divisional Council in or for such divisions 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 any Proclamation or Proclamations issued under the provisions of section two of this Act comprised the whole or any part of the new divisions of Molteno or Montagu, and who, in accordance with the Act No. 40 of 1889, are duly qualified to be registered as voters for the Divisional Council of the new divisions of Molteno or Montagu, shall be entitled to vote at the election of Councillors for the Divisional Council of such new division.

Provisions of Act No. 24 of 1858 to apply to divisions of Molteno and Montagu.

7. The provisions of the 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 Molteno or Montagu, and to the divisions to which the said new divisions in whole or in part belonged before the issuing of such Proclamation, just as though such new divisions of Molteno and Montagu were named in the Schedule to the Act No. 12 of 1857.

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Toll-bar at Cogman's Kloof.

8. The net proceeds of the toll-bar established at Cogman's Kloof shall be divided equally between the Divisional Councils of Robertson and Montagu, and each of the said Councils shall bear the cost of maintaining and repairing such portion of the Cogman's Kloof Road as falls within the limits of such Council.

No change of electoral divisions.

9. Notwithstanding the creation of the new divisions of Molteno and Montagu by virtue of any Proclamation under this Act, such new divisions and every part thereof shall, for the purposes of Parliamentary elections, continue to form part of whatever electoral division such new division or part thereof belonged to before the date of such Proclamation, precisely as if this Act had not been passed.

Short Title.

10. This Act may be cited as the "Fiscal Divisions Extension Act, 1899."

No. 32—1899.] [October 20, 1899.

ACT

To Secure the Abridgment of the Hours of Labour in Shops.

[Repealed by Act 34, 1905.] [Pages 4151-4152.]

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No. 33—1899.] [October 20, 1899.

ACT

To Amend the Game Laws.

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 repugnant Laws.

1. So much of the "Game Law Amendment Act No. 36 of 1886," the "Game Law Amendment Act No. 38 of 1891," or any other law as is repugnant to or inconsistent with the provisions of this Act, is hereby repealed.

Special permits under Sec. 4, Act 36 of 1886.

2. Every person to whom a special permit to shoot has been issued in terms of section four of Act No. 36 of 1886 shall give notice to the Resident Magistrate of the district for which such permit is issued of the date on which he proposes to make use of such permit and shall be bound to return the said permit to the said Resident Magistrate within fourteen days after the number of animals mentioned therein have been killed.

Possession of flesh, skins, hides or horns of certain game.

3. Any person found in possession of the flesh, skins, hides, or horns of any of the game specified in section four of Act No. 36 of 1886 may be called upon by the Resident Magistrate of the district in which he is so found or by an officer duly authorised thereto, to show how and when he became possessed of such flesh, skins, hides or horns, and the proof of the truth of the allegations made by him shall rest with the person charged; and in the event of such person failing to give satisfactory explanation and proof of possession, he shall thereupon be dealt with as if he had infringed the provisions of section four of the said Act regarding special permits, and shall be liable to the penalty provided by section one of Act No. 38 of 1891.

Game Preserve.

4. It shall be lawful for the Governor, by proclamation in the *Gazette*, to define any area, being land the property of Her Majesty in Her Colonial Government, as a game preserve, and by subsequent proclamation to alter, amend, contract or extend the limits of such area or areas, and to make rules and regulations for the control, working, management and preservation of such game preserves and game therein.

Penalties for breach of regulations.

5. Every such rule or regulation may prescribe a penalty for the breach thereof, not exceeding Twenty-five Pounds for each offence or in default of payment to imprisonment with or without hard labour for a period not exceeding three months, and every person contravening any such rule or regulation shall be liable to the particular penalty in that behalf prescribed, and if no such penalty be prescribed then to a penalty of not exceeding Ten Pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

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Amendment of Section 4, Act No. 36 of 1886.

6. Section 4 of Act No. 36 of 1886 shall be read and construed as if the words "shoot at" were inserted after the word "shoot" in the second portion of the Section where the latter word refers to the game in respect of which the special permission of the Governor is required.

Short Title.

7. This Act shall be read as one with the "Game Law Amendment Act, 1886," and the "Game Law Amendment Act, 1891," and may be cited for all purposes as "The Game Laws Amendment Act, 1899."

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Amended by Ord No 13 of 1907

Amended by Ord No 20 of 1920

See also Ord No 22 of 1928

No. 34—1899.] [October 20, 1899.

To be read with Ord No 35 of 1934

ACT

To Authorise the Construction, Equipment, Maintenance, and Working of certain lines of Tramway from Camp's Bay to Cape Town and from Camp's Bay to Sea Point, and within the Municipality of Cape Town, and within the Municipality of Green Point and Sea Point.

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Preamble.

WHEREAS it is expedient and desirable that certain lines of tramway from Camp's Bay to Cape Town, and from Camp's Bay to Sea Point, and within the Municipality of Cape Town and within the Municipality of Green Point and Sea Point, should be constructed, equipped, worked and maintained between the points and along the routes shown on the plans of the proposed tramways as deposited with the Clerk of the House of Assembly:

And whereas a Syndicate, styled the Mills Syndicate, Limited, has been formed and registered which has undertaken to pay and bear the expenses of and connected with obtaining the sanction and authority of Parliamnt and of Government and of all Local, Municipal and Road Authorities, and others concerned, as far as necessary or advisable:

And whereas the Metropolitan Tramways Company, Limited, claims to have the preferent right under section 27 of the Metropolitan Tramways Act, 1895, to construct tramways within the limits of the Municipality of Cape Town, but has entered into an agreement with the Syndicate waiving, as far as may be necessary, the right so claimed, as far as such may be affected by the construction and working of the tramways hereinafter specified:

And whereas the rights and powers conferred by the said agreement were granted subject to terms and conditions in such agreement respectively set forth:

And whereas it is intended that the Syndicate shall assign, cede, make over, and transfer to the Company to be formed under this Act all its rights and powers under the said agreement and under this Act:

And whereas the Syndicate has undertaken and agreed to form and register a Company with limited liability of shareholders to acquire its rights, powers, and privileges and to construct, lay down, equip, work and maintain the tramways by this Act authorised:

And whereas it is desirable that certain rights, privileges, and powers should be granted to and vested in the said Company for the furtherance and carrying out of the said agreement subject to the terms and conditions therein and in this Act set forth:

And whereas certain surveys have been made and plans and sections of the lines of tramway proposed to be constructed by the Company with a book of reference to the said plans and sections have been duly lodged with the Clerk of the House of Assembly:

And whereas it is desirable and expedient that the proposed Company should be authorised and empowered to construct, lay down, equip, work, and maintain certain lines of tramway between Camp's Bay and Cape Town, and between Camp's Bay and Sea Point and elsewhere in the Municipality of Cape Town and in the Municipality of Green Point and Sea Point, and to make additions and extensions thereto:

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And whereas it is expedient and desirable that power and authority should be granted to the Company to raise money by means of Shares, or Stock, or Debentures, or Debenture Stock:

And whereas it is expedient that the proposed Company should have power to sell, or otherwise dispose of the said lines of tramway and to cede and assign the whole or any part of its undertaking, powers and rights:

And whereas it is expedient that the Company should have power to enter into working arrangements as to running powers and otherwise with any other Tramway Company or any Company having objects similar to those of the proposed Company:

And whereas it is desirable and expedient that the Company should be granted power notwithstanding Section 45 of the Metropolitan Tramways Act of 1895 or any other Law to run tramway cars or carriages plying for hire with flanged wheels specially adapted to run upon the rails, upon the terms and conditions hereafter provided:

And whereas it is expedient and desirable that notwithstanding any Law to the contrary the Company, and any other Tramway Company with which it may in terms of this Act enter into working arrangements as to running powers, shall be entitled to supply electrical power required for the due and convenient exercise of such running powers:

And whereas it is expedient that the Company shall be empowered to enter upon and compulsorily acquire, take, appropriate, and use the land required for the said tramways within the limits of deviation shewn upon the plans lodged with the Clerk of the House of Assembly, and that due provision should be made for the payment of compensation by the Company to persons owning or entitled to such land:

And whereas it is expedient and desirable that the Company should be empowered to enter upon and where necessary open, break up, widen, deviate, and alter the levels and curves of roads and streets, for the purpose of making, laying down, constructing, equipping, working, and maintaining the said tramways:

And whereas it is expedient and desirable that provision should be made to prevent interference with or obstruction of or upon the tramways and works, and to provide penalties for such offences:

And whereas it is expedient to provide for the making of regulations upon which the proposed undertaking may be carried out, and to make due provision for the public safety and convenience:

And whereas it is expedient to fix regulations to be complied with in working the tramways by electrical power:

And whereas it is desirable and expedient to prescribe terms and conditions upon which roads, streets, sewers, drains, pipes, wires, apparatus, and other matters and things may be interfered with and altered, and for the repair and maintenance of roads and streets affected by the work:

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And whereas it is expedient to empower Local Authorities to make certain regulations in connection with the proposed tramways:

And whereas it is expedient to authorise and empower the Company to levy tolls and charges for the conveyance of passengers, luggage, goods, minerals, and other merchandise:

And whereas it is expedient to provide for the imposition of penalties for various offences connected with the safe working of the tramways and for bringing explosives or dangerous goods on to the property of the Company:

And whereas it is expedient to provide for the imposition of penalties on persons attempting to avoid payment of lawful fares and charges:

And whereas it is expedient to confer power upon the Company to make Bye-Laws regulating traffic on the said tramways, and travelling in and upon the cars of the Company and for the prevention of nuisances on the Company's property, and to provide penalties for the contravention of such Bye-Laws:

And whereas it is expedient to provide for the carriage of Mails and Parcels on the proposed tramways:

And whereas it is expedient to authorise the Company to enter into contracts and agreements with Local, Road and other Authorities, and with Bodies, Companies, and Persons, and to empower the Company to carry out the provisions of such contracts and agreements, and for that purpose to do certain things:

And whereas it is expedient that provision should be made for the settlement of disputes and for the ascertaining and fixing of amounts payable as compensation for land taken, running powers, and other things soever, by arbitration:

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:—

Interpretation clause.

1. Throughout this Act save where such meanings shall be inconsistent with the context, the following words, terms and expressions shall be taken to have the meanings hereunder given:

"The Government" shall mean Her Majesty's Government of the Colony of the Cape of Good Hope.

"The Corporation" shall mean the Municipality of the City of Cape Town and the Town Council thereof.

"The Municipality" shall mean the Municipality of Green Point and Sea Point and the Council thereof.

"The Local Authority" shall, within the limits of the Cape Town Municipality, mean the Corporation, and within the limits of the Municipality of Green Point and Sea Point, the Municipality, and beyond the limits of the said Municipalities shall mean the Cape Divisional Council.

"The Road Authority" shall mean any authority, whether Government, Corporation, Divisional Council, Munici-

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pality, or other Local Authority in which any given road or street affected by this Act is vested or which has the power to control the traffic on or is charged with the duty of maintaining or repairing such road.

"The Syndicate" shall mean the Mills Syndicate Limited, and its Assigns.

"The Company" shall mean the proposed limited liability Company, which is to be formed and registered by the Syndicate to acquire *inter alia* the rights and powers conferred by this Act, and to construct, lay down, equip, work, and maintain the tramways authorised by this Act, and to carry out the undertaking.

"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.

"Persons" shall include the Postmaster-General.

"Prescribed regulations" shall mean the rules and regulations made and prescribed in pursuance of this Act.

The expressions "the tramways" and "the undertaking" shall mean respectively the tramways and works undertaken and authorised by this Act.

"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.

"Car" shall mean any engine or vehicle used on the tramways, whether for the conveyance of passengers or goods, or in the working of the tramways.

The expression "Metropolitan Tramways" shall mean the whole of the tramways constructed by, belonging to, worked, or controlled by the Metropolitan Tramways Company, Limited, including the tramways acquired by the said Company from the Cape Town and Green Point Tramway Company.

The expression "City Tramways" shall mean the whole of the tramways constructed by, belonging to, worked, or controlled by the City Tramways Company, except that portion running along Darling Street, towards the Toll, from the point of intersection of Plein Street and Darling Street.

When Company is to be registered.

2. The Syndicate shall duly form, constitute and register the Company within six months of the promulgation of this Act.

Company to be registered with limited liability and authorised to raise money.

3. The Company shall be registered under the Companies Act, 1892, of this Colony with limited liability and shall have power and authority to be exercised by the Directors of the Company in accordance with provisions to be made in the Memorandum of

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Association and Articles of Association thereof to raise such sums of money as may be deemed or found necessary, by means of Issue of Shares, Stock, Debenture or Debenture Stock: Provided that the total sum raised by means of the issue of Debentures or Debenture Stock shall not at any time exceed the amount of the issued capital of the Company, and that such Debentures or Debenture Stock shall be issued in accordance with the provisions made in the said Memorandum and Articles of Association.

Description of tramways authorised.

4. The Company shall be and is hereby authorised and empowered subject to the provisions of this Act, and of the said agreements with the Corporation, the Municipality, and the Metropolitan Tramways Company Limited and the City Tramways Company, 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, matters and things, connected therewith or for the purpose thereof, provided that no gradient shall without the special sanction of the Governor exceed 1 in $8\frac{1}{2}$, and may work and use the same that is to say:

TRAMWAY No. 1.

Single Line throughout, with passing places, 1 mile, 2 furlongs, 8.28 chains, or thereabouts and in length, commencing at Camp's Bay, in the Field-cornetcy of Papendorp and Woodstock, in the Cape Division, at a point 378 yards or thereabouts East from the South-east corner of the Villa of Charl Marais, Esquire; proceeding thence in a North-easterly direction through private land, thence on, to and over Crown land, then on, to and over land vested in the Municipality of the City of Cape Town, thence on to and over private land, thence on to and over land vested in the aforesaid Municipality, thence on to and over land the property of the Colonial Government, and thence over land vested in the aforesaid Municipality, up to and terminating at a point on the said land 10 yards or thereabouts to the South-east of the Kloof Road, at or near the Kloof Nek, within the limits of the aforesaid Municipality.

TRAMWAY No. 2.

Single Line throughout, without passing places, 0 miles, 6 furlongs, 7.12 chains, or thereabouts in length, commencing at or near the Kloof Nek, in the Municipality of the City of Cape Town by a junction with Tramway No. 1 at the termination thereof, at a point 10 yards or thereabouts South-east of the Kloof Road, proceeding thence over land vested in the aforesaid Municipality in an easterly direction on to private land, and thence over private

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land in an easterly and north-easterly direction, terminating at or near a point 150 yards or thereabouts south of the Central Line of the "new" street on the property of the Gardens Estate Syndicate, in the aforesaid Municipality.

TRAMWAY No. 3.

Single Line throughout, with passing places, 1 mile, 0 furlongs, 2.02 chains, or thereabouts in length, commencing at a point 150 yards or thereabouts South of the Central Line of the "new" street on the property of the Gardens Estate Syndicate in the Municipality of the City of Cape Town, by a junction with Tramway No. 2 at its termination, proceeding thence over private land in a North-easterly direction on, to and across the Molteno Road, thence in a North-easterly direction on private land to a point in Upper Orange Street near to the upper boundary of the enclosure of the Molteno Reservoir, thence along Upper Orange Street terminating by a junction with the existing tramways at or near the intersection of Upper Orange Street and Annandale Street.

TRAMWAY No. 4.

Single Line throughout, with passing places, 0 miles, 6 furlongs, 9.01 chains, or thereabouts in length, commencing by a junction with Tramway No. 2 at a point 160 yards or thereabouts South of the Central Line of the "new" street on the property of the Gardens Estate Syndicate, in the Municipality of the City of Cape Town: proceeding thence over private land to the "new" street, along the "new" street over private land to Hof Street, along Hof Street, and terminating by a junction with the existing Tramways at or near the intersection of Hof and Orange Streets.

TRAMWAY No. 5.

Single Line throughout, with passing places, 0 miles, 3 furlongs, 9.50 chains, or thereabouts in length, commencing at Camp's Bay, in the Field-cornetcy of Papendorp and Woodstock, in the Cape Division, by a junction with Tramway No. 1 at its commencement 378 yards or thereabouts East of the South-east corner of the Villa of Charl Marais, Esquire; proceeding thence generally in a North-westerly direction through private land, terminating 4 yards or thereabouts East of the Victoria Road, in the Field-cornetcy of Papendorp and Woodstock, in the Cape Division.

TRAMWAY No. 6.

Single Line throughout, with passing places, 0 miles, 7 furlongs, 7.04 chains, or thereabouts in length, commencing by a junction with Tramway No. 5 at its termination, at a point 4 yards or thereabouts East of the Victoria Road, in the Field-cornetcy of Papendorp and Woodstock, in the Cape Division, proceeding thence over private land along but outside of the Eastern boundary of the Victoria Road, thence on, to and over private land

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within the limits of the Municipality of the City of Cape Town: thence over land the property of the Colonial Government, thence on to the road connecting the Victoria Road and Kloof Road at a point immediately above the junction of the said connecting road with the Victoria Road, thence along the said connecting road up to and terminating at or near the intersection of the said connecting road and the Kloof Road, within the Municipality of the City of Cape Town. This line of Tramway shall be constructed and laid on a track of land 10 feet wide to the Eastward of the Victoria Road, in such manner that the inner line of such track of land 10 feet wide shall be at least 12 feet 6 inches distant from the centre of the present Victoria Road.

TRAMWAY No. 7.

Single Line throughout, with passing places, 1 mile, 2 furlongs 6.92 chains, or thereabouts in length, commencing by a junction with Tramway No. 6 at its termination at or near the intersection of the Kloof Road and the road connecting the Victoria Road and the Kloof Road, in the Municipality of the City of Cape Town: proceeding thence along the Kloof Road in a Northerly direction over the boundary of the Municipality of Green and Sea Point, and terminating at or near the intersection of the Kloof Road and Queen's Road in the Municipality of Green and Sea Point.

TRAMWAY No. 8.

Single Line throughout, with passing places, 0 miles, 4 furlongs, 4.70 chains, or thereabouts in length, commencing by a junction with Tramway No. 7 near its termination at or near the intersection of the Kloof Road and Queen's Road, in the Municipality of Green and Sea Point: proceeding thence along the Kloof Road and terminating by a junction with the existing tramways at or near the intersection of the Kloof Road and the Main Road, in the Municipality of Green and Sea Point.

TRAMWAY No. 9.

Single Line throughout, with passing places, 0 miles, 2 furlongs, 7.04 chains, or thereabouts in length, commencing by a junction with Tramway No. 7 at a point 10 yards or thereabouts South of the intersection of Queen's Road and the Kloof Road, in the Municipality of Green and Sea Point: proceeding thence along Queen's Road to its junction with the Main Road, thence along the Main Road, terminating by a junction with the existing tramway at its terminus in the Main Road, in the Municipality of Green and Sea Point.

TRAMWAY No. 9A.

Single Line throughout, with passing places, 0 miles, 2 furlongs, 1.28 chains, or thereabouts in length, commencing by a junction with Tramway No. 9 at a point 10 yards or thereabouts East of

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the intersection of Queen's Road and the Main Road: proceeding thence along Queen's Road, across the Beach Road on to the property of the Sea Point Railway Syndicate, Limited, and terminating at a point 50 yards or thereabouts to the North-east of the North-easterly end of the Sea Point Railway Station.

TRAMWAY No. 10.

Single Line throughout with passing places, 1 mile, 3 furlongs, 3·61 chains, or thereabouts in length, commencing by a junction with Tramway No. 7 at or near the intersection of the Kloof Road and the road connecting the Kloof Road and Victoria Road: proceeding thence along the Kloof Road in an Easterly direction, terminating at or near the Kloof Nek, in the Municipality of the City of Cape Town.

TRAMWAY No. 11.

Single Line throughout, 0 miles, 0 furlongs, 172 chains, or thereabouts in length, commencing by a junction with Tramway No. 1 at a point 10 yards or thereabouts South-east of the Kloof Road, at or near the Kloof Nek, in the Municipality of the City of Cape Town: proceeding thence to the Kloof Road, terminating by a junction with Tramway No. 12 on the Kloof Road at or near the Kloof Nek, in the Municipality of the City of Cape Town.

TRAMWAY No. 12.

Single Line throughout, with passing places, 1 mile, 0 furlongs, 7·24 chains, or thereabouts in length, commencing by a junction with Tramway No. 10 at its termination on the Kloof Road, at or near the Kloof Nek, in the Municipality of the City of Cape Town: proceeding thence in a North-easterly direction along the Kloof Road, terminating at or near the intersection of Kloof Road with De Lorentz Street, in the Municipality of the City of Cape Town.

TRAMWAY No. 13.

Single Line throughout, with passing places, 0 miles, 2 furlongs, 0·19 chains, or thereabouts in length, commencing by a junction with Tramway No. 12 at its intersection at or near the intersection of Kloof Road and De Lorentz Street, in the Municipality of the City of Cape Town: proceeding thence along the Kloof Road to the intersection of that road with Burnside Road, terminating by a junction with a tramway proposed to be constructed by the Metropolitan Tramways Company in the Municipality of the City of Cape Town.

TRAMWAY No. 14.

Single Line throughout, with passing places, 0 miles, 1 furlong, 3·77 chains, or thereabouts in length, commencing by a junction with Tramway No. 12, 10 yards or thereabouts South of the

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intersection of Kloof Road and De Lorentz Street, in the Municipality of the City of Cape Town: proceeding thence in a South-easterly direction along De Lorentz Street, terminating by a junction with the existing tramway in Kloof Street at its present terminus, in the Municipality of the City of Cape Town.

Power to construct and work extensions and additions.

5. The Company shall be entitled to construct, lay down, equip, work and maintain extensions and additions to the said lines of tramway or any of them, as it shall desire; provided always that the Company shall submit for the approval of the Road Authority or Local Authority concerned, full, proper, and sufficient plans and sections of such proposed extensions, and shall furnish such Road or Local Authority, as the case may be, with all requisite information asked for. The construction, laying down, equipment, maintenance and working of such extensions and additions shall in all cases be carried out as near as may be in conformity with the conditions laid down, and prescribed in this Act; provided moreover that in all cases the assent of such Road Authority or Local Authority shall not be given until the Company shall have given notice for one month by advertising in the *Gazette* and in each of two local newspapers once a week during such month, of the intention of the Company to apply for such assent.

Local or Road Authority to consider objections.

6. The Local or Road Authority concerned shall upon the expiration of the above period of one month appoint a Court to consist of such of its members as such Local or Road Authority may determine, who on a day of which public notice shall be given, shall sit for the purpose of hearing objections from Ratepayers, or persons whose interest may be affected by such extensions or additions, and such Ratepayers or persons shall be heard either in person or through their Agents or Counsel, and such Court shall after hearing all parties concerned report to the Local or Road Authority whether any or what objections have been raised to the proposed extensions and additions, and upon such report being received, a day shall be fixed for holding a special meeting of the Local or Road Authority for the purpose of determining whether its consent shall be given or withheld, and on what terms: and such consent shall not be given unless a majority consisting of two-thirds of the members of such Local or Road Authority then in office shall have voted in favour thereof, and such Local or Road Authority may withhold its assent or grant the same upon such terms and conditions not inconsistent with the provisions of this Act as such Local or Road Authority may deem necessary.

Power to compulsorily acquire land within limits of deviation.

7. For the purpose of this Act the Company is hereby authorised and empowered to enter upon, take possession of, hold, compulsorily acquire, appropriate and use land in the line of the proposed tramways, or within the limits of deviation as shewn on the plans, but nothing in this Act contained shall deprive lawful owners or possessors of such lasd of any right by which they may be entitled to claim and recover compensation in consequence of

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such action on the part of the Company. Further, the Company is hereby authorised and permitted to enter upon and construct tram lines across the following pieces of Crown land, provided always that the Government reserves the right to revoke the permission in respect of such ground or any portion thereof should it at any time be required for defence purposes without compensation, that is to say:—

(1) A piece of Crown land situated near the Kloof Nek, within the limits of the Cape Town Municipality, which was granted to the Ordnance Department on the 1st June, 1840, and re-transferred to the Colonial Government on the 1st July, 1879, bounded on all sides by land vested in the Municipality of Cape Town.

(2) A piece of Crown land situated to the north-west of Camp's Bay, within the limits of the Cape Town Municipality, which was granted to the Ordnance Department on the 25th November, 1844, and re-transferred to the Colonial Government on the 1st July, 1879.

Powers to construct works, and enter on streets and roads.

8. The Company is hereby authorised and empowered for the purposes and subject to the terms and provisions of this Act to do all and each of the following acts:—

(1) To dig, make and maintain in and upon any land, road, street, public square or thoroughfare in the line of the proposed tramways or within the limits of deviation shewn upon the said 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 sleepers, rails, points, tubes, conduits, poles, standards, wires, cut-outs, 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: provided that the poles and standards shall be of iron, steel or other approved material of neat and good appearance; and that the design, colour of paint, height above the roadway and position shall be subject to the approval of the Local or Road Authority. The poles may be used by the Local or Road Authority for the purposes of electric lighting, affixing of street notices, as ventilating shafts or for other purposes, or by the Postmaster-General for the purpose of affixing telegraph wires, provided such use shall not appreciably affect the said poles or the working of the tramways prejudicially, or cause additional expense to the Company in the construction, erection or maintenance of the same.

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(2) To enter upon and break up any road, street, or thoroughfare in the line of the proposed tramways as shewn upon the plans, subject to the provisions of this Act.

(3) To construct, erect, build, equip, work, maintain, alter, enlarge, vary, modify, and demolish, as may be found necessary, power stations, car houses, depots, stables, waiting-rooms, shelters, offices, and structures of all kinds necessary or incidental to or connected with the said tramways, subject to the provisions of this Act, and in compliance with any Bye-Laws, Regulations, Standing Orders and Resolutions of any Local Authority in whose district such structure is situate.

(4) To construct, erect and work for the purposes of the said tramways and no other, telegraphs and telephones for use along or near the lines of the tramway subject to the provisions of the Act No. 36 of 1895, entitled "An Act for the further regulation of Private Railways within the Colony of the Cape of Good Hope."

Materials used to comply with requirements of law.

9. The poles, standards, cables, overhead wires, dynamos, rails, bonds, tubes, conduits, cars, motors, brakes, and generally all material used by the Company in constructing, equipping and maintaining the tramways and any extensions and additions which may hereafter be made under the provisions of this Act, shall further, of their respective kinds, be such as to fulfil the requirements of any law in force affecting the same, provided that no overhead feeder shall be erected without the special consent of the Local Authority in writing, and provided further that nothing in this section contained shall be taken to affect the preceding section or to lessen any powers given to any Local or Road Authority thereunder all brakes and couplings shall moreover be approved by the engineer appointed by the Governor for that purpose.

Company to comply with regulations in Schedule A.

10. The Company in working the Tramways by electric currents conveyed by overhead trolley wires and the rails of the tramways shall conform to the regulations contained in Schedule A to this Act, which embodies the Regulations prescribed by the Board of Trade of the United Kingdom regulating the employment of electric current in the working of Tramways or to any amended regulations hereinafter adopted by the Board of Trade when proclaimed by the Governor.

Tramway to be laid in centre of roads and streets unless otherwise decided by Road Authority.

11. 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 and 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.

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Regulations to be observed in breaking up road and streets.

12. Whenever the Company may from time to time for the purpose of making, forming, laying down or maintaining the tramways enter upon, open, or break up any public road, street, thoroughfare or public square, it shall comply with the following regulations:—

(1) It shall give to the Road Authority concerned notice in writing of its intention, specifying the time at which it will begin such work and the portion of road proposed to be opened or broken up, such notice to be given fourteen days at least before the commencement of the work.

(2) It shall carry out and perform such work to the satisfaction of the Road Authority.

(3) It shall not, without the consent of the Road Authority, open or break up at any time a greater continuous length than 150 yards of any given road, street, or thoroughfare, and in case it shall open or break up at the same time different sections of any given road or thoroughfare, no such sections shall be longer than 150 yards, or be separated from the nearest other such section by less than 100 yards.

Local Authority to inspect materials used and supervise work.

13. The Local Authority during the progress of any works connected with the permanent way of the tramways or any work in or about any street or road may inspect all material used thereon or in connection therwith, and may require all work to be done in a proper manner and to its satisfaction, according to a specification to be approved by such Local Authority, which specification shall be submitted prior to the giving of notice in the last preceding section mentioned, and in the event of the Company failing to use the material specified, or carry out the work, in accordance with such specification, the said Authority shall be entitled to prevent the further carrying out of such works, except in accordance with the approved specification. The Company shall at all times when required thereto by the Local or Road Authorities or their appointed officer furnish such plans, sections and information respecting the construction at any time about to be or being undertaken by it, and respecting the routes, grades or other details as may be required by the Local or Road Authorities, and in the event of non-compliance with such requirement forthwith on demand shall be debarred from proceeding with any work until it has so done to the satisfaction of the Local or Road Authorities.

Notice to be given to Local Authority before sewers, drains, and watercourses interfered with.

14. Wherever the construction of any of the tramways or any work connected therewith interferes with any sewer, drain, or watercourse, the Company shall not commence that part of such work until the Local Authority shall have signified its approval of the same, unless such Authority does not signify its approval or disapproval or give other directions within fourteen days after service of the notice provided for in section 12 of this Act, and the Company shall comply with and conform to all directions and

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regulations of the said Authority in the execution of the said work, and shall provide by new, altered, or substituted works, in such manner as such Authority may require for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to by or by reason of the tramways, and shall save harmless the said Authority against all and every damage or expense to be occasioned thereby, and all such work shall be done by the Company under the direction and superintendence of the Engineer or other officer of the said Authority at the expense of the Company; and when any new, altered or substituted work as aforesaid or any works connected therewith shall be completed as above the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the said Authority and be maintained by it as the said original sewers or other works, provided that the Local Authority, if it so elects may carry out the work by its own staff or contractors at the expense of the Company.

Work to be completed on roads withexpeditionand surface restored.

15. When the Company shall have opened or broken up any portion of any road, it shall with all convenient speed complete the work on account of which it opened or broke up the same, and (subject to the formation, maintenance or renewal of the tramways) fill in the ground and make good the surface, and to the satisfaction of the Road Authority restore the portion of the road to as good condition as that in which it was before it was opened or broken up. The Company shall, further, without delay, clear away all surplus paving or metalling matter or rubbish occasioned by the said work, and shall where and whilst the road is opened or broken make all due provision for the protection of the public, and cause such portion of the work to be properly lighted and watched at night.

Gas and water mains and pipes—provisions as to interference with.

16. The Company may with the approval of the Local or Road Authority and as regards water mains or pipes vested in the Corporation within the limits of the Municipality the property of the Corporation, the Corporation from time to time where, and as far as it is found necessary, or may appear expedient for the purpose of preventing frequent interruption of the traffic by repairs or work in connection with the same, for the purpose of making, forming, laying down, placing, maintaining, repairing or renewing any of its tramways, alter the position of any mains or pipes for the supply of gas or water or any tubes, wires, or apparatus for telegraphic or other purposes, subject to the following provisions (that is to say):—

(1) Before altering the position of any mains or pipes, tubes, wires, or apparatus as above, it shall give fourteen days' notice in writing to the Corporation, Municipality, Company or Persons to whom such mains or pipes, tubes, wires, or apparatus may belong or by whom they are controlled, of its intention to alter the position of such mains or pipes, tubes, wires, or apparatus specifying the extent of the alterations, and on the other hand any such

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Corporation, Municipality, Company, or Persons owning or controlling mains or pipes, tubes, wires, or apparatus which they may deem or find endangered through the construction of the tramway as proposed or which would interfere with or impede the supply of water or gas or the telegraphic or other communication, such Corporation, Municipality, Company, or Persons (as the case may be) may give notice to the Company to lower or otherwise alter the position of such mains or pipes, tubes, wires, or apparatus in such a manner as may be found necessary, and such alteration shall be carried out according to the requirements of such Corporation, Municipality, Company or Persons and all alterations to be made under this Section shall be made with as little detriment and inconvenience to the Corporation, Municipality, Company, or Persons to whom such main or pipes, tubes, wires, or apparatus may belong or by whom the same may be controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such Corporation, Municipality, Company, or Persons, or their Surveyor or Engineer, if they or he think fit to attend after receiving not less than 48 hours' notice for that purpose, which notice the Company is hereby required to give. Provided moreover that the Company shall in all respects comply with the terms of any law or regulation in force providing for the protection of the telegraph and other works the property of the Government or with reference to the privileges of the Postmaster-General.

(2) The Company shall in altering or lowering such mains or pipes, tubes, wires, or apparatus, comply with any laws, regulations, standing orders or resolutions in force relating to such work.

(3) The Company shall make good all damage done by it in laying down, renewing or repairing the tramways, to property belonging to or controlled by any such Corporation, Municipality, Company, or Persons, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of its interference with such property or with the private service pipes tubes or wires of any persons supplied by any such Corporation, Municipality, Company, or Persons, with water, gas or electricity.

Penalty for doing certain work without proper notice.

17. 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

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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 work 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 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.

Paving of tracks.

18. Wherever there is a single track the surface of the road, street, or public place, shall be paved by the Company to the extent of at least eighteen inches outside each rail, with a toothing course of good wood, or stone, or such other material as may be approved by the Road Authority, and the same shall be so maintained by the Company in good and efficient repair. Between the rails and abutting on each line of rails the Company shall, unless otherwise agreed with the Road Authority, construct, maintain and keep in good and efficient repair, a toothing course of good wood, stone, or other material as above, such toothing course to extend alternately nine and six inches from each line of rails towards the centre of the track, or such less distance as may be approved by the Road Authority, while so much of the space between the rails as is not occupied by such toothing courses shall be constructed and maintained in a good and efficient state of repair by the Company with a material not inferior to that of which the remainder of the road or street is constructed. Wherever a double track is permitted to be laid in any street, road or public place, and the space between each track does not exceed four feet six inches, the surface of the street, road or public place to the extent of eighteen inches outside the two outer rails of the tracks and the whole of the surface between the tracks, that is between the inner line of the respective tracks, shall be paved by the Company with good wood, stone or such other material as above, unless otherwise arranged by agreement with the Road Authority, and shall be maintained by it in such state in good and efficient repair, while between the rails of each of the two tracks the Company shall construct, unless otherwise agreed with the Road Authority, similar toothing courses, and construct and do all other works and things as are required where there is a single track, and shall maintain the same in manner as required in the case of a single track: provided that where the tracks are

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laid at a greater distance than four feet six inches apart the Company shall pave the surface between the tracks for a width of four feet six inches or such less distance as the Local Authority may approve. Wherever the tramways cross over any street or road the Company shall if required by the Road Authority pave with wood, stone, or other approved material across the street or road along which the tramways are laid so as to connect by paving the footpaths of the street or road which is so crossed by the tramway; if the footpaths so to be connected vary in width the portion to be paved shall equal in width the wider footpath. This provision shall apply to future as well as existing streets.

Track opposite places of public worship to be paved.

19. Wherever any track passes any place of public worship the surface of the road, street, thoroughfare, or public square, opposite such place of public worship, and for a distance of 20 yards before the track reaches that part of the roadway opposite to such place of public worship and for a distance of twenty yards beyond the point where the track leaves the roadway opposite to such place of public worship shall be paved by the Company to the extent of at least eighteen inches outside each of the tracks with a toothing course of good wood or such other material as may be approved by the Road Authority added to the width of the surface between the rails, and in case of a passing place or double line, the width between the tracks. The Company shall carry out the work in this and the last preceding section mentioned and shall maintain the paving and other construction in good and efficient repair to the satisfaction of the Road Authority.

Company may enter into agreements with Road Authority as to repairs and paving.

20. The Company on the one hand and the Road Authority on the other hand may from time to time enter into and carry into effect, and may from time to time by mutual agreement alter, renew, or vary contracts, agreements, or arrangements, with respect to the paving, watering and keeping in repair of the whole or any portion of the roadway or any road on which the Company shall lay any tramway, and the proportion to be paid by either of them of the expense of such paving and keeping in repair.

How drains and culverts may be diverted.

21. Whenever in laying down the lines it may be found necessary to construct or divert any culvert or drains, the same shall be constructed or diverted by the Company to the satisfaction of the Road Authority, or its duly authorised officer. All culverts constructed by the Company passing under its rails shall be maintained by it in good repair to the like satisfaction. The Company shall level the space between the Victoria Road and the track of land 10 feet wide upon which the Tramway No. 6 shall run on the Eastern boundary of that road so as to make the line and the Victoria Road on the same level, and shall gravel such space. The culverts and other arrangements adopted by the Company for the carrying off of all storm water from the said track of land shall be carried out to the satisfaction of the Divisional Council of the Cape, and the said Council shall retain full power of access across the tram lines towards the mountain side for the purpose of conveying road material on to the Victoria Road.

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Powers of Local and Road Authorities reserved and provided.

22. Nothing in this Act contained shall take away or abridge the powers to open or break up roads along or across which any tramway authorised by this Act is laid or any other power vested in any Local or Road Authority for any purpose for which such Authority is respectively constituted, or vested in the Postmaster-General or in any company, body, or person, for the purpose 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 for telegraphic, lighting or other purposes, but in the exercise of such power such Local Authority, Road Authority, Company, Body or Person shall be subject to the following restrictions:—

(1) They shall cause as little detriment or inconvenience to the Company as circumstances admit.

(2) Before they commence any work whereby the traffic on the tramway will be interrupted they shall (except in cases of great urgency, in which cases no notice shall be necessary) give to the Company notice of their intention to commence such work specifying the time at which they will begin to do so, such notice to be given 48 hours at the least before the commencement of the work.

(3) They shall not be liable to pay to the Company any compensation for loss of traffic occasioned through the exercise of the power so vested in them as aforesaid.

(4) Whenever for the purpose of enabling them to perform such work the Local Authority or the Road Authority shall so require, the Company shall stop traffic on the part of the tramway to which such notice shall refer where it would otherwise interfere with such work, or shall shore up and secure the same at its own risk and cost during the execution of the work: provided that such work save relaying the rails if necessary and repaving and finishing the surface of the road which may have been disturbed and which shall be carried out by the Company shall always be completed by the Local Authority or the Road Authority as the case may be with all reasonable expedition.

(5) Such Local Authority, Road Authority, Company, Body or Person shall not execute such work, so far as it immediately affects the tramway, except under the superintendence of the Company unless it refuses or neglects to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue same during the progress of the work, and they shall execute such work at their own expense and complete the same to the satisfaction of the Road Authority and the Company: provided that any additional expense imposed upon them by reason of the construction or existence of

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any tramways in any road or place where any such sewers, drains, pipes, tubes, wires, apparatus or other works shall have been laid before the construction of such tramway, shall be borne by the Company; in all cases, however, where such sewers, drains, pipes, tubes, wires, or apparatus or other works shall belong to the Postmaster-General, the Corporation or the Municipality, such additional expense shall be borne by the Company.

If road relaid with different material Company to relay its portion between rails in like manner.

23. If after the construction of any line the Road Authority relay the street which it traverses with a material essentially different from that in use at the time of such construction the Company shall at the time of such relaying, replace that portion of the street which in terms of this Act it is required to construct, maintain and keep in repair, with such material and in such manner as to be in accordance with the portion of the street so relaid or replaced unless the Road Authority otherwise direct, and the Company shall maintain the same in such state, and in good and efficient repair.

Gauge of tramways and surface of rails.

24. The rails laid down in the construction of the tramways shall be laid to a gauge of 4 feet 8½ inches, and they shall be so laid that the uppermost surface of the rails shall be level with the surface of the street. The Company shall at all times maintain the rails so as to comply with the provisions of this section to the satisfaction of the road authority.

Company to have exclusive right to run vehicles with special wheels on rails.

25. The Company shall use on its tramways properly constructed cars, not exceeding 7 feet and 6 inches in width, with flanged wheels constructed for the purpose of running on the rails laid down by it, and shall have the exclusive right to the use of such rails for vehicles with flanged wheels suitable to run on the said rails. Any person using on the tramways any vehicle with flanged wheels or any wheels specially adapted to run on the rails without the written sanction of the Company shall incur a penalty of Two Pounds for every such infringement of this Section and in default of payment imprisonment for any period not exceeding seven days. All cars intended for the conveyance of passengers shall be fitted up for the convenience of passengers to the satisfaction of any Local Authority concerned, and each car shall be supplied with not less than 5 incandescent lamps each of 16 candle power and shall moreover carry head and tail lights to the satisfaction of any such Authority.

Motormen and guards may be required to be licensed and Local Authorities may make regulations.

26. The Local Authorities concerned shall be entitled to make, alter, revoke or amend and enforce Bye-Laws and Regulations requiring the motormen and guards, and the cars of the Company, to be licensed, and for the payment of fees in respect thereof, and may, moreover, subject to the provisions of this Act, make, alter, revoke or amend Bye-Laws and Regulations from time to time as to the following matters, namely:—

For regulating traffic and the supervising of the tram cars.

Rate of speed and distance between tram cars.

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The coupling of tram cars, the appointing of stopping places.
The stopping of tramcars for the purpose of taking up and setting down passengers.
Provision for brake power.
Obstruction of traffic.
Conduct and behaviour of guards and motormen.
Carriage of infected or intoxicated persons.
Conveyance of dead bodies.
Safety of passengers.
The lighting of cars.
The use of alarm signals.
The conduct and behaviour 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 prevention of nuisance from noise arising from working the tramway.
The provision of mechanical appliances for lifting cars when derailed.
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 may impose penalties.

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.

Company responsible for accidents.

28. The Company shall be answerable for all accidents, damages, and injuries happening through its act or default or through the act or default of any person in its employment, or by reason of not complying with the regulations set forth in Schedule A to this Act; and shall make good all loss, damages and expenses which the Corporation or any Local Authority may sustain at any time to water pipes, electric lighting plant or other works the property of the Corporation or any Local Authority caused by electrolysis due to any electric current from the Company's electric

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plant or works. If any Telegraph Cable passing through the territorial waters of this Colony, and landed in the Colony under licence granted by the Government, is at any time in any way injuriously affected by the working of the undertaking of the Syndicate, the Syndicate shall pay the expense of all such alterations in or additions to such cable as may be necessary to remedy such injurious effects, provided however that the said syndicate shall only be liable under this section for injurious effects caused by the working of its own undertaking. For the purpose of this section a cable shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such cable is, whether through induction or otherwise, in any manner prejudicially affected by such act or work or by any use made of such work.

Rate of speed of cars.

29. 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 principal business street or ten miles an hour in any residential or other street or road, but nothing in this Act shall limit the powers of any Local Authority or the Police to regulate the passage of traffic along or across any public road, street, or thoroughfare, along or across which any such tramways are laid, and such Authorities 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. If any difference shall arise as to which are principal or business or residential streets, the decision thereon shall rest with the Local Authorities who, notwithstanding that any street may have been previously classified under one heading, may at any time thereafter cause it to be placed under the other class should circumstances in the opinion of the Local Authorities require it: provided that the Corporation or the Municipality respectively may limit the rate of speed in any residential street to seven miles an hour.

Rights of public to use roads and streets preserved.

30. Nothing in this Act contained shall deprive any Local or Road Authority of the ownership of any part of any road or street vested in it, or take away or abridge the right of the public to pass along or cross over from any part of any public street or road, along which any tramway is laid, whether on or off the tramway, with carriages having wheels other than flanged or specially adapted to run on the rails of the tramways; but nothing herein contained shall override the rights of the owners of private land over which any of the tramways shall run by other than a public road or thoroughfare to prohibit trespass on to and over such roads and private lands by persons not being servants of the Company or passengers travelling on the Company's cars.

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Act not to exempt Tramway from provisions of any Act dealing with electric power or from revision or alteration of rates by Parliament.

31. Nothing in this Act contained shall exempt the Tramway from the provisions of any Act relating to Tramways or dealing with electric power already in force, or which may hereafter pass during this or any future session of Parliament, or from any revision or alteration under the authority of Parliament of the maximum rates, tolls or charges authorised by this Act.

Company may make other works with consent of Local Authority.

32. The Company may from time to time hereafter make, construct, lay down, place, and erect all such crossings, passing places, sidings, junctions, reversing stations, cars, vehicles and other works in addition to those particularly specified in and authorised by this Act as may from time to time be necessary or convenient for the efficient working of the tramways or any of them, or for providing access to any generating stations, car sheds, depositories, stables, or any buildings or works belonging to or used by it, and may lay as double lines those portions where single lines are laid subject to the approval of the Local, Road or other Authorities. For the purposes of this section such Local, Road or other Authorities shall not be obliged to hold a court as in section 6 provided, but the same consent of the Local, Road or other Authorities shall be required as is provided for in the said section.

Land beyond limits of deviation only to be acquired by agreement or purchase.

33. All land the Company may decide to acquire whereon to build and erect its generating station or stations, car sheds, stables, and the like buildings and works, and for all other purposes soever, if beyond the limits of deviation shewn on the plans, shall be acquired by it by agreement only, or by purchase, and it shall not be entitled to claim to expropriate or compulsorily acquire any such land.

Roads and streets to be widened.

34. Notwithstanding anything to the contrary contained in this Act, the Company shall have no right to lay any tram rails or execute any works in any road or street which is less than thirty feet in width without the consent in writing of the Local or Road Authority and such consent shall not be given unless a majority consisting of two-thirds of the members of such Local or Road Authority then in office shall have voted in favour thereof.

Should any Local or Road Authority be of opinion that any such road or street should be widened it shall upon receiving due security from the Company for all costs, expenses and compensation for expropriation to which such Local or Road Authority may be put in or about so doing, use its best endeavours to cause any road or street traversed by any of the tramways to be widened to such extent as may be considered advisable by such Local or Road Authority having regard to the position and situation of such road or street.

Materials excavated may be used by Company.

35. Any material excavated by the Company in the construction of their works, in widening any roads or otherwise, may be used by the Company in such manner and at such places as it may find necessary or advisable, provided such material be used on the works or in making up the road, and the balance unused, if any, shall belong to the Local Authority.

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Cars to run at least 12 times a day.

36. The Company at all times after the completion and opening for public traffic of the tramways or any of them shall run carriages sufficient for passenger traffic over such tramways at least twelve times a day each way: provided that compliance with this section shall not by itself be proof that the tramways are efficiently worked upon any complaint being made by a Local Authority under Section 40 of this Act.

Company, when to commence and complete tramways.

37. The Company shall commence the work of constructing the tramways within one year from the date of the promulgation of this Act, and shall complete the laying down and construction and opening for traffic of tramways Nos. 2, 4, 7, 9, and 9a, within two years after such date of promulgation; and shall, unless otherwise agreed with the Local Authorities, commence the remainder of the work in the third year and complete the whole of the tramways and works, and the undertaking generally, within five years from the date of the promulgation of this Act.

Penalty for not commencing and non-completion of work in prescribed time.

38. The Corporation and the Municipality shall each be entitled to call upon the Syndicate within one month after the date of the promulgation of this Act to deposit at interest with the Bankers of such Local Authorities respectively, the sum of One Thousand Pounds Sterling, making Two Thousand Pounds Sterling in all. Each of the said Local Authorities shall treat the sum of One Thousand Pounds so deposited with its Bankers as a fund wherefrom it may deduct at its discretion, penalties for non-compliance with the provisions in this section contained, and in terms thereof. If the Company fails to commence the work of constructing the tramways within one year from the date of the promulgation of this Act each of the said Local Authorities shall be entitled, on giving notice in writing to the Company, to deduct from the fund deposited at its Bankers as above, the sum of Two Pounds Sterling per day as a forfeit or fine upon the Company so long as the Company is in default. When the total amount deducted by and forfeited to either such Local Authority shall have exhausted Five Hundred Pounds Sterling of the One Thousand Pounds Sterling deposited as above with the Bankers of such Local Authority, no further fine or forfeit may be deducted, but the rights and powers to construct tramways and otherwise within the limits of such Local Authority conferred by this Act shall cease and determine. In the event of the whole of the said works within the limits of either of the said Local Authorities not being completed within the period prescribed in this Act such Local Authority may enforce a further penalty of Two Pounds Sterling for each day's default, provided that the total sum of such penalties payable to either one of the said Local Authorities shall not exceed the further sum of Five Hundred Pounds Sterling. When the penalties for non-completion of the work within the prescribed period enforced by either Local Authority shall have reached the sum of Five Hundred Pounds Sterling, such Local

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Authority may prohibit and prevent the further prosecution of the work then uncompleted within its limits. Upon the completion of the work in accordance with the provisions of this Act, the Company shall be entitled to a refund of the money deposited with the interest which has accrued thereon, or any balance left to its credit if penalties for less than the total amount shall have been imposed and deducted.

If tramways not worked Local Authority may purchase same, or cause rails to be taken up.

39. In the event of the tramways authorised by this Act ceasing during a period of 30 consecutive days to be run or worked for the use of the public after once being in full and proper working order (unless from strike of their servants or some cause beyond the control of the Company) the Local Authorities shall, upon giving one month's notice in writing to the Company, be entitled to exercise the option of purchasing the undertaking upon the terms set forth in Section 43 of this Act, as if the period of fifty years thereinafter mentioned had expired. The Company shall upon such notice, and if the Local Authorities shall not purchase, be bound and obliged at its own cost to remove the rails and other plant, and to restore the road or other place to a condition fit for the traffic having regard to the material of which such road or other place is constructed. And should the Company fail to do so, the Council may remove the rails and do all things necessary to the restoration of the road or other places as aforesaid, and demand and recover the cost incurred thereby from the Company.

If tramways not properly worked what steps to be taken.

40. Whenever the tramways or any of them shall in the opinion of any Local Authority concerned be improperly or inefficiently worked within its limits such Local Authority shall be entitled to call upon the Company in writing to forthwith work such tramway properly and efficiently, and if at the end of seven days after the giving of such notice the Local Authority shall consider that the Company has not complied with its requirements, it may forthwith appoint an independent engineer to investigate the irregularities complained of, and upon the written report of such engineer, the Company shall within a time to be fixed in such report comply with the requirements of such engineer therein set forth to his satisfaction, and failing such compliance the Company shall pay and forfeit to such Local Authority whilst so in non-compliance the sum of twenty-five pounds sterling per day, or such smaller sum as the Local Authority may in its discretion fix. The engineer shall be entitled to claim and shall receive from the Company all information he may require, and may take evidence and obtain expert advice, and do all things necessary to enable him to ascertain whether the complaint of the Local Authority is well founded. The decision of such engineer shall be final and binding upon all parties concerned. The costs and charges of the appointment of such engineer shall be paid and borne by the Company or by the Local Authority as such engineer may decide. Moreover, should

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any Local Authority fail to insist on the tramways being properly and efficiently worked the Governor may appoint an engineer who shall have all the powers contained in this clause.

Maintenance of works; penalty for non-maintenance.

41. The whole of the works and tramways shall be maintained by the Company at all times in a good, proper and efficient state of repair to the satisfaction of any Local Authority concerned, and every car shall be constructed and maintained so as to be free from noise, produced by the clatter of machinery, such as to constitute reasonable grounds of complaint from the passengers or the public. They shall be so constructed moreover as to provide for the safe entrance to, exit from, and safe accommodation of all passengers, and shall be furnished with suitable screw jacks or other appliances for promptly raising the cars in the event of accident. In default of compliance with the terms of this section the Company shall be liable to a penalty to be paid and forfeited to such Local Authority not exceeding Five Pounds in respect of each such default, and an additional Two Pounds for each day during which such default shall continue after the Company has received notice thereof. The amount of the penalty to be, subject to the maximum herein named, absolutely at the discretion of the Local Authority.

If motive power fails animal power may be used.

42. In the event of any break-down, accident, or other occurrence causing, necessitating, or rendering desirable a temporary stoppage of the motive power employed by the Company, it shall have the right to substitute and use animal or other power for the purpose of continuing the working of the tramways 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 Local Authorities shall have the power to remove the rails and restore the road or to purchase the undertaking in accordance with and subject to the terms and conditions set forth in sections Nos. 39 and 43 of this Act, as if the period of fifty years referred to in section 43 had expired.

Right of Local Authorities to acquire undertakings after fifty years.

43. The rights and powers conferred by this Act upon the Company shall continue until they are forfeited in terms of any provision of this Act, but any Local Authority within whose limits any of the tramways or part thereof may be situated shall be entitled at the expiration of fifty years from the date of the promulgation of this Act to purchase that part of the undertaking situated within the limits of such Local Authority, upon giving notice in writing six months before the expiration of such period of its intention so to do, and if such option be not exercised upon due 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 Local Authority concerned shall upon giving the above notice have a like option, and so on for successive terms of five years each, unless or until at the expiration of any such term, the Local Authority shall exercise the option so

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reserved to it. In the event of such option being exercised the price to be paid shall be calculated on the basis of the actual capital amount expended in the acquisition of land, for the purposes of the tramways, and in the construction and equipment of the undertaking, reasonable deduction being made for wear and tear of the said property and plant, and the difference between the original cost of materials and the cost of materials at the date of such taking over, and in the event of any difference as to the amount the same shall be determined by arbitration, and in fixing the purchase price the arbitrator or arbitrators shall proceed upon the above basis: provided that if, at any time before the Municipality or other Local Authority has elected to purchase that part of the undertaking which it is entitled to acquire as above as being within its limits, the Corporation should decide in terms of this section to purchase that part of the undertaking which the Corporation is entitled to purchase as above the Company shall forthwith call upon the Municipality or other Local Authority to elect, within three months, whether it will purchase that portion of the undertaking lying within its limits, and should the Municipality or other Local Authority fail or refuse so to purchase, then the Corporation shall be obliged to purchase the whole of the undertaking within and without the limits of the Corporation, upon the like terms. Should the Municipality or any Local Authority upon being so called upon or at any time prior thereto, decide to exercise its right to purchase as above then the Corporation shall be obliged whenever it purchases at all to purchase the whole of the undertaking situate beyond the limits of the Municipality whether within the limits of the Corporation or not.

Or after thirty years on payment of value and 6 per cent. dividend for that period: balance sheets to be supplied.

44. The said Local Authorities shall respectively have the like powers to acquire those portions of the undertaking within or without their limits, as in the last preceding section set forth at the expiration of the period of thirty years after the date of the promulgation of this Act, and shall have a like option at the expiration of each successive five years thereafter until the expiration of the abovementioned period of fifty years except that if they acquire under the provisions of this section prior to the expiration of fifty years from the date of promulgation, then they shall repay to the Company the capital expended on the undertaking and in the event of a dividend equal to six per cent. per annum not having been paid for the full period from the registration of the Company up to the date of such acquisition by the Local Authorities such further sum shall be paid to the Company as will make the average annual dividend equal to six per cent. for such entire period. The sum total of moneys from time to time set aside by the Company as and to form an amortization fund shall be taken into account in ascertaining the amount to be paid by such Local Authorities to make up the average annual dividend equal to six per cent., and should such amortization fund at the date of such acquisition equal or exceed the amount required so to make up the average annual dividend to six per cent., then,

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for the purposes of this section, the annual average dividend for such entire period shall be deemed to have equalled six per cent., and any other profits not distributed, whether directly set aside as a redemption fund or to form a reserve fund or otherwise dealt with, shall in like manner be taken into account for the purposes aforesaid.

The Company shall annually and so often as any balance sheet, statement of profit and loss or report be prepared by or submitted to the shareholders or members of the Company supply to each of the said Local Authorities a certified copy of each of such documents and the Local Authorities shall have the right to require the Company to verify and explain the particulars of any such balance sheet, statement, or report.

Meaning of expression "capital expended on the undertaking."

45. The expression "capital expended on 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 and 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 original construction of the tramways and additions and extensions, 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 Local Authorities shall be furnished to the Local Authorities on the completion of the works.

For what purpose tramways may be used. Company not bound to carry goods, &c., beyond 20 lbs. weight of luggage.

46. The tramways may be used for the purposes of conveying passengers, goods, minerals, parcels, and cycles, but the Company shall not be bound to carry, unless they think fit, any animals, goods, cycles, minerals, or parcels other than passengers' luggage not exceeding twenty pounds in weight.

Rental to be paid to Local Authorities.

47. The Company shall, subject to the terms of the proviso hereinafter contained, pay to the Local Authorities for the use of the streets, roads and public places upon which the tram lines run and for the rights and privileges granted a rental at the rate of fifty pounds sterling per annum per mile of the tram road laid within the respective areas and such rental shall continue until such time, if any, as the Legislature of the Colony shall grant, and the Local Authorities shall avail themselves of the power to levy and collect rates in respect of the rails and rolling stock, and so soon as such power shall be acted upon the said annual payment chall cease. Provided, however, that after the period of ten years whenever in any year the amount of profit between the gross earnings and the actual working expenses (which latter shall be taken to include maintenance and a reasonable allowance for wear and tear) shall be greater than a sum equal to the average of five hundred pounds per mile of tramways being worked by the Company within the areas of the respective Local Authorities under this Act, then the Company shall pay as rental per mile one tenth of the amount of such profits.

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Company may demand tolls and charges for passengers and goods.

48. The Company may demand and take in respect of the tramways authorised by this Act tolls and charges not exceeding the sum specified in the Schedule B to this Act, subject and according to the Regulations therein specified: a list of all the tolls and charges authorised to be taken shall be exhibited in a conspicuous place inside of the cars used upon the said tramways. Nothing herein contained, however, shall prevent the Company from charging lesser sums than those specified in the said Schedule or prevent the Company charging special rates upon special cars or to special classes of passengers, subject always to the maximum sum specified in the said Schedule.

Passengers entitled to take 20 lbs. luggage free.

49. Every passenger travelling upon the tramways may take with him his personal luggage, not exceeding twenty pounds in weight, free of charge: all such personal luggage to be carried at the risk and on the responsibility of the passengers, and not to occupy any part of a seat nor to be of a form or description to annoy or inconvenience other passengers.

Running rights over Metropolitan and City Tramways, and compensation payable for same.

50. Notwithstanding anything in the "Metropolitan Tramways Company Act, 1895," the "City Tramways Company Act, 1881," or any other law contained, the Company shall have the right so long as the rights and powers conferred on the Company by this Act continue to run its cars upon those tram lines belonging to the said Companies, more fully described and enumerated in Schedule C to this Act, and it shall pay to the said Metropolitan Tramways Company Limited, and the City Tramways Company, or their respective successors or assigns, the amount or amounts, fixed in terms of the agreement between the Company and the said Metropolitan Tramways Company Limited and the City Tramways Company, set forth at length in the said Schedule C hereto.

Metropolitan Tramways Company, Limited, authorised to supply power to Company.

51. Nothing in the "Metropolitan Tramways Company Act, 1895," or any other law contained shall prevent the Metropolitan Tramways Company Limited from supplying the Company with electrical energy to enable it effectually to use the running powers in the last preceding section referred to, or temporarily to enable the Company to work its Tramways or any of them.

Company may enter into contracts and do certain things in accordance therewith.

52. 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 duly to execute such contracts and fulfil such agreements shall be empowered and entitled to lay down, place and provide mains, wires, tubes, and other apparatus for supplying electric light and energy for all purposes to consumers along the line of route or within the districts served by the tramways, provided always that nothing herein contained shall authorise the Company, unless by special agreement with the Corporation or the Municipality, to supply any consumer or other person or Company within the area of such Corporation or Municipality respectively with electric light or energy.

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Where tramways pass entirely over private lands route may depart from that shewn on plans.

53. Wherever the tramways or any of them pass over and run entirely on private land, the Company in constructing, enlarging, or extending the tramways shall be entitled, with the consent of the owners of such private land and of the Local Authority concerned, to vary the route beyond the limits of deviation shewn on the plans, provided that before passing beyond the limits of such private land the route shall return to and run along the line shown on the plans.

Penalty for obstructing construction, and destroying flags, pegs, &c.

54. If any person wilfully obstructs any one acting under the authority of the Company in the lawful exercise of the powers by this Act conferred in setting out or making, forming, laying down, repairing, renewing, or working the tramways, or defaces, removes or destroys any mark, peg, flag, or the like made or used for the purposes of setting out the line of such tramway, or damages or destroys any property of the Company, or of any person employed by it, he shall for every such offence be liable to a penalty not exceeding £5, or to imprisonment for one month.

Penalty for certain other offences.

55. If any person without lawful excuse (the proof whereof shall lie on him) wilfully do any of the following things, namely:—

Interferes with, removes, or alters any wires or other part of the tramways or the works connected with them:

Places or throws any stones, dirt, wood, refuse, or other material on any part of the tramways:

Does or causes to be done anything in such a manner as to obstruct any carriage or car belonging to or with the consent of the Company using the tramway:

While knowingly suffering from any infectious or contagious disease travels or attempts to travel by or brings on to any car of the Company anyone so suffering:

Or endangers the persons or lives of persons therein or thereon, or knowingly does or assists in the doing of any such thing:

he shall for every such offence be liable, in addition to any further proceedings by way of indictment or otherwise to which he may be liable be subject to a penalty not exceeding £5, or in default to imprisonment for not more than one month.

Penalty for travelling without paying fares.

56. If any person travelling or having travelled in any carriage on any tramway of the Company, avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance shall knowingly and wilfully proceed in any such carriage beyond such distance and fail to pay the additional fare for the additional distance or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arrival at the point to which he has paid his fare, to pay for proceeding further or to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding 40s. or in default to imprisonment for not more than two weeks.

Loaded firearms and dangerous goods not to be brought on cars or

57. 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

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any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the official or servant of 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 such goods, he shall be liable to a penalty not exceeding £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.

property of Company.

58. All penalties imposed by this Act shall be recoverable in the Court of the Resident Magistrate of Cape Town, and if at the suit of the Company then for the benefit of the Company.

Penalties, how to be recovered and disposed of.

59. Subject to the provisions of this Act rights and facilities shall at all times be enjoyed by the said Company for their carriages to pass without obstruction or hindrance along the several lines of the Company; and upon due and sufficient notice being given by whistle, bell, gong, or other contrivance, as the Local Authority may approve, by the driver, conductor, or other person in charge of the said carriages of the approach thereof, all persons and vehicles upon or near the lines of rail shall, as soon as practicable, remove so as to allow the carriages of the Company to pass along the line freely without obstruction: if any person or persons shall drive, ride, lead or leave any wagon, cart, carriage, or other vehicle, or any horse or other animal upon the said tramway lines in such manner as to wilfully 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 move such obstruction when called upon so to do by any employee of the Company, it shall be lawful for any officer 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 sterling 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.

Right of Company's vehicles to use lines and to warn others off same.

60. The Company shall have the power to make Bye-Laws regulating the traffic on the said tramways, providing for the conditions upon which passengers will be allowed to travel and use the cars, and generally for regulating the travelling in and upon any carriage belonging to it, and for preventing the commission of any nuisance in or upon any carriage or premises belonging to it; and providing penalties to be imposed by any competent Court upon any person effecting a breach of the said Bye-Laws, and from time to time to add to and vary such Bye-Laws. Such Bye-Laws and additions thereto, or alterations thereof (if any), shall in every case be submitted for the approval of the Local Authorities concerned, and a copy of same shall be placed for public inspection at the Office of the Company and of each Local Authority, and notice

Company may make by-laws as to traffic on cars and penalties may be enforced for contravention of same.

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thereof shall be published at least once a week for two consecutive weeks in the *Gazette* and one or more local newspapers, and if not approved by the Local Authorities within one month after submission to them may be submitted to the Governor for his approval, and upon the Governor's approval being obtained and proclamation made in the *Gazette*, such Bye-Laws shall have the force of Law, provided that nothing herein contained shall affect the powers with regard to Bye-Laws and Regulations conferred upon the Local Authorities by Section No. 26 of this Act.

No director or shareholder of the Company to be member of Local or Road Authority.

61. No director or shareholder of the Company shall be capable of being elected or of continuing to sit as a member of any Local or Road Authority in this Act referred to.

Company may sell, lease, or otherwise dispose of undertaking.

62. The Company shall have full power and authority to sell, lease, or otherwise dispose of the undertaking or any part thereof to any 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. Provided that no sale, letting or other disposal of or dealing with the said undertaking or any part thereof to or by the Metropolitan Tramways Company, Limited, or the City Tramways Company, Limited, or to or by any Company, Person or Body which shall or may acquire any rights from or through either of them, shall have the effect of preventing, interfering with or postponing the right or power of purchase or acquisition given to the Corporation by Sections 30 and 31 of Act No. 22 of 1895, or the rights or power of purchase or acquisition which the Municipality have under Section 6 of Act No. 23 of 1895, and that the said right or power may be exercised on the same terms and conditions whether the said Metropolitan Tramways Company, Limited, or the said City Tramways Company, Limited, or any Company, Person or Body claiming through or under them, purchase, hire or otherwise acquire any interest in or right of dealing with or using any part of the tramways and undertaking authorised by this Act, or not, provided that nothing in this Act contained shall be so construed as to make the Municipality a party to the provisions of the agreement set forth in Schedule C, or to deprive the Municipality of any of its rights under Act 23 of 1895.

Differences to be settled by arbitration.

63. Any dispute or difference between the Company and any other person as to any compensation to be paid to such person under this Act or any dispute or difference as to the amount of compensation to be paid in the event of the tramways or undertaking of the Company or any part thereof being taken over by one or more Local Authorities or as to the proportion to be paid by each

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such Local Authority respectively, or any other dispute or difference on any matter which is not by this Act left to the decision or discretion of the Local Authority, or the Engineer to be appointed under the provisions of Section 40, shall be referred to arbitration. 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. For the purpose of arbitration under this Act, except in connection with matters referred to and dealt with in the Schedule C hereto, the provisions of the "Lands and Arbitration Clauses Act of 1882" and of the "Arbitration Act, 1898," are hereby incorporated and shall apply.

Carriage of Mails and parcels on Company's Cars.

64. The Company shall, if and when required thereto by the Post Office Authorities, 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, subject to the provisions of Act No. 36 of 1895, any difference arising between the Postmaster-General or any other Public Body, Local Authority or Road Authority and the Company shall be decided by arbitration, unless specific provision is otherwise in this Act made.

Power to agree with Local Authorities as to certain matters.

65. Nothing in this Act contained shall be construed so as to prevent any agreement being entered into between the Syndicate or the Company and any Local Authority for the purpose of altering, modifying, or explaining any of the Sections of this Act or of making provision for any matter not dealt with by the Act so far as the same may come within the powers of such Local Authority, and any such agreement entered into between the Syndicate and any such Local Authority shall be binding upon the Syndicate and its Assigns, and the Company shall comply with and carry out and in every respect be bound by the provisions of any such agreement, notwithstanding that the same may have been agreed upon and executed prior to the promulgation of this Act, unless and in so far only as any such provisions may be in direct conflict with any of the provisions of this Act. The provisions of the agreement printed as Schedule D to this Act shall be taken as herein inserted.

Short Title.

66. This Act may be cited for all purposes as the "Camp's Bay Tramways Act, 1899."

SCHEDULE A.

Regulations in conformity with those framed by the Board of Trade of the United Kingdom for regulating the employment of insulated returns, or of uninsulated metallic returns of low resistance; for preventing fusion or injurious electrolytic action of or on gas or water pipes or other metallic pipes, structures or

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substances; and for minimising, as far as is reasonably practicable, injurious interference with the electric wires, lines, and apparatus of parties other than the company, and the currents therein, whether such lines do or do not use the earth as a return.

DEFINITIONS.

In the following regulations:—

The expression "energy" means electrical energy.

The expression "generator" means the dynamo or dynamos or other electrical apparatus used for the generation of energy.

The expression "motor" means any electric motor carried on a car and used for the conversion of energy.

The expression "pipe" means any gas or water pipe or other metallic pipe, structure, or substance.

The expression "wire" means any wire or apparatus used for telegraphic, telephonic, electrical signalling, or other similar purposes.

The expression "current" means an electric current exceeding one-thousandth part of one ampere.

The expression "the company" has the same meaning as in this Act.

REGULATIONS.

1. Any dynamo used as a generator shall be of such pattern and construction as to be capable of producing a continuous current without appreciable pulsation.

2. One of the two conductors used for transmitting energy from the generator to the motors shall be in every case insulated from earth, and is hereinafter referred to as the "line"; the other may be insulated throughout, or may be insulated in such parts and to such extent as is provided in the following regulations, and is hereinafter referred to as the "return."

3. Where any rails on which cars run or any conductors laid between or within three feet of such rails form any part of a return, such part may be uninsulated. All other returns or parts of a return shall be insulated, unless of such sectional area as will reduce the difference of potential between the ends of the uninsulated portion of the return below the limit laid down by Regulation 7.

4. When any uninsulated conductor laid between or within three feet of the rails forms any part of a return, it shall be electrically connected to the rails at distances apart not exceeding 100 feet, by means of copper strips having a sectional area of at least one-sixteenth of a square inch, or by means of equal conductivity.

5. When any part of a return is uninsulated it shall be connected with the negative terminal of a generator, and in such case the negative terminal of the generator shall also be directly connected,

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through the current-indicator hereinafter mentioned, to two separate earth connections, which shall be placed not less than twenty yards apart.

Provided that in place of such two earth connections the company may make one connection to a main for water supply of not less than three inches internal diameter, with the consent of the owner thereof and of the person supplying the water; and provided that where, from the nature of the soil or for other reasons, the company can show to the satisfaction of an inspecting officer of the Government that the earth connections herein specified cannot be constructed and maintained without undue expense, the provisions of this regulation shall not apply.

The earth connections referred to in this regulation shall be constructed, laid, and maintained so as to secure electrical contact with the general mass of earth, and so that an electromotive force not exceeding four volts shall suffice to produce a current of at least two amperes from one earth connection to the other through the earth, and a test shall be made at least once in every month to ascertain whether this requirement is complied with.

No portion of either earth connection shall be placed within six feet of any pipe, except a main for water supply of not less than three inches internal diameter, which is metallically connected to the earth connections with the consents hereinbefore specified.

6. When the return is partly or entirely uninsulated the company shall, in the construction and maintenance of the tramway—(*a*) so separate the uninsulated return from the general mass of earth, and from any pipe in the vicinity; (*b*) so connect together the several lengths of the rails; (*c*) adopt such means for reducing the difference produced by the current between the potential of the uninsulated return at any one point and the potential of the uninsulated return at any other point; and (*d*) so maintain the efficiency of the earth connections specified in the preceding regulations as to fulfil the following conditions, viz.:—

(i) That the current passing from the earth connections through the indicator to the generator shall not at any time exceed either two amperes per mile of single tramway line, or 5 per cent. of the total current output of the station.

(ii) That if at any time and at any place a test be made by connecting a galvanometer or other current indicator to the uninsulated return and to any pipe in the vicinity, it shall always be possible to reverse the direction of any current indicated by interposing a battery of three Leclanche cells connected in series if the direction of the current is from the return to the pipe, or by interposing one Leclanche cell if the direction of the current is from the pipe to the return.

In order to provide a continuous indication that the condition (i) is complied with, the company shall place in a conspicuous

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position a suitable, properly connected, and correctly marked current indicator, and shall keep it connected during the whole time that the line is charged.

The owner of any such pipe may require the company to permit him at reasonable times and intervals to ascertain by test that the conditions specified in (ii) are complied with as regards his pipe.

7. When the return is partly or entirely uninsulated, a continuous record shall be kept by the company of the difference of potential during the working of the tramway between the points of the uninsulated return farthest from and nearest to the generating station. If at any time such difference of potential exceeds the limit of seven volts, the company shall take immediate steps to reduce it below that limit.

8. Every electrical connection with any pipe shall be so arranged as to admit of easy examination, and shall be tested by the company at least once in every three months.

9. Every line and every insulated return or part of a return, except any feeder, shall be constructed in sections not exceeding one half of a mile in length, and means shall be provided for insulating each such section for purposes of testing.

10. The insulation of the line and of the return when insulated, and of all feeders and other conductors, shall be so maintained that the leakage current shall not exceed one-hundredth of an ampere per mile of tramway. The leakage current shall be ascertained daily, before or after the hours of running, when the line is fully charged. If at any time it should be found that the leakage current exceeds one-half of an ampere per mile of tramway, the leak shall be localised and removed as soon as practicable, and the running of the cars shall be stopped unless the leak is localised and removed within 24 hours. Provided that where both line and return are placed within a conduit this regulation shall not apply.

11. The insulation resistance of all continuously insulated cable used for lines, for insulated returns, for feeders, or for other purposes, and laid below the surface of the ground, shall not be permitted to fall below the equivalent of 10 megohms for a length of one mile. A test of the insulation resistance of all such cables shall be made at least once in each month.

12. When in any case in any part of the tramway the line is erected overhead and the return is laid on or under the ground, and where any wires have been erected or laid before the construction of the tramway in the same or nearly the same direction as such part of the tramway, the company shall, if required so to do by the owners of such wires or any of them, permit such owners to insert and maintain in the company's line one or more induction coils or other apparatus approved by the company for the purpose of preventing disturbance by electric induction. In any case in which the company withhold their approval of any such apparatus the owners may appeal to the Government who may, if they think fit, dispense with such approval.

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13. An insulated return shall be placed parallel to and at a distance not exceeding three feet from the line when the line and return are both erected overhead, or 18 inches when they are both laid underground.

14. In the disposition, connections, and working of feeders the Company shall take all reasonable precautions to avoid injurious interference with any existing wires.

15. The Company shall so construct and maintain their system as to secure good contact between the motors and the line and return respectively.

16. The Company shall adopt the best means available to prevent the occurrence of undue sparking at the rubbing or rolling contacts in any place, and in the construction and use of their generator and motors.

17. In working the cars the current shall be varied as required by means of a rheostat containing at least twenty sections, or by some other equally efficient method of gradually varying resistance

18. Where the line or return or both are laid in a conduit, the following conditions shall be complied with in the construction and maintenance of such conduit:—

(*a*) The conduit shall be so constructed as to admit of easy examination and access to the conductors contained therein and their insulators and supports.

(*b*) It shall be so constructed as to be readily cleared of accumulation of dust or other debris, and no such accumulation shall be permitted to remain.

(*c*) It shall be laid to such falls, and so connected to sumps or other means of drainage, as to automatically clear itself of water without danger of the water reaching the level of the conductors.

(*d*) If the conduit is formed of metal, all separate lengths shall be so jointed as to secure efficient metallic continuity for the passage of the electric currents. Where the rails are used to form any part of the return they shall be electrically connected to the conduit by means of copper strips having a sectional area of at least one-sixteenth of a square inch, or other means of equal conductivity, at distances apart not exceeding 100 feet. Where the return is wholly insulated and contained within the conduit, the latter shall be connected to earth at the generating station through a high resistance galvanometer, suitable for the indication of any contact or partial contact of either the line or the return with the conduit.

(*e*) If the conduit is formed of any non-metallic material not being of high insulating quality and impervious to moisture throughout, and is placed within six feet of any pipe, a non-conducting screen shall be interposed between the conduit and the pipe, of such material and dimensions

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as shall provide that no current can pass between them without traversing at least six feet of earth; or the circuit itself shall in such case be lined with bitumen or other non-conducting damp-resisting material in all cases where it is placed within six feet of any pipe.

(*f*) The leakage current shall be ascertained daily, before or after the hours of running, when the line is fully charged, and if at any time it shall be found to exceed half an ampere per mile of tramway the leak shall be localised and removed as soon as practicable, and the running of the cars shall be stopped unless the leak is localised and removed within 24 hours.

19. The Company shall, so far as may be applicable to their system of working keep records as specified below. These records shall, if and when required, be forwarded for the information of the Government and the Local Authority.

DAILY RECORDS.

Number of cars running.
Maximum working current.
Maximum working pressure.
Maximum current from the earth connections (*vide* Regulations 6 (i.))
Leakage current (*vide* Regulations 10 and 18 (*f*)).
Fall of potential in return (*vide* Regulation 7).

MONTHLY RECORDS.

Condition of earth connections (*vide* Regulation 5)
Insulation resistance of insulated cables (*vide* Regulation 11).

QUARTERLY RECORDS.

Conductance of joints to pipes (*vide* Regulation 8).

OCCASIONAL RECORDS.

Any test made under provisions of Regulation 6 (ii).
Localisation and removal of leakage, stating time occupied.
Particulars of any abnormal occurrence affecting the electric working of the tramway.

SCHEDULE B.

MAXIMUM TOLLS AND RATES OF CHARGE.

Passengers.

The maximum rate of charge to be made for the conveyance of any passenger between any of the undermentioned points, without change of cars, shall not exceed Three Pence.

1. Camp's Bay and Kloof Nek.
2. Kloof Nek and Termination of Tramway No. 2.

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3. Termination of Tramway No. 2 and Termination of Tramway No. 3 in Orange Street.
4. Termination of Tramway No. 2 and Termination of Tramway No. 4 in Orange Street.
5. Commencement of Tramway No. 5 and Termination of Tramway No. 6.
6. Termination of Tramway No. 6 and passing place Sea Point side of Mr. Bultitude's house.
7. Passing place Sea Point side of Mr. Bultitude's house, Botany Bay, and Termination of Tramway No. 8.
8. Passing place Sea Point side of Mr. Bultitude's house and existing Tramway Terminus, Sea Point.
9. Passing place Sea Point side of Mr. Bultitude's house and Termination of Tramway No. 9a.
10. Termination of Tramway No. 6 and Termination of Tramway No. 10, Kloof Nek.
11. Kloof Nek and passing place on the Kloof Nek side of Mr. Wyllie's house.
12. Passing place on the Kloof Nek side of Mr. Wyllie's house and Termination of Tramway No. 13.
13. Passing place on the Kloof Nek side of Mr. Wyllie's house and Termination of Tramway No. 14.

Provided moreover that the maximum fare for any unbroken trip between the undermentioned points shall be as follows:—

(*a*) Between Camp's Bay and the Standard Bank or some other central terminal point in Cape Town *via* the Kloof Nek ... ... 9d.

(*b*) Between the termination of Tramways Nos. 8, 9, or 9a, and the Standard Bank or such other central terminal point in Cape Town, *via* the Kloof Road 1/-

(*c*) Between Camp's Bay and Cape Town, *via* Sea Point 1/3

(*d*) For the complete Inner Circle 1/6

(*e*) For the complete Outer Circle 2/-

For the purpose of this Schedule the Expression "Camp's Bay" shall mean the point shewn on the plans as termination of Tramway No. 5 and commencement of Tramway No. 6.

The expression "Complete Inner Circle" shall mean that a passenger entering a Car of the Company at any recognised point is entitled to a single journey *via* Sea Point and Cape Town back to such point in and on that car or any car that may be substituted therefor to complete such circle *via* any of the Company's lines except Tramways Nos. 1, 5 and 6.

The expression "Complete Outer Circle" shall only differ from the above in that the trip shall be *via* Tramways Nos. 1, 5 and 6, in lieu of *via* Tramway No. 10.

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"Recognised Starting Points" shall be any points mentioned in the first paragraph of this Schedule and in addition on the lines of the Metropolitan Tramway Company the points known as The Standard Bank, Varney's Corner, and Three Anchor Bay.

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 any two 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.

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 the owners of the tramway may think fit to charge, after notice given.

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.

Nothing herein contained shall be held to bind the Company to carry goods in carriages on the Tramway, other than goods which the passengers are allowed to take with them, until they have given notice in one or more newspapers in Cape Town of their intention to do so.

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 20 pounds in weight on any car used for the conveyance of passengers, or which, notwithstanding its weight being less than 20 pounds, is unreasonably bulky or of an undesirable character.

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SCHEDULE C.

MEMORANDUM OF AGREEMENT

BETWEEN THE "MILLS" SYNDICATE, LIMITED, AND THE METROPOLITAN TRAMWAYS COMPANY, LIMITED, AND THE CITY TRAMWAY COMPANY, LIMITED.

MEMORANDUM OF AGREEMENT made, entered into, and agreed upon, by and between "THE METROPOLITAN TRAMWAYS COMPANY, LIMITED." and the "CITY TRAMWAY COMPANY, LIMITED," of Cape Town, in the Colony of the Cape of Good Hope, of the one part, and "THE MILLS SYNDICATE, LIMITED," of the other part.

Whereas the Metropolitan Tramways Company, Limited, under Section 45 of Act 22 of 1895, have the exclusive right to run upon the tramways specified in the said Act, cars or carriages, plying for hire, with flanged wheels or wheels specially adapted to run upon the rails.

And whereas Section 27 of the said Act provides that whenever the Town Council of the City of Cape Town deems it necessary to do so for the public interest, it may demand and require the said Metropolitan Tramways Company, Limited, to make tramways and extensions of the tramways authorised by the said Act, in or over any streets, roads or public places within the Municipality of the City of Cape Town, and in case the said Company shall refuse to comply with such demand, then the said Council shall be at liberty to contract with any other person, persons or body in respect thereof, and may cause any tramway so contracted for to be worked by electricity or otherwise.

And whereas the Syndicate is desirous of obtaining Parliamentary powers to construct certain lines of tramway partly beyond and partly within the limits of the said Municipality.

And whereas the Cape Town and Green Point Tramway Company had under Section 3 of Act 23 of 1895 the exclusive right to run upon the tramways from Sea Point to Cape Town cars or carriages plying for hire, with flanged wheels or wheels specially adapted to run upon the rails of such tramways, which rights are now vested in the Metropolitan Tramways Company, Limited.

And whereas the Syndicate proposes to ask the authority of Parliament for running rights over the rails of the tramways herein specified, and to construct, lay down, equip, maintain and work certain lines of tramways within the limits of the Municipality of the City of Cape Town, and of the Municipality of Green Point and Sea Point.

And whereas the Syndicate has arranged and agreed with the said Companies that the latter shall waive, as far as necessary for the purposes hereinafter set forth, all rights, powers, and privi-

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leges they possess which might be or be held to be, infringed or affected by the proposed undertaking of the Syndicate.

Now, therefore, it is hereby agreed by and between the said parties:—

First: Throughout this Agreement the words "the Syndicate" shall mean "The Mills' Syndicate Limited" and its assigns and successors and every Company acquiring the whole or part of its undertaking, and the expression "the said Companies" shall mean "The Metropolitan Tramways Company, Limited," and "The City Tramways Company, Limited," and the assigns and successors of such Companies or either of them, and all persons and Companies acquiring any or all of their powers and rights.

Second: The Metropolitan Tramways Company, Limited (so far as is necessary for the effectual carrying out of this Agreement) waives the preferent right to construct tramways within the Municipality of Cape Town set forth in Section 27 of the Metropolitan Tramways Company Act, 1895, and the said Companies waive, forego, and abandon so far only as is necessary for the effectual carrying into effect of this Agreement and the rights hereunder granted, all rights, powers and privileges vested in or accruing to them, or either of them, upon the terms and conditions hereinafter set forth.

Third: The Syndicate shall have the right, power and privilege of running cars and carriages, plying for hire, with flanged wheels or wheels specially adapted to run upon the said rails, over the following lines of tramway, namely:—

(*a*) From the terminus of the existing tramways at Sea Point along the Main Road from Sea Point, along Somerset Road up to Waterkant Street, Cape Town, and within the City of Cape Town over all lines laid along the following streets, that is to say, Waterkant Street, Bree Street, Strand Street, Long Street, Adderley Street, Wale Street, Kloof Street, Orange Street, the object being to allow the cars of the Syndicate coming from Sea Point on the one side and from Kloof Road and Hof Street, Upper Orange Street and Orange Street on the other, to make the loop route included in the following streets: Long Street, Strand Street, a small section of Bree Street and Waterkant Street, Adderley Street and Wale Street.

(*b*) Along the lines, whenever constructed, proposed to be laid along the lower part of Kloof Road up to the point where that road is intersected by Burnside Road, along so much of Burnside Road as may

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be necessary to connect the whole of the Kloof Road with Kloof Street.

Fourth: The Syndicate shall be entitled, at its own expense, to make, construct, lay down, and effect junctions with the permanent way and trolley wires and other overhead constructions, wherever necessary, to enable the cars running over the tramways constructed and laid down by the Syndicate to connect with the tramways of the said Companies.

Fifth: In effecting and constructing the said junctions the Syndicate shall carry out the work to the reasonable satisfaction of the said Companies, and at such times and in such manner as may be arranged between the Syndicate and the said Companies, so as to cause as little inconvenience to them as possible.

Sixth: The Syndicate shall be entitled for running its cars and carriages over the lines of the said Companies, in the exercise of the running rights and powers in this Agreement referred to, to use the power supplied and furnished by the said Companies, and the said Companies shall be bound to furnish and supply adequate power therefor in such quantity and pressure and under such conditions as shall enable the Syndicate to comply with Parliamentary and Municipal regulations applying thereto; provided that the said Companies shall not be held responsible for failure to provide power owing to strikes or circumstances over which they have no control.

Seventh: The said Companies shall not, directly or indirectly, oppose the private Bills, of the intention to introduce which into Parliament the Syndicate has given due notice, provided the same shall not conflict with the rights, powers and privileges of the Companies other than those conferred by this agreement.

Eighth: The Syndicate shall not be entitled without the consent of the said Companies to make any working arrangements with any other tramway Company or other Company or person for the working of any tramway within the present area of the Cape Town and Sea Point Municipalities.

Ninth: The said Companies shall have the right to be represented on the Board of Directors of the Syndicate, and of the Company proposed to be formed by the Syndicate to carry the proposed undertaking in effect, by one person, to be nominated by the said Companies jointly.

Tenth: The Syndicate for the use of power, in terms of Section 6 above authorised, and for the use of the rails and other plant of the said Companies in the exercise of running powers under or in consequence of this Agreement, shall pay to the said Companies the whole of the

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fares for all passengers in the Syndicate's cars when entering on and for travelling over the Companies' lines at the Companies' current established rate of fare less the actual cost of working the Syndicate's cars whilst running on the Companies' lines, such cost to be on the basis of the Companies' cost per car mile for running their own cars, namely, for drivers and conductors' wages, cleaning, repairing and maintaining the car and its electrical and mechanical appliances; the issue of all tickets upon the Syndicate's cars on the Companies' lines shall be subject to the instructions and regulations of the Companies issued from time to time; the inspectors of the Companies shall have the right to enter the Syndicate's cars and inspect the conductors' way-bills and tickets or punches or other device employed for checking, and carry out every other duty as if they were on the Companies' cars.

Eleventh: Unless otherwise specially agreed with the said Companies any car of the Syndicate run over the Companies' lines in the exercise of the running powers acquired by the Syndicate in accordance herewith shall run the entire distance from Camp's Bay to the agreed loop lines in Cape Town, or *vice versa*, the Syndicate unless otherwise agreed shall forfeit the sum of ten shillings to the said Companies for each contravention of this clause.

Twelfth: The exercise of the running rights and the use of power under this Agreement shall not impose any liability or responsibility upon the Syndicate to repair or maintain the lines of tramway over which such running rights are exercised, or any streets or roads on or along which such tramways are laid, or any plant, apparatus, or appliances of the said Companies, provided that the Syndicate's cars shall be so maintained as not to cause undue wear and tear on the Companies' plant. If, in the opinion of the Companies, the cars of the Syndicate are defective or cause undue wear and tear on the Companies' plant, the Companies shall have the right to prevent any such defective cars from running on their lines till such defects are remedied to their satisfaction.

Thirteenth: The Syndicate in working their cars over the lines of the said Companies shall not be responsible for any accident or claim of any kind whatsoever which has been brought about or contributed to by any defect in the permanent way, points, crossings, overhead equipment, or any other plant, machinery, matter or thing which the said Companies are liable to maintain, or which comes within the scope of their control or management, and further the Syndicate shall not be rendered liable under this Agreement for any claim or claims

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which have or may be made by reason of any obligation imposed on the said Companies or into which they have entered or may hereafter enter: Provided that nothing herein contained shall render the said companies liable for damages in consequence of any accident, occurrence, or defect wholly beyond the control of the said Companies.

Fourteenth: Nothing herein contained shall render the Syndicate or its undertaking liable to share in or make good to the said Companies any penalties that shall be incurred by the said Companies under the provision of any of the Acts controlling or affecting the said Companies, or any of them, whether with reference to penalties for not running and working the said lines of tramway or otherwise.

Fifteenth: The said Companies expressly waive whatever rights they may possess which may be infringed hereby and consent to power being granted to the Syndicate to construct, lay down, equip, maintain and work the lines of tramway or any of them proposed to be constructed by the Syndicate and more particularly described in the Parliamentary notices published by the Syndicate.

Sixteenth: This Agreement shall be and remain of full force and effect during the full period or periods for which the said Companies have the right and power to maintain and work their tramways, and during any extended period or periods that they may respectively have or exercise such rights.

Seventeenth: The said Companies and each of them separately undertake and agree not to discontinue to work their tramways or to do anything which would prevent the carrying into effect of this Agreement according to its true intent and purpose.

Eighteenth: In the event of any dispute occurring with reference to the interpretation of this Agreement or any part thereof, or any difficulty arising as to the carrying into effect of any clause hereof, such point or points shall be referred to arbitration, such arbitration, unless otherwise agreed, to be in accordance with the provisions of the "Lands and Arbitration Clauses Act, 1882," and of the "Arbitration Act, 1898," unless express provision for another form of arbitration or other settlement has been hereinbefore made, and in such latter case only if it be or become impossible to carry out such express provision.

Nineteenth: This Agreement shall be executed in triplicate, one copy to be delivered to each of the three contracting parties.

Thus done and agreed at Cape Town, the sixteenth day of August, 1899.

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In witness whereof the Seals of the Metropolitan Tramways Company, Limited, the City Tramway Company, Limited, and "The Mills Syndicate, Limited," respectively, have been hereunto set in the presence of the subscribing witnesses according to Law.

As witnesses:
R. P. L. WAHL.
R. J. EDWARDS.

Affixed in my presence,
J. S. LE SUEUR,
Vice-Chairman,
16th August, 1899.

Seal of the MILLS SYNDICATE, LIMITED.

As witnesses:
R. P. L. WAHL.
R. J. EDWARDS.

Affixed in my presence,
August 18th, 1899.
E. R. SYFRET,
Chairman,

Seal of METROPOLITAN TRAMWAYS COMPANY, LIMITED.

As witnesses:
R. P. L. WAHL.
R. J. EDWARDS.

Affixed in my presence,
August 18th, 1899.
E. R. SYFRET,
Chairman.

Seal of the CITY TRAMWAY COMPANY, LIMITED.

SCHEDULE D.

AGREEMENT.

This Agreement made on the Seventh day of September, One Thousand Eight Hundred and Ninety Nine, between

THE MUNICIPALITY OF GREEN POINT AND SEA POINT

(hereinafter styled "The Municipality") of the First Part, and

THE MILLS SYNDICATE LIMITED

(hereinafter styled "The Syndicate") of the Second Part.

Whereas the Syndicate has obtained leave from the House of Assembly of the Colony of the Cape of Good Hope to introduce into Parliament a Private Bill to authorise the construction,

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equipment, maintenance, and working of certain lines of Tramway from Camp's Bay to Cape Town, and from Camp's Bay to Sea Point and within the Municipality of Cape Town, and within the Municipality of Green Point and Sea Point.

And whereas the Municipality have required certain alterations in and additions to be made to the said Bill, and certain further provisions specially applicable to the Municipality to be incorporated as a Schedule to the said Bill.

And whereas it is expedient that such further provisions inasmuch as they affect the Municipality only and not other local authorities should be dealt with by separate agreement which shall be binding upon the parties hereto and the Assignees of the Syndicate.

And whereas the parties hereto have agreed as under now therefore these presents witness:—

FIRST.—The Tramway Company to be formed by the Syndicate to construct and work the proposed Tramways shall be entitled to lay down their tram-lines upon such part of the Kloof Road as is indicated between the letters A and B, upon the annexed Plan, notwithstanding that the same shall in part not be thirty feet in width, so soon as they shall have widened such part of the said Kloof Road, so that it shall correspond in width with the measurements shown in figures in black ink on the said Plan, provided always that all other portions of the Kloof Road, within the Municipality, in so far as traversed by Tramway No. 7, shall be increased to not less than thirty feet in width, in accordance with the terms of the proposed Act.

SECOND.—In like manner the said Tramway Company before constructing Tramway No. 8, shall pay to the Municipality the sum of Seven Hundred and Fifty Pounds (£750) Sterling, in lieu of widening the Road and setting back the footpath, kerbing, and channelling and other work incidental thereto, from the spot near the back of the property of C. H. van Zyl, Esq., up to which kerbing and channelling has already been made on the east side of the road down to the junction of the said Kloof Road with the Main Road: Provided always that this obligation shall be in addition to and in no way in substitution of the obligations to be imposed upon the said Company by the provisions of the proposed Act including *inter alia* provisions as to the construction and maintenance of the works and payment of rental.

THIRD.—The Tramway Company shall further at or before the expiration of a period of two years from the promulgation of the proposed Act notify the Council in writing whether or not it intends to construct Tramway No. 8 within the time allowed by the Act, and in the event

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of the Company not notifying the Council of its intention so to construct its rights under the Act in respect of Tramway No. 8 shall in the option of the Council cease at the expiration of such period of two years, and it shall be liable to pay to the Council the sum of One Thousand Pounds (£1,000) Sterling as a penalty for non-completion, such sum of One Thousand Pounds (£1,000) shall not however be in addition to the penalty payable under the Act for non-completion of the Tramways within the prescribed period.

FOURTH.—Before constructing Tramway No. 9 the said Tramway Company shall widen that portion of Queen's Road which lies between the upper side of the Victoria Road and the lower side of Regent Road to a width of forty-five feet, and shall widen Regent Road so that from Queen's Road to the existing terminus of the Tramway Station the width shall average forty-five feet.

FIFTH.—Should the Municipality before the Company commence working Tramway No. 9a decide to widen that portion of Queen's Road which lies between Regent Road and Beach Road, beyond thirty feet, it shall be entitled to widen such road to a limit of thirty-five feet at the expense of the said Tramway Company.

SIXTH.—All land required for the purpose of widening any street or road in accordance with this Agreement shall be acquired by the Municipality for the benefit of the Public at the cost of the Company. And the Company shall give to the Municipality prior to its undertaking the necessary expropriation due security for all costs, expenses and compensation to which the Municipality may be put in and about such widening and expropriation.

SEVENTH.—The said Tramway Company and its Assigns shall be bound to water the surfaces of the roadways between its tramway tracks and for the space of three feet on either side of such tracks, at least once in the forenoon and once in the afternoon of each day (except in rainy weather), during the period from the month of September to the month of April (both months inclusive), and during any periods of dry weather in the winter season when watering may be necessitated owing to there having been no rain for at least five days.

EIGHTH.—Notwithstanding the tariff of maximum tolls and rates of charge contained in Schedule "B" to the proposed Act the said Tramway Company shall issue Books of Transferable Tickets at not more than three halfpence per ticket. Any such ticket shall be available for any one stage upon a Car of the said Tramway Company upon its own lines within the present limits of the

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Municipality. Such Transferable Tickets will be issued to residents within the Municipality and must not be sold by the purchaser. The said Tramway Company may refuse to supply any person known to sell these tickets.

NINTH.—Any breach or continuing breach by the Tramway Company of the terms of Clauses 7 and 8 of this Agreement shall render the Company liable to pay to the Municipality any sum or sums which under the Act would be liable to pay for neglect to perform duties in respect of the breach of which penalties are exacted by the Act.

TENTH.—Nothing whatever contained in this Agreement shall be taken in any way to be in substitution of any obligations imposed by the Act upon the Company but shall be in addition thereto.

ELEVENTH.—The alterations and additions to the wording of various sections of the Act as agreed between the parties shall duly be made in the proposed Bill during the Committee Stage thereof.

TWELFTH.—This Agreement shall be annexed to the said Bill as a Schedule thereto, and words shall be introduced to the Bill giving Parliamentary sanction thereto.

The Seal of the Municipality of Green Point and Sea Point was affixed hereto, this Seventh day of September, 1899, in the presence of

D. J. WUNDER,
Mayor.

H. HERRING,
Municipal Clerk.

Seal of the Municipality of Green Point and Sea Point.

The Seal of the Mills Syndicate, Limited, was affixed hereto, this Seventh day of September, 1899, in the presence of

C. C. SILBERBAUER, } Directors.
CHAS. MARAIS, }
GEORGE KAY, Secretary.

Seal of the Mills Syndicate Limited.

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Repealed by Act No 25

No. 35—1899.] [October 20, 1899.

ACT

To authorise the Raising of a Public Loan of Two Hundred and Ten Thousand Pounds for the purpose of prosecuting and improving the Harbour Works of Table Bay and Mossel Bay and providing greater facilities for the conduct of the Business of those Ports.

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:—

Power to raise Loan of £200,000 for improvements of Table Bay.

1. It shall be lawful for the Governor to raise by Public Loan a sum not exceeding Two Hundred Thousand Pounds Sterling, 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 purpose already authorised by Parliament as set forth in the Schedule to the Table Bay Harbour Loan Act No. 33 of 1898.

Loan for Mossel Bay Harbour.

2. It shall further be lawful for the Governor to raise by Public Loan a sum not exceeding Ten Thousand Pounds Sterling, for the purpose of prosecuting and improving the Harbour Works of Mossel Bay.

Application of moneys by Harbour Boards.

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 and Mossel Bay respectively, and the said Harbour Boards shall in respect of such application have and exercise all the powers conferred upon such Board by any law.

Capital and Interest charge upon revenues.

4. The capital and interest of the Loans raised, under the authority of this Act, for the purpose of prosecuting and improving the Harbour Works of Table Bay 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 general revenue to the Colony on account of the capital.

Payment to Members of Mossel Bay Harbour Board.

5. Every member of the Mossel Bay Harbour Board shall be entitled to receive the sum of Twenty Shillings for each attendance at the meeting of the Board, provided that no member shall receive more than Twenty-five Pounds thereby in any one year in respect of such attendance.

Short Title.

6. This Act may be cited as the "Harbour Loans Act, 1899."

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No. 36—1899.] [October 20, 1899.

ACT

To Provide for the Raising of a Loan for the Construction of certain Public Works, Railway Works and other Services.

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:—

Loan £398,700 for certain public works.

1. For the purpose of constructing the works set forth in the Schedules A, B and C to this Act, it shall be lawful for the Governor to raise by loan the sum of £398,700 (Three hundred and ninety-eight thousand seven hundred pounds sterling) from time to time as he may deem expedient, either by debentures or stock, or partly be debentures and partly by stock.

For irrigation purposes (£50,000), C.M.R. Equipment Fund (5,000).

2. It shall further be lawful for the Governor to raise in the manner specified in the preceding section hereof the sum of £50,000 (Fifty Thousand Pounds sterling), to be applied to the purpose of the Irrigation Acts Nos. 8 of 1877, 28 of 1879, 7 of 1880, and 24 of 1897; and a further sum of £5,000 (Five Thousand Pounds sterling) for the purpose of establishing a working capital for the Cape Mounted Riflemen Equipment Fund.

For expenses connected with raising certain Loans (£114,100).

3. For the [1] purpose of meeting expenses connected with the raising of certain Loans for railway construction and other services authorised under the provisions of Acts No. 28 of 1895, 37 of 1898 and 10 of 1892, it shall be lawful for the Governor to raise in the manner set forth in the section one to this Act the sum of £114,100 (One Hundred and Fourteen Thousand and One Hundred Pounds sterling).

Short Title.

4. This Act may be cited for all purposes as the "Public Works Loan Act, 1899."

SCHEDULE A.

RAILWAYS

Additional Rolling Stock	£53,750
Cape Town Station Extension	14,000
Locomotive Workshops, Steam Sheds, pits, &c.	22,650
Water Supply	32,900
Additional Station Accommodation	25,800
Additional Siding Accommodation and Crossing Loops	3,300
Additional Accommodation for Railway Emloyés... ...	20,900
Stores, Warehouses, Maintenance Shops and Offices ...	11,300
Overhead Bridges	600
Signals	1,000
Additions and Alterations to Culverts, Waterways, &c.	2,250
Doubling Line, Cape Town—Salt River, to compete...	4,500
Carry forward	£192,950

[1] See Act 9, 1900, § 4 (p. 4275).

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Brought forward...	£192,950
Bridge over Harbour Line, East London	1,900
Hydraulic Cranes, Buffalo Harbour	6,000
Fencing	20,000
Landing Stage for Explosives, Port Elizabeth...	5,400
Queenstown-Tarkastad Line, additional length...	6,750
Supervision of Subsidised Lines	30,000
	£263,000

SCHEDULE B.

Public Works.

Hartz River Irrigation Scheme	£27,400
Cookhouse Bridge	8,500
Port Eilzabeth Post Office	30,400
Port St. John's Harbour Improvements...	9,000
Store Suspense, Chief Inspector of Public Works	3,000
Kenhardt Dam, additional	20,000
	£98,300

(1) SCHEDULE C.

Post and Telegraphs.

Erection and Equipment of Lines of Telegraph:		
Klipdam to Boetsap	£1,720	
Riversdale to Herbertsdale	980	
Bethesda Road to New Bethesda...	882	
East London to Macleantown...	790	
Somerset East to Zwagers Hoek...	1,050	
Clarkebury to Emjanyana...	500	
Caledon to Genadendal *via* Greytown ...	890	
Fraserburg to Williston, to complete ...	1,730	
Mafeking to Transvaal Border, to complete	103	
		£8,645
Addition Wires on existing Lines:		
Alicedale to Grahamstown	330	
Dordrecht to Indwe...	290	
King William's Town to Umtata	1,535	
Swellendam to George...	1,400	
		3,555
Erection and Equipment of Private Wires		18,000
Duplication of Private Wires:		
At Port Elizabeth	5,200	
At East London	2,000	
		7,200
		£37,400

[1] See Act 43, 1905 (p. 4967).

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No. 37—1899.] [October 20, 1899.

ACT

To Amend the Appropriation of certain Surplus Revenues: to provide for additional powers in respect to the raising of Temporary Loans: and to transfer to the Revenue a portion of the Grant made under Section 38 of "The Diamond Trade Act, 1882."

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:—

Temporary Loan under Act 39, 1898, first charge against surplus revenue.

1. The provisio to Section No. 1 of the "Temporary Loan Act No. 39, 1898," shall be and is hereby repealed. The sum of £600,000 authorised by that Act to be raised by way of Temporary Loan shall be a first charge against any accrued surplus of the annual Revenue of the Colony in every year over the Expenditure of the said year, until the whole is (1) discharged.

Additional borrowing powers in respect of temporary loans.

2. Notwithstanding anything contained in Section No. 2 of "The Temporary Loans Act No. 13 of 1897," and in Sections No. 1 and No. 2 of "The Public Works Loans Act No. 20 of 1897," and in addition to the powers conferred on the Governor by Section No. 3 of Act No. 13 of 1897, it shall be lawful for the Governor to raise by 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 Act, 1883, 1888, and 1892," any of the sums mentioned in the Schedules to the said "Temporary Loans Act, 1897," and in the Schedules A and B to the said "Public Works Loans Act, 1897."

Abandonment of certain borrowing powers, &c.

3. Section No. 3 of "The Temporary Loan Act 39 of 1898," is hereby repealed. The unexercised borrowing powers amounting to £57,280 (fifty-seven thousand two hundred and eighty pounds) under the Loan Acts as set forth in the Schedule hereunto annexed, are hereby cancelled, and the borrowing powers under Act 22 of 1880 are hereby increased by 7s. 11d. (seven shillings and eleven pence), that is to say by the amount borrowed, in excess of the amount authorised by the said Act, and the amounts already advanced out of the Public Revenue to meet expenditure covered by such powers shall become finally chargeable to the Public Revenue.

Irrigation Works Loans, Act 33 of 1896, amended.

4. Section No. 2 of the "Irrigation Works Act No. 33 of 1896," in so far as it relates to the sum authorised to be set aside out of the accrued Revenue of the Financial Year ending 30th June, 1896, in respect of the work set forth in Schedule C to the said Act, No. 33 of 1896, shall be, and is hereby repealed.

Balance of £20,000 to credit of Board for protection of mining interest paid to revenue.

5. Notwithstanding anything to the contrary contained in the "Diamond Trade Act No. 48 of 1882," the sum of £20,000

(1) But see § 5, Act 6, 1902 (p. 4360).

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No. 38—1899.

(twenty thousand pounds), forming portion of the amount paid over to the Board for the protection of mining interests under Sections No. 37 and 38 of the said Act No. 48 of 1882, mentioned in the Controller and Auditor-General's Report on the Appropriation Accounts for 1897-1898, pages xxi and cxlii-cxliii shall be deemed and taken to belong to the Revenue of the Colony and shall be paid over by the said Board to the Treasurer.

Short Title.

6. This Act may be cited for all purposes as "The Finance Act, 1899."

Schedule.

SCHEDULE.

£57,100	authorised to be raised	under	Act	15 of 1872.
58	„	„	„	26 of 1878.
37	„	„	„	21 of 1880.
76	„	„	„	24 of 1880.
9	„	„	„	21 of 1883.

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* So much as applies to any deeds registry, repealed by Act 13/1915 Sect. 62

No. 38—1899.] [October 20, 1899.

ACT

To Amend the Law in force in British Bechuanaland.

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:—

Repealing clause.

1. The Proclamations mentioned in the Schedule hereto annexed, to the extent therein set forth, shall be and the same are hereby repealed.

Deeds Registry Act, 1891, applicable to Vryburg.

2. From and after the taking effect of this Act, the provisions of the "Deeds Registry Act, 1891," save and except section fifteen thereof, shall apply to the Deeds Registry at Vryburg, and thereupon the terms "Registrar" and "Registrar of Deeds" in the said Act shall include the Registrar of Deeds at Vryburg, and the term "Master of the Supreme Court" shall include the Master of the High Court at Kimberley.

Short Title.

3. This Act may be cited as "The Bechuanaland Law Amendment Act, 1899," and shall come into effect at such time as the Governor shall by proclamation in the *Gazette* declare.

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SCHEDULE.

BRITISH BECHUANALAND PROCLAMATIONS REPEALED.

No. of Proclamation.	Subject Matter of Proclamation.	Extent of Repeal.
2 B.B., 1885 ...	Laws and Regulations ...	So much as has not heretofore been repealed, with the exception of Se tions 8, 9, 10, 11, 20 (from the word "except" to the word "defendant"), 31, 32, 33, 41, 42, 44, 48 and 50 of Schedule.
7 „ 1886 ...	Resident Magistrates' Courts (Fees)	The whole.
8 „ „ ...	Cattle Removal Act, 1870...	The whole.
10 „ „ ...	Repealing Proclamation 5 B.B.	The whole.
14 „ „ ...	Police Offences Act, 1882...	The whole.
20 „ „ ...	Divisional Council, Vryburg	The whole.
23 „ „ ...	Resident Magistrates' Courts	The whole.
25 „ „ ...	Village Management Board, Vryburg and Mafeking	So much as has not already been amended or repealed.
26 „ „ ...	Stamp Duties and Fees ...	So much as has not already been amended or repealed.
29 „ 1887 ...	Divisional Council, Mafeking	The whole.
30 „ „ ...	Divisional Council, Taungs	So much as has not already been repealed.
32 „ „ ...	Hut Tax Collection ...	So much as has not already been repealed.
38 „ „ ...	Cattle Removal Certificates to Natives	The whole.
39 „ „ ...	Resident Magistrates' Courts, Districts	So much as has not already been repealed.
40 „ „ ...	Market, Mafeking	The whole.
45 „ 1888 ...	Police Offences, Kuruman	The whole.
46 „ „ ...	Cattle Removal, Kuruman	The whole.
52 „ „ ...	Quitrents, Payment of ...	The whole.
59 „ 1889 ...	Warlike Articles, Prevention of Exportation ...	The whole.
60 „ „ ...	Resident Magistrates' Courts, Districts ...	The whole.
68 „ „ ...	Perjury, Summary Punishment of	The whole.
69 „ „ ...	Gordonia, Administration of	The whole except Section 12.
70 „ „ ...	Native Locations, Boards of Management	The whole.

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No. 38—1899.

SCHEDULE—*continued.*

BRITISH BECHUANALAND PROCLAMATIONS REPEALED.

No. of Proclamation.	Subject Matter of Proclamation.	Extent of Repeal.
76 B.B., 1890 ...	Grazing Licences, Crown Lands	The whole.
82 „ „ ...	Transfer Duty, Consolidation Acts Amended ...	The whole.
84 „ „ ...	Agents for Foreign Firms, Reduction of Licence ...	The whole.
86 „ „ ...	Repealing Proclamation No. 41	The whole.
88 „ „ ...	Assurance Companies, Licences	The whole.
95 „ „ ...	Public Roads Width Act, 1884, applied to Vryburg	The whole.
100 „ 1891 ...	Village Management Board, Vryburg, increase of ...	The whole.
101 „ „ ...	Market, Mafeking, Additional Regulations ...	The whole.
112 „ „ ...	Customs Union, Entry of Basutoland	The whole.
116 „ „ ...	Amending Proclamation No. 76	The whole.
118 „ „ ...	Conferring Powers on the V.M. Board, Vryburg ...	The whole.
119 „ „ ...	Water Vendors, Vryburg, Regulations	The whole.
120 „ „ ...	Extending the B.B. Laws to New Territory ...	The whole.
123 „ „ ...	Certain Territory to be in Gordonia District ...	The whole.
129 „ 1892 ...	Grazing Licences	The whole.
131 „ „ ...	Village Management Boards to make Bye-laws for Natives	The whole.
132 „ „ ...	Mafeking Village Management Board to make Bye-laws for Water Vendors...	The whole.
133 „ „ ...	Guardian Fund, Reduction of Interest	The whole.
141 „ „ ...	Stock and Produce Theft, Amendment of Law relating to	The whole.
142 „ „ ...	Game Law, Amendment ...	The whole.
149 „ „ ...	Witness' Compulsory Attendance, Orange Free State	The whole.
150 „ „ ...	Deferred Pay and Trial for Offences of B.B. Police	The whole.

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SCHEDULE—*continued.*

BRITISH BECHUANALAND PROCLAMATIONS REPEALED.

No. of Proclamation.	Subject Matter of Proclamation.	Extent of Repeal.
154 B.B., 1892...	Mafeking Village Management Board, increase of Members	The whole.
157 „ „ ...	Foot and Mouth Disease ...	The whole.
158 „ „ ...	Leprosy	The whole.
159 „ „ ...	Deeds Registry Office ...	The whole.
161 „ „ ...	Extradition with O.F. State	The whole.
166 „ „ ...	Verbal Corrections in certain Proclamations ...	The whole.
167 „ „ ...	Duplicate and Original Registers of Marriages celebrated in the Protectorate	The whole.
171 „ 1893...	Granting Fines under Police Offences Act to V.M. Boards	The whole.
173 „ „ ...	Game Law Amendment, Gordonia	The whole.
174 „ „ ...	Brands Registration Act, 1890, Amendment ...	The whole.
175 „ „ ...	Brands Registration Act, 1890, Regulations ...	The whole.
178 „ „ ...	Wood Wagons, Tax on ...	The whole.
179 „ „ ...	Admission of Bechuanaland Protectorate into Customs Union ...	The whole.
180 „ „ ...	Thefts of Skins, &c., Gordonia	The whole.
184 „ „ ...	Burr-Weed Extirpation ...	The whole.
185 „ „ ...	Sale of Kafir Beer ...	The whole.
188 „ „ ...	Brands Registration ...	The whole.
189 „ „ ...	Boundaries of Mafeking and Vryburg Districts...	The whole.
191 „ „ ...	Amending Proclamation No. 178	The whole.
194 „ „ ...	B.B. Police, Discipline ...	The whole.
195 „ 1894...	Wheel-Tax	The whole.
198 „ „ ...	Extending Time for Noting Appeals	The whole.
200 „ „ ...	Native Locations on Private Property	The whole.
203 „ „ ...	Village Boards, Meetings...	So much as does not relate to existing Village Boards.
205 „ „ ...	Amending Law as to Trustees in Insolvency	The whole.
306 „ „ ...	Amending Proclamation No. 176 B.B. (Pensions)	The whole.

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No. 39—1899.

SCHEDULE—*continued.*

BRITISH BECHUANALAND PROCLAMATIONS REPEALED.

No. of Proclamation.	Subject Matter of Proclamation.	Extent of Repeal.
207 B.B., 1895...	Amending Village Management Act, 1881, and Liquor Licensing Act, 1883	The whole.
208 „ „ ...	Agents for Foreign Firms, Transfer of Licence ...	The whole.
211 „ „ ...	Sale of Poisons ...	The whole.
213 „ „ ...	Regulating Wearing of Naval and Military Uniforms	The whole.
217 „ „ ...	Establishment of Periodical Court, Morokwen ...	The whole.
219 „ „ ...	Appointment of Special J.P., Morokwen ...	The whole.
221 „ „ ...	Bank Note Duty ...	The whole.
226 „ „ ...	Amending Proclamation No. 163	Section 4.
229 „ „ ...	Postponement of Taking Effect of Scab Act, 1894	The whole.
234 „ „ ...	Amending Proclamation No. 226	The whole.
235 „ „ ...	Confirming Arrangement between Secretary of State and London and Pretoria Financial Co.	The whole.

Repealed by Act No 5 of 1934

No. 39—1899.] [October 20, 1899.

ACT

To Apply a Sum of Money for the Service of the Year ending the 30th June, 1900.

[Spent.]

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No. 40—1899.] [October 20, 1899.

ACT

To Provide for the regulation of Water Rights and the Settlement of Water Disputes, and to Amend in certain respects Act No. 8, 1877.

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. From and after the taking effect of this Act, it shall be lawful for the Governor in any area of the Colony to appoint a Court hereinafter called a Water Court for the purpose of hearing and determining disputes in connections with the use and appropriation of water and for such other purposes as may be assigned to such Court by this Act or by regulations framed hereunder, and such area shall be styled a Water District. Water Court established.

2. The Governor may prescribe, and from time to time alter or amend, the boundaries of every Water District: provided that unless there shall be good cause to the contrary such boundaries shall coincide with the boundaries of some magisterial district. Water Districts boundaries.

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No. 40—1899.

Composition of Court.

3. Each Court shall consist of a Resident Magistrate having jurisdiction over the whole or some portion of the Water District of such Court, who shall sit with two landowenrs selected from a list of Water Court Assessors not less than ten or more than twenty-five in number appointed for any Water District by the Governor, after consultation with every Divisional Council having jurisdiction over any part of such district, each of whom shall own and occupy land and shall cultivate, or shall have cultivated his own land in such Water District, and shall possess the qualifications necessary for a Divisional Councillor, shall not be less than thirty years of age, and shall hold office duirng the pleasure of the Governor, who may fill vacancies occuring in the said Court. The Assessors to sit as members of any Water Court for the purpose of any decision, report or investigation, by such Court shall in the first instance be selected from such lists in manner prescribed by regulations. The names so selected shall in manner similarly prescribed be timeously 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 the said Assessors. Any such objection and any selection of further names if necessary shall be dealt with and made as the regulations direct: provided always that in no case shall any Assessor sit or take part in any proceeding in the result of which he has any direct or indirect personal interest.

General Regulations under Act.

4. The [1] Governor may proclaim regulations prescribing and defining:

(1) The mode of procedure of Water Courts.

(2) The form of oath to be taken by members of the court.

(3) Fees to be charged in such courts and the remuneration to be paid to the members thereof.

(4) Duties of the courts and members thereof, subject to the provisions of this Act.

(5) The forms of notice to be required in respect of applications to Water Courts under this Act.

(6) The conditions under which a Water Court may obtain the advice of an expert officer in the service of the Government to aid such Court in discharging its duties in any matter.

(7) The principles and considerations which should guide the members of a Water Court in defining or fixing when, necessary, what use of the water of a public perennial stream by a riparian proprietor shall be deemed to be a reasonable use according to law.

(8) Generally for giving effect to the provisions of this Act: Provided that no such regulations shall be proclaimed or if proclaimed shall have any legal force unless and until

[1] See Proc. 53, 1903, issued in pamphlet form, supplied to all Civil Commissioners.

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(*a*) They have been approved by a majority of the Judges of the Court of Appeal—such approval to be notified to the Governor by the Chief Justice: or

(*b*) They have been approved by resolutions passed by both Houses of Parliament.

Duties of a Water Court.

5. The general duties of a Water Court shall be:

(1) To investigate, define and record on the application, in accordance with this Act and of any regulations thereunder, of any person interested, the rights of diversion, use, taking or appropriation of water within the water district as defined in any agreement or understanding, whether written or unwritten, or arising by virtue of riparian proprietorship on any perennial public stream.

(2) To report to the Minister or any superior Court of Justice when required so to do on the misuse or waste of any water appropriated for the purpose of irrigation from any public stream or river.

(3) In the event of any dispute arising out of any matter concerning the diversion, use, taking or appropriation of water from any perennial public stream or river, to investigate such dispute on the spot, on the application of any party thereto, and to decide on the matter at issue in accordance with this Act and regulations thereunder.

Application for right of abutment or diversion of water.

6. Any person entitled to divert water from any perennial public stream or river in case the place of diversion shall not be prescribed by any servitude, registered or prescriptive, or by any agreement or understanding, written or unwritten, may make application to the Water Court in manner provided by regulations for a right of abutment at a suitable place on the land of any other owner or owners of a weir or dam necessary for the useful diversion or to improve the mode of diversion of the water to which he is entitled, and the owner or owners of the land affected by such abutment or by the existence of such weir or dam shall have due notice of such application.

Proceedings of Court on such application.

7. The Water Court shall make full enquiry into such application, and may eitrer refuse such application or may, without prejudice to the right of any other person entitled to any of the water of the said stream or river, make such order as shall appear to be fair and reasonable if it shall grant such application: provided always that any person affected by and dissatisfied with such order may, within three months from the date of such order, make application on motion to the Supreme Court to have such order set aside or varied, whereupon the Supreme Court may make such final order as shall appear to it to be fair and reasonable. Provided that for the purposes of this Act the term "Supreme Court" shall include the Eastern Districts Court and the High Court within their respective jurisdictions, and that an appeal shall lie from any decision of the Eastern Districts Court

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or High Court to the Supreme Court in like manner as an appeal may be had and prosecuted in any civil case.

Special order of Court authorising right of abutment.

8. In the event of any right of abutment being authorised, the Water Court, or Supreme Court, as the case may be, shall in framing its order prescribe

(1) The materials and nature of the dam, weir or obstruction authorised.

(2) The provision, by means of sluice gates or otherwise, for giving to other proprietors on the same river or stream such portion of the flow, whether measured by time or quantity, as they may be justly entitled to.

(3) The quantity of water, whether measured by time or by quantity, which each person entitled shall receive from such weir or dam.

(4) The liability, whether joint or several, of the persons interested in respect of the cost of construction or maintenance of the weir, dam, or obstruction.

(5) The compensation, if any, to be paid by the applicant for such right of abutment; and

(6) Such further special directions as the Court may deem fair and reasonable.

Registration of such order against title deeds.

9. The order of the Water Court, if not set aside or varied as aforesaid, or the order of the Supreme Court, as the case may be, shall be registered against the title deeds of the lands concerned at the cost of the applicant for such registration, unless the Water Court or the Supereme Court, as the case may be, shall otherwise direct the payment of such costs.

Court may exercise functions of arbitrators under Act 26 of 1882.

10. A Water Court in connection with the discharge of its duties under this Act, and any Superior Court in any suit or action in which similar issues are raised, may at the instance of any party exercise the functions committed by Act No. 26 of 1882 to arbitrators, and may as between two or more riparian proprietors on any perennial public stream or river, who are parties to any matter brought before it, fix and determine the point or place of diversion of water from such stream or river on the land of any of them, at which each or any of the said proprietors shall, for all legal purposes, be deemed to have a legal right to take the water assigned to him, and at such point or place of diversion such proprietor shall be entitled to take such share of water as he shall be entitled to at that point or place by agreement or as shall be there assigned to him by such Court as his fair and reasonable proportion, having regard to all the circumstances of the case. Notice in accordance with regulations shall be given to all intervening riparian proprietors entitled to any of the water of the said stream or river between the land of the applicant and the land of the person upon which the point or place of diversion is proposed to be situated of any application under this Section, and the said proprietors shall be entitled to appear and be heard

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at the Water Court upon the said application and who shall upon such notice being given be deemed to be parties to such application: provided that any party dissatisfied with the order of any Water Court under this section may, in manner provided by section seven of this Act, make application on motion to the Supreme Court, and the provisions of section nine shall apply.

Court may order distribution of water for irrigation purposes.

11. In the discharge of the duties assigned to it by this Act, and in any case where the flow of any perennial public stream has not been distributed or appointed either under any agreement, whether such agreement be verbal or in writing, or by any other legal mode, it shall be lawful for the Water Court, upon application, in writing, of one or more of the owners of land adjacent to the said stream, to investigate all the circumstances and to make a fair and reasonable apportionment or distribution of the waters for irrigation or other purposes.

Procedure.

12. Due notice shall be given of such application, and a day shall be fixed therein for hearing on the spot any evidence or objections in respect thereto.

Mode of distribution.

13. Such distribution shall be, as far as possible, by time, and shall in addition to other relevant circumstances take cognizance of the irrigable and irrigated land belonging to each owner, and of the entire water supply naturally available from any source, and shall make provision in respect of unused water.

Terms of distribution to be in writing.

14. The term of any such scheme of distribution of water shall be set down in writing, and a copy of the order of the Court embodying such scheme shall be served upon every riparian owner whom the Court shall consider to be materially affected thereby.

Appeal to Supreme Court.

15. Within three months after receiving notice of any such order as aforesaid, any person affected by any such decision who may feel himself aggrieved may move the Supreme Court to set aside or vary such order, and the Supreme Court may make such final order as shall appear to it to be fair and reasonable, but failing such motion by any such person, or if the Supreme Court on such motion shall not discharge or vary such order, such order made by the Water Court shall be final and binding on all parties concerned and having notice, and the particulars of such order or of any 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 such orders refers, the cost of each registration to be borne in such manner as the Water Court or the Supreme Court, as the case may be, may direct.

Disputes as to use, diversion, &c., of water powers of Water Court.

16. In the event of any dispute arising within any water district 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 on receiving any application in such behalf, which shall be in the form prescribed by the regulations, the Water Court shall forthwith with the least possible delay fix a day for the investigation

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and hearing of the said dispute on the spot, and shall decide and make its order thereon.

Water Court may state question of law for opinion of Supreme Court.

17. If any Water Court in the discharge of its duty under this Act shall find that any question of law arises upon which it considers that the decision of the Supreme Court is necessary, it shall be lawful for such Water Court, after hearing the parties to the dispute or matter in the course of which such question of law arises, to state such question in a case in writing for the opinion of the Supreme Court, and shall forward the same to the Registrar of the Supreme Court, and the question in the case so stated may be answered by the Supreme Court or any judge thereof to whom the Supreme Court shall refer such case, and 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 such Water Court to send further particulars in writing before answering such question, provided that the jurisdiction by this section conferred shall, notwithstanding the provisions of section seven of this Act, be exercised by the Supreme Court only.

Application of law so laid down to be followed.

18. The Registrar shall convey to the Water Court concerned the answer of the Supreme Court or such judge, and the Water Court shall adopt and apply the law as so laid down for its guidance in making its order in such dispute or matter as aforesaid.

Reference of pending actions to Water Courts.

19. When any action with regard to water rights is pending in the Supreme Court, or any Circuit Court, it shall be lawful for such Court, in the exercise of the powers by any law conferred upon it for the reference of matters in issue in such Court to arbitration or a referee, or on application of either party to the said action, after the close of the pleadings therein, to refer all or any of the issues of fact raised on the said pleadings to a Water Court having jurisdiction: provided that the issue or issues of fact to be determined by such Water Court shall be stated in writing by the Registrar of the Court referring such issues.

Procedure thereupon.

20. The said Water Court shall thereupon make inquiry upon the spot or otherwise, and shall hear such evidence as may be tendered or as it shall think necessary to take, and shall then determine the said issue or issues of fact and shall report to the Court in which the action is pending its finding thereon, and such finding shall be conclusive of the issue or issues so referred, and shall be binding on both parties to the said action, and the costs of such reference shall be in the discretion of the Court referring such issue or issues, after considering the recommendation of the Water Court regarding such costs.

Supreme Court may require further evidence by Water Court.

21. Whenever in this Act provision is made for application by motion to the Supreme Court by any person interested in any order or decision of a Water Court it shall be lawful for the Supreme Court before making a final order upon such application

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to direct either that further evidence be taken by the Water Court or that further evidence be led before the said Supreme Court upon the points at issue in such manner and to such extent as may seem to it best calculated to do justice with as little cost as possible between the parties.

Advances to Irrigation Boards.

22. Notwithstanding the provisions contained in the second proviso to the fifty-sixth section of Act No. 8 of 1877, it shall be lawful for the Governor to make an advance by way of loan to any Irrigation Board constituted under the said Act to the extent of two-thirds of the value of security on which the advance is made.

23. All rates levied by any Irrigation Board under the powers conferred by Act 8 of 1877, or any Act amending the same, shall be a charge on the land in respect of which such rates are levied, and, in the event of any change of ownership, any rates that may be due or unpaid shall be a debt due by the incoming owner of such land to be recoverable in any competent court.

Rates levied by Irrigation Board charge on land.

24. Anything in section sixty-six of Act No. 8 of 1877, and of any other law to the contrary notwithstanding, it shall be lawful for the Governor to make advances by way of loan to an owner whose land is already mortgaged for the purposes and on the terms and conditions as regards repayment set forth in Act No. 8 of 1877 and the several Acts amending the same: provided that in making any such loan or advance the following conditions shall apply in addition to those already prescribed by any law:—

Loans to owners of land, conditions of.

(1) The application for the said loan must be accompanied by sworn appraisements by two competent appraisers showing the value of the land together with improvements thereon apart from the work in contemplation or progress, and also separately the improved value of the land if such work be completed.

(2) No such loan shall be granted for a sum which together with any previous mortgage or encumbrance shall exceed three-fourths of the value of the land apart from such work such value to be determined in case of difference by the average of the two appraisements.

(3) No such loan shall be granted unless the application shall be favourably reported upon by the Water Court having jurisdiction.

(4) The rent charge in respect of such loan if there shall be no pre-existing mortgage shall rank as preferent, and if the land in respect of which such loan is granted be already mortgaged, then and in that case the rent charge in respect of such loan shall rank next after such previous mortgage.

Short Title.

25. This Act may be cited for all purposes as the "Water Act, 1899."

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No. 41—1899.] [October 20, 1899.

ACT

To Amend the Municipal Act, 1882.

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 this Act "Municipality" shall include "Borough" or "Corporate Town," and "Council" shall mean the Council or Commissioners of any Municipality.

"Old street" shall mean any street or road which has been in existence for at least fifteen years before the date of the promulgation of this Act, and the maintenance of which has not been assumed by the Council or by any Divisional Council.

"Existing street" shall mean any street or road which has been in existence for less than fifteen years before the date of the promulgation of this Act, and the maintenance of which has not been assumed as aforesaid.

"New street" shall mean any street or road hereafter shown on any plan of subdivision submitted to and duly approved by the Council, and any street or road hereafter laid out and sanctioned in any other manner by the Council. The above shall include any part of an old existing or new street, as the case may be.

"Minister" means the Minister to whom the Governor may from time to time assign the working of this Act.

"Owner" means and includes

(*a*) The person or persons in whom from time to time shall be vested the legal title to any immovable property.

(*b*) In any case where the property has been leased for fifty years or upwards, the lessee of such property.

(*c*) In cases where the person in whom the legal title is vested is insolvent or dead, the person in whom the administration of such property is vested as trustee, executor, administrator or otherwise.

(*d*) In cases where the owner as above described is absent from the Colony, the agent or person receiving the rent of the property in question.

Construction of old streets upon petition.

2. In case the owners of more than one-half the property abutting upon any old street shall be desirous of having such old street constructed and shall petition the Council to that effect, the Council are hereby authorised and may well and sufficiently construct the same, either throughout the whole breadth of the carriage way or for any part of such breadth. Provided that in deciding whether the owners of more than one-half of the property abutting on the street have petitioned as aforesaid, the Council shall calculate the same according to the lengths of frontages in such street.

[1] Extended to Native Territories by Proclamation 106, 1904.

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Construction of old streets upon authority of the Minister.

3. Should the Council deem it expedient, in the interests of the municipality, to construct an old street in regard to which no petition such as is in the preceding section referred to has been received, it shall be lawful to the Council to apply to the Minister for authority so to do. Notice of such application shall be given by the Council to all the owners of property abutting on the street so proposed to be constructed, in such manner and at such time as the Minister may direct. Thereafter the Minister, after considering the objections, if any, lodged by such owners, shall decide whether or not it is desirable in the interests of the Municipality that such streets should be constructed. His decision shall be communicated to the Council; and if he decides in favour of constructing the street the Council shall have the same powers and authority to construct it as if a petition such as is referred to in the last preceding section had been received.

Specification for construction of old street.

4. Every old street dealt with under the provisions of the last two sections shall be constructed in accordance with a specification specially prepared by the Council; and in framing such specification regard shall be made to the requirements of the locality and to the amount of traffic likely to pass over such street, and the cost of such construction shall be borne half by the Council and half by the owners of property abutting on the street so constructed.

Liability of owners for construction of old street.

5. When the Council under the powers given them by the last three sections have constructed any old street, the owners of the land bounding or abutting on such street shall be liable for one-half of the expenses of the first cost of the same, and one-half of any such expenses including the cost of first construction at the points of intersection of streets and all other incidental costs and charges shall be apportioned by the Council according to the frontage of property abutting on such streets and the expenses so apportioned shall be recoverable from the respective owners and their successors in title in twenty-five annual instalments at the rate of six pounds ten shillings per centum per annum, which rate is calculated to cover repayment of principal and interest at four per cent. per annum, and the first instalment shall be payable forthwith after the apportionment of expenses has been made. Notice of the amount so apportioned shall be given to each present owner by registered letter or packet. The expenses so apportioned and all interest thereon subject to the provisions of section ten hereof shall be a first claim and charge upon the property abutting on the street against which it is apportioned, and shall be paid in preference to any debt, obligation or mortgage thereon by the owner thereof and his successors in title, and the instalments as they fall due shall be recoverable from the present or any future owner of the property against which they are apportioned in any competent court: Provided always that if any owner of property be desirous at any time of making a present payment of all instalments owing the Council

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shall grant to him a rebate in respect of the payment of instalments thereafter failing due.

Powers of Council, construction of existing new streets

6. The Council shall have the same powers with regard to the construction of an existing street or a new street which have by the second, third, fourth and fifth sections of this Act been conferred upon it in respect of old streets. But in the case of an existing street the cost shall be borne one-fourth by the Council and three-fourths by the owners of property, and in the case of a new street the entire cost of construction shall be borne by such owners. In all other respects the provisions of the said sections shall apply to the existing streets and new streets as well as to old streets.

Sale of property on sub-divided portions. Council's consent.

7. From and after the taking effect of this Act it shall not be lawful for any owner of property to sell such property in sub-divided portions without having first submitted a plan of such sub-division to the Council, and obtained the sanction of the Council thereto. And the Council may by regulations duly framed and published prescribe the procedure which shall be followed in submitting such plans for approval and in regard to the dealing of the Council with them.

Council's consent to construction, closing, &c., of street or road.

8. No street or road laid down on any plan already lodged, or which may hereafter be lodged, with the Council, shall be constructed, made, closed or deviated from by any company or person whomsoever without the consent of the Council first had and obtained; and in granting such permission the Council may impose such conditions as to it may appear requisite to safeguard the interests of the public: Provided that any person owning land on both sides of any such street or road as aforesaid may appeal from the Council's decision to the Minister, who, after inquiry, may decide the matter, and his decision shall be final.

Construction of footpaths.

9. In case the Council at any time desire to construct, kerb or gutter a footpath alongside any street or road in the Municipality including any Divisional Council road, it shall be competent for the Council to deal with such footpath as if it were an old street in regard to which the petition referred to in the second section hereof has been received; and the cost of so constructing, kerbing or guttering such footpath shall be apportioned and paid as if such footpath were an old street constructed by the Council.

Streets vested in Council.

10. Wherever the Council has constructed any old, existing or new street, such street shall thereafter be a public street vested in the Council.

Sub-soil of streets not to be removed.

11. No Company or person shall excavate remove or take away any sand, gravel, stone or subsoil from the site of any street or road or thoroughfare as shown upon any plan of subdivision of property within the Municipality which shall have been already lodged or may hereafter be lodged in the offices of the Municipality: provided that the section shall not apply where in the opinion of the Council no more sand, gravel, stone or subsoil

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is excavated, removed, or taken away than is necessary to level or form a foundation for the paving or metalling of any street, road or thoroughfare; and for every offence against the terms of this section every Company or person shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding twenty-five shillings for every day after the first, during which the offence is continued or during which any excavations shall be permitted to remain without the consent in writing of the Council, and such penalties shall be recoverable by the Council in any Court of competent jurisdiction.

Section 128 of Act 45 of 1882 not applicable to certain Municipalities.

12. Section one hundred and twenty-eight of Act 45 of 1882 shall not apply to any Municipality coming under the operations of this Act, and in lieu thereof the following shall be substituted:

Names of tenants to be furnished.

The Council shall have power by its officers to require owners of property within its Municipality to furnish the names of the tenants at least once a year and oftener if required, and the person or persons Company or Companies in whom shall be vested the legal title in or the occupier or occupiers of any immovable property on the 15th January of each year shall be liable to the said Council for the rates for the whole year or period for which such rates are levied.

Loan accounts to be kept separate.

13. The Council shall cause to be kept with their bankers a loan account separate and apart from the Council's ordinary current account and all moneys forming part of any loan incurred by the Council other than a temporary loan shall be paid into such account and be applied solely to the purposes for which the same was borrowed: Provided, however, that the Council shall at any time be entitled to use temporarily for other purposes of the Municipality any portion of such moneys not immediately required for use in connection with the purposes for which they were borrowed, if the amounts so used temporarily together with any overdraft then existing shall not exceed the income for the year ending on the last preceding 31st December, and if the Council by special resolution at a meeting of which not less than two-thirds of the Councillors are present shall concur in such temporary use for reasons to be set forth in such resolution.

Existing mortgages protected.

14. Nothing in this Act contained shall be taken to give the Council any preference over existing mortgages at the time of coming under the operations of this Act for expenses incurred by the Council under the third, fourth and fifth sections of this Act.

Execution of works.

15. All works executed by the Council under the authority of this Act may be executed either by means of its servants or through Contractors.

Vacant or waste Crown lands, regulations dealing with.

16. In the case of any Municipality within whose Municipal area there may exist any vacant or waste Crown Land the Council may, with the approval and during the pleasure of the Governor, duly frame and proclaim Regulations:

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(*a*) Dealing with the sanitary control of such lands, and the prevention of bush and grass fires thereon.

(*b*) Providing for the granting and issuing of Licences for the removal of stone, sand, clay, or gravel therefrom, and for pasturing stock thereon.

(*c*) Generally for the protection from trespass by persons and stock, and for the good government of such land.

Act not to apply until specially proclaimed.

17. This Act shall not extend to any Municipality or Corporate Town unless or until the Governor shall, at the request of the Council or Commissioners, issue a proclamation extending to such Municipality or Corporate Town, all or any of the Powers conferred by this Act: provided that no such proclamation shall be issued unless a resolution in favour of the extension of all or any of the powers conferred by this Act shall be passed by a majority at a public meeting of ratepayers or householders, who have the right to vote at such meeting, under the law under which such Municipality is constituted, such meeting being specially and duly convened for the purpose, and notice thereof having been given for the space of one month by advertisement in English and Dutch, where necessary, in some local newspaper: provided that any three ratepayers present at such meeting, and dissatisfied with the decision of the meeting, may there and then demand a poll, and such poll shall be taken in the manner provided for in sections one hundred and forty-eight, one hundred and forty-nine and one hundred and fifty of Act No. 45 of 1882.

Short Title.

18. This Act may be cited as "The Municipal Amendment Act, 1899."

No. 42—1899.] [October 20, 1899.

ACT

For the Protection of Wild [1] Birds.

Amended by Ord 5 of 1911 & 1923

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. For the purposes of this Act:

"Municipal Council" shall include the Commissioners or Council of any Municipality, Borough or Corporate Town and the Board of Management of any place in which the "Villages Management Act, 1881," is in force.

"Municipality" shall include Borough or Corporate Town and any place under the jurisdiction of a Village Management Board.

"Bird" shall mean any wild bird not included under the term "game" as defined by the "Game Laws."

[1] For Sea Birds see Sub-Section 6, Act 15, 1893 (p. 3155.)

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2. It shall be lawful for any Municipal or Divisional Council to petition the Governor to prohibit the destruction of birds within its municipality or division as the case may be; such petition shall set forth the kinds of birds in respect of which, the period for which, and the limits within which such prohibition is desired.

Petitions for protection of birds.

3. Upon the receipt of any such petition it shall be lawful for the Governor, by notice in the *Gazette*, and in a newspaper circulating in the district to prohibit the destruction of such birds as may be mentioned in such petition, for the period and within the limits therein mentioned; and by subsequent notices upon the receipt of similar petitions on that behalf, to revoke, amend, extend or contract such previous notice.

Prohibition of destruction.

4. If any person shall, within any limits in respect of which a notice prohibiting the destruction of birds has been published as aforesaid, pursue, catch, kill or shoot at any birds in contravention of the terms of such notice he shall be liable to a penalty not exceeding Five Pounds or in default of payment to imprisonment with or without hard labour for any period not exceeding one month, unless such fine be sooner paid.

Penalty.

5. This Act may be cited as "The Protection of Birds Act, 1899."

Short Title.

No. 43—1899.] [October 20, 1899.

ACT

To Amend the "Fish Protection Act, 1893."

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. The Governor may from time to time make, alter or revoke regulations for the delimitation of areas for fishing purposes, and for the prohibition or control of any mode or modes of fishing, or use of nets, trawls or other appliances in such areas, in any of the territorial waters of the sea surrounding the coasts and in any of the rivers of this Colony, and under the jurisdiction and control of Her Majesty the Queen in Her Colonial Government. And such Regulations, when published in the *Gazette* shall have the full force of law with regard to such areas or waters as are described in the enacting Proclamation, and any person who shall be guilty of a breach of such regulations so published shall be liable to a penalty not exceeding Twenty Pounds for each offence, and, in default of payment thereof, to imprisonment, with or without hard labour, for a period not exceeding three months.

Delimitation of areas for fishing purposes: regulations for control, &c.

2. The provisions of Act 7 of 1883, of Act 29 of 1890, and of this Act, shall not be held or deemed to apply to the Marine Biologist, or to any officer or officers duly appointed thereto

Marine Biologist exempted.

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who may be engaged under the Government in scientific or experimental work in connection with the development and control of sea or river fisheries.

Short Title.

3. This Act may be cited as the "Fish Protection Act, 1899."

No. 44—1899.] [October 20, 1899.

ACT

To Restrict the Employment of Children at Places of Public Entertainment.

Repealed by Act 25 of 1910

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:—

Employment of children under 14 years of age in certain occupations prohibited.

1. If any person having the custody, charge or care of any child under the age of fourteen years, causes or procures, or allows such child to be at any time in any street, or in any premises licensed for the sale of intoxicating liquor, or in premises licensed according to law for public entertainments, or in any circus, theatre or other place of public entertainment, excepting for church, school or charitable purposes, to which the public are admitted by payment, for the purposes of singing, playing or performing for profit, such person shall be liable to a fine not exceeding Twenty-five Pounds, or in default of payment to imprisonment with or without hard labour for any period not exceeding three months: provided that this section shall not apply in any case in respect of which a licence granted under this Act is in force, so far as that licence extends.

Licence to children over 10 to perform in public.

2. The Attorney-General may grant a licence for such time and during such hours of the day and subject to such restrictions and conditions as to him may seem fit, for any child exceeding ten years of age to take part in any entertainment or series of entertainments to take place in premises licensed according to law for public entertainments, or in any circus, theatre or other place of public amusement as aforesaid, if satisfied of the fitness of the child for the purpose, and if it is shown to his satisfaction that proper provision has been made to secure the health and kind treatment of the children taking part in the entertainment or series of entertainments, and the Attorney-General may upon sufficient cause, vary, add to, or rescind any such licence. Any such licence shall be sufficient protection to all persons acting under or in accordance with the same.

Inspection of such Licences.

3. The Attorney-General may appoint an officer and assign to him the duty of seeing whether the restrictions and conditions of any licence under this Act are duly complied with, and any such officer and every police officer in uniform shall have power at all reasonable times to enter, inspect and examine any place of public entertainment at which the employment of a child is for the

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time being licensed under this Act, and any person who shall interfere with or obstruct any such officer in the execution of his duties under this Act shall be liable to a penalty not exceeding Five Pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

Evidence of age.

4. When a person is charged with an offence under this Act in respect of a child who is alleged in the summons charge or indictment to be under any specified age, and the child appears to the Court to be under that age, such child shall for the purposes of this Act be deemed to be under that age, unless the contrary be shown.

Short Title.

5. This Act shall come into operation on the first day of February, 1900, and may be cited for all purposes as "The Infants Employment Act, 1899."

No. 45—1899.] [October 20, 1899.

ACT

To Authorise the Expropriation of Land for the purposes of Road Construction in the Districts of Xalanga and Elliot, Tembuland, in the Transkeian Territories.

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:—

Repealing clause.

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

Expropriation of land for road purposes.

2. It shall be lawful for the Governor, or any public body by him thereto authorised, at any time after the passing of this Act, to take or expropriate for the purpose of giving road facilities to landowners in the Districts of Xalanga and Elliot, Tembuland, in the Transkeian Territories, such land as may be deemed necessary for that purpose.

Power to take materials for roads from uncultivated lands.

3. It shall be lawful for the Governor to take, raise, and carry away, or cause to be taken, raised, and carried away, from uncultivated lands, without payment of compensation, such materials as may be deemed to be necessary for the making and repairing of all or any of the roads defined by Proclamation No. 120 of 4th April, 1898, and authorised by Act No. 36 of 1893; all or any of the roads, or rights of way mentioned in the report of Mr. A. G. de Smidt, dated 28th February, 1897, more fully described in its annexures marked B and C, and shewn on the plan attached to the said report; and any other roads or rights of way which from time to time the Governor may deem it necessary to establish.

Compensation for materials taken from cultivated lands.

4. Compensation in respect to the taking or expropriation of land, and of the taking, raising, and carrying away of material from cultivated lands for all or any of the roads provided for in section 3 of this Act shall be claimable in all cases in which

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such compensation would by law be claimable from a Divisional Council in this Colony in connection with the construction, maintenance, or repair of any Main or Divisional road, and:—

(*a*) In respect to the roads and rights of way specified in the report of Mr. A. G. de Smidt, such compensation shall be the amounts specified in the annexures B and C; and

(*b*) In respect to any roads or rights of way hereafter to be expropriated the amount of compensation shall be mutually agreed upon between the Government and the owners of the land affected, and in the absence of agreement the amount of compensation shall be determined by arbitration in manner provided by the "Lands and Arbitration Clauses Act of 1882."

(*c*) In respect of each road mentioned in Proclamation No. 120 of 4th April, 1898, the amount already paid and specified in the Schedule to this Act shall be the amount of compensation for the taking or expropriation of the land, and the taking, raising and carrying away of materials for the construction and repair of such road, and no further compensation shall be claimable by any person in respect thereto.

Compensation for rights of way.

5. The provisions of the fifth section of Act No. 36 of 1893, in so far as they provide for the payment of compensation by persons requiring rights of way, and for the selection of such rights of way by a Road Board are hereby repealed, and all compensation for such rights of way as may by the Governor be deemed necessary either in the District of Elliot, or in the district of Xalanga aforesaid, shall be paid by the Government.

Right of way declared a public road or *vice versa*.

6. It shall be lawful for the Governor, should it appear to him to be necessary, or at the request of any public body by him authorised thereto, or duly established by law, to constitute or proclaim any right of way contemplated by this Act to be a public road and, *vice versa*, to proclaim any portion of any road established under this Act to be a right of way: provided that notice of such intention shall be published in the *Gazette* once in each month for a period of three months, and once a week during six weeks in some newspaper published within the district, or if there be none such, in some newspaper circulating within the district; such notice to clearly describe the road or right of way affected, and the situation thereof; and to require any person objecting, to lodge with the Government within three months after the date of the posting or first publication of the first notice, his objections thereto in writing; which objections shall be duly considered before any further proclamation shall issue in regard to such road or right of way.

Existing roads and rights of way not interfered with.

7. All roads and rights of way established by virtue of Proclamation No. 120 of 4th April, 1898, or in accordance with the provisions of this Act, shall remain free and uninterrupted for the use of the public unless closed or altered by competent authority.

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8. This Act may be cited as "The Xalanga and Elliot Districts Public Roads Act, 1899." No. 45—1899. Short Title.

SCHEDULE.

XALANGA AND ELLIOT ROADS CONSTITUTED PUBLIC ROADS BY PROCLAMATION No. 120 OF THE 4TH APRIL, 1898.

Schedule showing Amounts of Compensation awarded by the Road Board constituted under Act No. 36 of 1893, with numbers and names of farms in respect to which, and names of persons to whom, compensation has been paid.

No. of Road.	No. on Map.	Farm. Name.	Name of Owner.	Compensation awarded. £ s. d.
1	226	Landula	Landula	12 10 0
2	110	Crinan	Herbert Francis McGregor ...	27 10 0
„	111	Lemoen Vley ...	Albertus Stephanus Johannes Venter	80 0 0
„	99	Navar	George Henry Smith ...	80 0 0
9	103	Crimora	Oliver Rosston Brown ...	63 0 0
„	78	Dornoch	Abraham Johannes van Niekerk	81 0 0
„	54	Uamh'-na'-chean ...	Johannes Hendrik van Rooyen...	59 0 0
„	51	Robdon	E. E. Dicks	53 10 0
„	35	Cnochfraing rem'g extent	J. J. Janse van Vuuren ...	40 0 0
„	35	Do. sub-div'd portion of	G. G. Marillier	20 0 0
10	108	Cluny	Theodore Talbot Robinson ...	33 0 0
„	108a	Badenoch	Edwin Cooper	40 0 0
11	200	Grootefontein ...	W. W. Liefeld	39 0 0
14	115	Palmietfontein ...	W. Whitemore	59 0 0
„	114	Nooitgedacht, portion of	John Mortimer Turvey ...	35 0 0
„	114	Do. remaining extent of	L. Myburgh	59 0 0
„	140	Block A	Robert Bagwell Barnett ...	49 0 0
„	142	Diura	Theunis Christoffel de Bruin ...	17 0 0
„	154	Tomar, rem'g extent of...	J. L. Pretorius	38 10 0
„	154	Do., portion No. 1 ...	Gerhardus Lourens de Kock ...	15 0 0
„	154	Do., do. „ 2 ...	David William Snodgrass ...	
„	154	Do., do. „ 3 ...	Do. ...	34 0 0
„	156	Rietfontein	Gerhardus Lourens de Kock ...	31 0 0
15	130	Benbegula	Gert Myburgh	27 10 0
„	129	Clachan	L. Myburgh	25 0 0
„	127	Funeray	James Henry Keevy ...	70 0 0
„	145	Firbolg	Do.	100 0 0
„	146	Duart	P. C. Bezuidenhout	36 0 0
16	266	Entwanazana ...	Abraham Stephanus Kruger ...	10 0 0
				£1,234 10 0

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No. 46—1899.] [October 20, 1899.

ACT

To Amend the Law relating to the Allotment of Agricultural Lands.

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:—

Sub-division of waste land assigned on commonage.

1. The Governor may from time to time sub-divide any waste lands assigned, under the provisions of Act No. 40 of 1885, commonly called "The Agricultural Lands Amendment Act, 1885," as commonage for the holders of allotments under Act No. 37 of 1882, commonly called "The Agricultural Lands Act, 1882," into lots equal in number to such allotments and available for sale to the holders of the same, and thereupon each such holder shall be entitled to purchase one lot of such subdivided Commonage land at an annual quitrent to be fixed for that purpose by the Governor, and subject to the conditions set forth in the fifth section of Act No. 15 of 1887, commonly called "The Crown Lands Disposal Act, 1887": Provided however that the expenses of the survey of such commonage lots and of the erection of beacons thereon shall be paid by the respective purchasers of such lots, and provided further that such annual quitrent may be redeemed in manner provided by Section two of Act 40 of 1895.

Purchase of lots on quitrent.

Short Title.

2. This Act shall be read as one with the "Agricultural Lands Amendment Act, 1885," and may be cited as the "Agricultural Lands Further Amendment Act, 1899."

No. 47—1899.] [October 20, 1899.

ACT

To Provide for Measures of Relief in respect of European Communal Allotments, in the District of Elliot, in the Territory of Tembuland.

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:—

Transfer of European Communal allotments, Elliot district.

1. From and after the promulgation of this Act, notwithstanding anything to the contrary contained in the sixth clause of the title deeds which have been issued to the lands commonly known as the "European Communal Allotments," at Gubenxa, Embokotwa, Cormor, Noah's Ark and Maxonga's Hoek, in the District of Elliot, in Tembuland, it shall be lawful for the Governor, upon application from the registered owner of any allotment in any of the abovementioned localities or his legal representative or representatives, to sanction the transfer of any such allotment to any person already holding not more than two allotments, provided that at least one such allotment shall adjoin the one to be transferred; and such person shall thereupon be entitled to receive transfer and to hold the said allotment in addition to the allotment or allotments already held by him.

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2. Where any of the Commonages set apart for the owners of the aforesaid allotments shall have been encroached upon by such owners or their lawful representatives, before the promulgation of this Act, the Governor may appoint a Board, to consist of the Resident Magistrate of the District, a qualified Government Land Surveyor, and a resident landowner, for the purpose of investigating and reporting upon the extent and nature of each encroachment; and thereupon it shall be lawful for the Governor, should any owner elect to remain in possession of the land so encroached upon by him, to grant to such owner such an extent of the Commonage, comprising the whole or a portion of the area encroached upon by him, as shall be recommended by the said Board; and such owner shall pay for the land so granted an annual quitrent not exceeding sixpence per morgen, the first payment to be made on the date on which the next annual payment of quitrent on the original grant held by the same owner becomes due, and thereafter on the same date of each succeeding year.

Encroachments on Commonages.

3. Should any such owner fail within nine months from the promulgation of this Act to elect to take title deed to the land encroached upon, or so much thereof as shall have been awarded to him under the provisions of the last preceding section, he shall, at the expiration of that period, cease to encroach on the commonage; and any immovable improvements effected on the land encroached upon shall be forfeited and become the property of the Government: provided that the said owner shall be permitted to reap any standing crops should they, at the expiration of the said nine months, be yet unfit for reaping.

Failure to take up Title Deeds.

4. The expenses of survey and title of the land granted in terms of the second section of this Act shall be borne by the grantee, and shall be payable in six equal annual instalments to become due on the date on which the quitrent on such land falls due, but the said grantee shall not be liable for the payment of any fees, charges or expenses incurred by the Board referred to in the second section of this Act.

Expenses of survey and Title Deed.

5. This Act may be cited for all purposes as "The Elliot European Communal Lands Act, 1899."

Short Title

No. 48—1899.] [October 20, 1899.

ACT (1)

To Amend the Law relating to the Registration of Parliamentary Voters.

Repealed by act 12/1918 sect. 147

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] In consequence of a state of war and martial law the provisions of Section 5 of this Act were rendered inoperative. An Indemnity Act 5, 1902 (p. 4356), was accordingly passed.

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Repeal of certain sections of the "Election Law Amendment Act, 1874," and the "Franchise and Ballot Act, 1892."

1. Section seventy-six of the Constitution Ordinance, sections two to thirty inclusive, and section thirty-six of the "Election Law Amendment Act, 1874," and sections twenty-eight, twenty-nine, thirty and thirty-one of the "Franchise and Ballot Act, 1892," with Schedule E to that Act, are hereby repealed, and from and after the taking effect of this Act all and singular the provisions thereof, save and except section thirty-three, and of the "Parliamentary Voters Registration Act, 1887," as amended by the "Franchise and Ballot Act, 1892," shall apply to the Electoral Division of Cape Town, save in so far as they may be inconsistent with so much of the "Election Law Amendment Act, 1874," as is not repealed hereby.

Repealed by Act 12/1918, Sect. 147

Meaning of term 'Field-cornetcy.'

2. The term "field-cornetcy" shall, for the purposes of this Act and of any other law relative to the registration of Parliamentary Voters, include:—

(*a*) Any portion of a field-cornetcy when only such portion is within one Electoral Division or any portion of a field-cornetcy which the Governor may proclaim a field-cornetcy for the purposes of this Act.

(*b*) Such area as the Governor may by Proclamation define in those parts of the Colony where field-cornetcies do not exist.

(*c*) Robben Island, the Municipality for the time being of Green Point and Sea Point, and each of the Districts for the time being into which the Municipality of Cape Town may be divided.

Repealed by Act 16 of 1914 see 11.

Registration of voters.

3. Notwithstanding anything to the contrary in the eighth section of the Constitution Ordinance contained,

Qualification by virtue of occupation.

(1) Occupation by any person within the Colony of premises of the required nature and value for the period of twelve months next before the day on which any registration of voters shall commence, and for the last three months of the said period within the Electoral Division for which such person claims to be registered, shall be a sufficient occupation, for the purposes of the eighth and ninth sections of the said Ordinance, or of any other law relating to the registration of voters.

Qualification by virtue of salary or wages.

(2) No person shall be entitled to be registered in respect of salary or wages under the said eighth section unless such salary or wages shall have been, for the period of twelve months therein prescribed, really and *bona fide* earned within this Colony, and unless either such salary or wages have, for the last three months of such period, been earned within the Electoral Division for which such person claims to be registered or such person has, for the said period of three months, resided within the said Electoral Division or such person has, at the time any registration shall commence, actually and *bona fide* taken up his residence in the said Electoral Division.

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Provided that a person who is qualified to be registered as a voter on the day on which any registration of voters shall commence shall not cease to be qualified by reason that such person shall take up his residence in another electoral division after such day.

Amendment Act 14 of 1887.

4. The fourth, fifth and sixteenth sections of Act 14 of 1887, called the "Parliamentary Voters' Registration Act, 1887," are hereby repealed, and the provisions of sections five to nine inclusive of this Act are hereby substituted in lieu thereof.

Period for biennial registration.

5. The next registration of voters shall commence and be undertaken not later than the last day of (1) February, 1901, and thereafter there shall be a biennial registration of voters, commenced and undertaken not later than the last day of February in the year next but one after the last preceding registration, and so on during each successive biennial period.

Repealed by Act 12/1918, Sect 147

Framing of provisional lists.

6. The Governor shall, whenever a fresh registration of Parliamentary Voters is required by law to be made, by proclamation in the *Gazette* enjoin and direct the field-cornet or in his stead some other fit and proper person or persons to make out in and for each field-cornetcy in each Electoral Division an alphabetical provisional list of all persons entitled to vote at Parliamentary Elections within such field-cornetcy. Upon the issue of such Proclamation the Civil Commissioner of every Electoral Division shall cause a notice, in substance in the form in Schedule C to the "Parliamentary Voters Registration Act, 1887," annexed, to be inserted in an English and Dutch newspaper, published or circulating within the said Division, and shall also cause such notice to be given in such other manner as he may deem best fitted for the purpose of general information.

Whom to be included.

7. It shall be the duty of every person appointed as in the last preceding section provided (hereinafter called the Registering Officer) in framing the list therein mentioned to insert therein:

All qualified persons on existing lists.

1. The names of all persons on the existing Register of Voters within his field-cornetcy, except the names of such persons, who, on the day upon which the registration of voters shall commence, to the best of his knowledge and belief.

Exceptions.

   (*a*) Are dead.
   (*b*) Do not reside or earn salary or wages in the said field-cornetcy.
   (*c*) Do not possess the qualification required by law.
   (*d*) Are subject to any disqualification.

Qualified persons not on existing lists.

2. The names of all persons not on the existing Register of Voters who, the Registering Officer is satisfied, possess the necessary qualifications to vote at Parliamentary Elections as provided by law, and
   (*a*) reside within his Field-cornetcy;
   (*b*) earn salary or wages within his Field-cornetcy.

(1) February, 1903. See Act 5, 1902 (p. 4357).

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Particulars to be set forth in list.

8. The Registering Officer shall set forth in the said list the christian name or names, if any, and the surname of each voter, the place where such voter resides, his trade, profession, or other description, and the nature of the qualification in respect of which he is registered as a voter; and when the qualification is in respect of wages or salary the name and address of the employer, and when in respect of occupation whether such voter occupies as tenant, owner or otherwise, and if as tenant whether as sole or joint tenant. The list so framed shall be dealt with in manner provided by [1] law for dealing with the lists framed under section five of Act 14 of 1887, provided that the lists framed for the Electoral Division of Cape Town, excluding that for Robben Island, shall also be posted or affixed in some public place within the Municipality of Cape Town.

Posting of list.

Alphabetical list of persons excluded from Voters' List.

Repealed by Act 12/1918 Sect. 147

9. The Registering Officer shall frame a separate alphabetical list of the persons referred to in sub-section one of section seven of this Act, and shall write opposite the name of each such person his reasons for excluding such person from the said provisional list, and shall post and affix such list at the same time and place as the provisional list is required by law to be posted and affixed. Such list shall be made out in the form in Schedule A of this Act.

Powers of Registering Officer to demand information concerning voters from officials.

10. In the performance of his duties every Registering Officer shall have the power and is hereby required to demand all necessary information from the Registrar or any Deputy Registrar or Assistant Deputy Registrar of Births and Deaths, member of the Police Force, or other person in the Public Service or from the Secretary of any Divisional Council, or the Clerk or other Officer of any Municipality or Village Management Board, which may enable him to identify any person, or to ascertain the residence of any person or to ascertain whether he is dead or has left the Field-cornetcy, or whether he is under any incapacity or is qualified or disqualified to be registered as a voter; and any person who, on being required by any Registering Officer to give any such information, shall wilfully omit or refuse or unreasonably delay to give all the necessary information in his power shall be liable to a penalty not exceeding Ten Pounds.

Penalty for refusing to furnish information.

Claims to be registered as a voter may be in duplicate.

11. Any person delivering to the Registering Officer any claim to be registered as a voter may tender such claim in duplicate, and it shall be the duty of the Registering Officer when a claim is so tendered to him, upon satisfying himself that the contents of the original and duplicate are alike, to retain the original and return the duplicate to the person who tendered it to him, having first signed the same and properly dated it.

[1] See Act 9, 1892, § 10 (p. 2974).

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Claims open to inspection.

12. All claims to be registered as a voter and lodged with the Registering Officer shall be open to public inspection, at the office or house of the Registering Officer, between the hours of ten in the morning and five in the afternoon of every day, excepting Sunday, for the period between the last day of sending in claims and the day fixed by the Registering Officer for hearing objections. Every claim in which the qualification is in respect of salary or wages shall state the name and address of the applicant's employer and that the amount of salary or wages earned by him is at the rate of not less than fifty pounds per annum every claim in which the qualification is in respect of occupation shall state whether the occupancy is as owner, tenant or otherwise and if as tenant whether as sole or joint tenant.

Particulars to be inserted in form of claim.

Registration Court may be held in places other than ordinary Court Room.

13. Notwithstanding anything to the contrary in the Franchise and Ballot Act, 1892, it shall be lawful for the Civil Commissioner to hold a Court for the purpose of revising, amending and settling the voters' lists at any place within the Electoral Division other than in his ordinary Court Room, in case distance and the number of claims or objections should be so great as in the opinion of the said Civil Commissioner to render it expedient to do so, and intimation thereof shall be given in the notice required by section twenty-two of Act No. 9 of 1892.

Repealed by Act 17/1918, Sect. 1+7

Appointment of a person other than the Civil Commissioner as Revising Officer.

14. It shall be lawful for the Governor, for the purposes of revising the list of voters for any Division, to appoint, in place of the Civil Commissioner of such Division, an advocate of the Supreme Court of not less than five years' standing, or the Civil Commissioner of some other Division, and the term "Civil Commissioner" shall, in the provisions of this Act, and of any other law relative to the revision of such voters' lists, include the person so appointed by the Governor.

Duties and powers of Civil Commissioners.

15. The Civil Commissioner shall, in revising the voters' lists, in addition to the powers already conferred on him by law, perform the duties and have the powers following:—

Name of person possessed of insufficient qualification to be expunged.

(1) He shall expunge the name of every person, whether objected to or not, whose qualification, as stated in any list, is on the face of it insufficient in law to entitle such person to be included therein, unless, after reasonable enquiry, the said Civil Commissioner shall be satisfied that such person does possess the necessary qualification, and that his qualification on the said list is wrongly described, in which case he shall rectify the qualification as described on the said list; provided that before expunging from a list the name of any such person, the Civil Commissioner shall cause fourteen days' notice of the proposal to expunge the name to be given or left at the usual or last known place of abode of such person.

Fourteen days' notice to be given to such person.

Names of deceased persons or aliens to be expunged.

(2) He shall expunge the name of every person, whether objected to or not, who is proved to him to be dead or

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to be an alien, provided the notice required in subsection (1) of this section be given to every such alien before his name is expunged.

Security may be demanded from objector.

(3) If he should deem it right and fitting so to do, before proceeding with an enquiry into the validity of any objection he may call upon the person objecting to furnish security for the payment of any costs that he may be adjudged to pay.

Notice to be given to person objected to.

(4) Before allowing any objection under section twenty-seven of the "Franchise and Ballot Act, 1892," disallowed by the Registering Officer, the Civil Commissioner shall give notice to the person objected to of the time and place when and where such objection will be heard by him.

Repealed by Act 12/1918, Sect. 147

Revising Officer may draw up statement of facts or state a case for a Judge in Chambers.

16. If the nature of any claim or objection be such that the Revising Officer is doubtful regarding the decision proper to be given upon it, it shall be competent for him to draw up a statement of facts, and such statement shall be signed by such Revising Officer in attestation of its correctness and be transmitted by him to the Registrar of the Supreme Court to be laid before a Judge in Chambers. The Revising Officer shall in like manner state a case for the decision of a Judge in Chambers at the request of any of the parties to any claim or objection, and such case when so stated shall be signed by the party at whose request it is stated as well as by the Revising Officer.

Procedure in such cases.

17. The Judge before whom any such statement as aforesaid shall be laid may, should the same appear to him defective, call for further information from the Revising Officer who transmitted it, and shall give such a decision as shall appear to him right and proper: Provided that it shall be competent for such Judge to refer any case so laid before him to the full court for its decision thereon, and every register of voters affected by such decision shall be deemed to be amended accordingly. The decision of such Judge or Court, as the case may be, shall be final and conclusive, and not subject to any right of appeal or revision.

Procedure in Revising Officer's Court.

18. The Civil Commissioner shall, in all matters connected with the revision of the voters' lists, give his decision in open Court, and shall write his initials against every name struck out by him from, or added by him to, any list, and against any part of any list in which any mistake has been corrected or omission supplied, and shall sign his name to every page of the list so settled, and shall then write or cause to be written at the foot or end of each list a certificate that the same has been revised and is correct, and shall date and sign such certificate.

Final lists.

19. The Civil Commissioner shall cause to be made out from the lists referred to in the next preceding section a complete final list according to the form in Schedule B annexed to this Act for each field-cornetcy in the Electoral Division, and shall forward

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such list when so made out to the Colonial Secretary's Office, and such list shall be and remain the list of registered voters for such field-cornetcy until a fresh list shall have been framed according to law.

Penalties.

20. If any Registering Officer, Civil Commissioner or other officer employed in or about the Registration of Parliamentary Voters shall be guilty of any wilful misfeasance, or wilful or gross negligence, either in commission or omission, in contravention of the provisions of the law, he shall be liable upon conviction thereof to a penalty not exceeding Fifty Pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding six months unless such fine be sooner paid.

Repealed by Act 12/1918, Sect. 147

Offences by officers employed in registration work.

21. If, in the opinion of the Minister, any Registering Officer, Civil Commissioner or other officer employed in or about the Registration of Parliamentary Voters has been guilty of any wilful act or default contrary to the provisions of the law, the Minister may, by writing under his hand, after calling upon any such officer to furnish any explanation he may think fit, personally or in writing, and, after considering such explanation, advise the Governor to declare forfeited under this section, the whole or any portion of the remuneration payable to such officer for services performed under the provisions of this Act.

Penalty for false declaration.

22. Every person who falsely or fraudulently signs any declaration either as claimant or witness in respect of any claim to be registered as a voter in a fictitious name, or in the name of any other person, whether that person is living or dead, or sends as genuine any false or falsified declaration, or who knowingly makes any false statement of fact in any declaration shall, on conviction, be liable to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a period not exceeding three years, or to both such fine and such imprisonment, and shall further be liable to the penalties incurred by any person found guilty of a corrupt practice as provided by section thirty-nine of the "Parliamentary Elections Act, 1883."

Offences relating to procuring registration.

23. Every person who shall by himself or any other person instigate, procure or attempt to procure or take part in procuring the registration of himself or any other person (*a*) as a voter in or for more than one field-cornetcy, or (*b*) as a voter knowing that such person has not the qualification required by law for such registration, shall be deemed to be guilty of the offence of personation and shall be liable to punishment accordingly.

Case where an appointed date falls on a holiday.

24. Whenever any day or date provided or appointed by or under this Act for any purpose shall fall on a Sunday, New Year's Day, Good Friday, Easter Monday, Whit Monday, Ascension Day, Queen's Birthday, or Christmas Day; or on any day appointed by Proclamation by the Governor as a solemn fast or day of thanksgiving, or as a public holiday under the "Public Holiday Act, 1889," or any other law; then such provision and

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appointment shall take effect as for the day next thereafter, which is not one of the before-mentioned days, and all further changes of time rendered necessary by any such alteration may be lawfully made.

Rules and regulations.

25. It shall be lawful for the Minister to make rules and regulations as to the days, hours, and places on and at which any Registering Officer shall attend at his office or offices for the purposes of this Act.

List not invalidated by reason of certain omissions.

26. No list shall be invalidated by reason that it shall not have been affixed in every place and for the full time hereinbefore required; but nothing herein contained shall be construed to exempt the Registering Officer or other person charged with the duty of publishing such list as aforesaid from the penalties of his neglect or wilful default.

Repealed by Act 12/1918 Sect 147

Rectification of omissions.

27. If through any accident or omission anything required by law to be done in the preparation or transmission of any voters' list is omitted to be done, or is not done within the time fixed by law, the Governor may order all such steps to be taken as may be necessary to rectify any such omission.

Voters' List, 1893, to be kept in Civil Commissioner's office for public reference.

28. The Civil Commissioner shall continue to preserve in his office, for the purpose of public reference and subject to inspection by any registered voter, the list of registered voters for his division, as it existed on the first day of January, 1893, supplied to him by the Colonial Secretary in pursuance of the thirty-third section of the "Franchise and Ballot Act, 1892."

One Registering Officer for Cape Town and Sea Point.

29. Notwithstanding anything to the contrary in the second and sixth sections of this Act contained, the Governor shall appoint one Registering Officer to frame the lists for the Municipality of Green Point and Sea Point and the districts into which, for the time being, the Municipality of Cape Town is divided, and also one registering officer for any Field-cornetcy which, for the purposes of this Act and any other law relating to the registration of Parliamentary Voters, is divided into two or more portions, each of which has been proclaimed a Field-cornetcy within the meaning of this Act, and such Registering Officer, when framing the said lists, shall, with the authority of the Colonial Secretary, employ a sufficient number of persons to assist him in framing the said lists, whose duties shall be prescribed by regulations to be approved by the Governor.

Amendment of "Parliamentary Representation Act, 1898."

30. Sections nineteen and (1) twenty of the "Parliamentary Representation Act, 1898," shall apply as if those sections were herein reinacted with the substitution of the word "Field-cornetcy," within the meaning of this Act for the words "Electoral Division" or "Division" wherever they occur in those sections.

Voting disqualifications of persons whose names are on the register.

31. Notwithstanding anything in section fifty of the Constitution Ordinance contained, it shall not be lawful for any

[1] Page 3910.

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person to vote although his name shall appear on the register of voters who

(*a*) Is not a British subject.

(*b*) Has been convicted of any crime which would disqualify him to be registered.

(*c*) Is incapacitated from voting at Parliamentary Elections on account of any personation or corrupt or illegal practice.

(*d*) Is a Minor or a declared lunatic,

and the votes of any such persons given at an election may be struck out by a Court on the trial of an election petition.

Marked copy of Voters' List and counterfoils to be in separate packets

32. Notwithstanding anything to the contrary in section forty-nine of the "Franchise and Ballot Act, 1892," contained, the marked copy of the list of voters and the counterfoils of the ballot papers shall be made up in separate packets.

Voters to vote in Field-cornetcy for which registered.

33. No person shall be competent or permitted to vote at any Parliamentary Election at any polling station outside the field-cornetcy for which he has been registered unless before voting he shall sign a declaration, forms of which shall be provided at every polling station, that he has not voted and undertakes not to vote at any other polling station. All such declarations shall be kept by the Polling Officer and forwarded to the Civil Commissioner of the division, and shall be open to inspection by the public at all reasonable times.

Repealed by Act 12/1918

Penalty for false declaration.

34. Any person who makes a false declaration under the last preceding section, shall be liable to the penalties in section twenty-two of this Act provided.

Licensed houses to be closed on polling day. Penalty for opening.

35. All bars, canteens, and bottle-stores within an Electoral Division licensed for the sale of liquor shall be closed on the day of polling between the hours of eight in the morning and six in the afternoon. Any person who shall keep open any such licensed place in contravention of this section shall be liable on conviction to the same penalties and forfeiture of licence respectively as are provided by law for selling liquor without a licence.

Penalty for impersonation.

36. Any person convicted of the offence of personation or of aiding, abetting, counselling or procuring the commission of that offence, shall be punished by imprisonment, with or without hard labour, for a period not exceeding two years, and shall further be subject to the incapacity prescribed by section thirty-nine of the "Parliamentary Elections Act, 1883."

Hours during which poll to be open.

37. Notwithstanding anything to the contrary in any law contained, the poll at any polling station in every Electoral Division shall upon the day appointed for taking the poll thereat open at eight o'clock in the forenoon and close at six in the afternoon.

Short Title.

38. This Act may be cited for all purposes as the "Registration of Parliamentary Voters' Amendment Act, 1899," and shall be read as one with the "Parliamentary Voters' Registration Act, 1887," and the "Franchise and Ballot Act, 1892."

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No. 48—1899.
Schedule A.

SCHEDULE A.

List of Persons on the existing Register of Voters within the Field cornetcy of ————————, in the Fiscal Division of ————————, and Electoral Division of ————————, whose names the Registering Officer has omitted from the New Provisional List of Voters for the reason set opposite each person's name in the said List:

Number in existing Register.	Christian and Surname in full.	Trade, Profession or other description.	Qualification.	Situation of Property in respect of which qualification exists.	Reasons for omitting from Provisional List.

Registering Officer.

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No. 48—1899.
Schedule B.

SCHEDULE B.

REGISTRATION OF VOTERS.

FINAL LIST.

List of Persons registered as Voters. [*First Page.*]

FIELD-CORNETCY OF ————————————

ELECTORAL DIVISION OF ————————————

Electoral Roll of Persons registered in the Field-cornetcy of ———————— as qualified to Vote for the Election of Members of the Legislative Council and House of Assembly for the Electoral Division of ————

Dated this ———— day of ————————

Civil Commissioner.

No.	Surname in full.	Christian Names (if any) in full.	Profession, Trade, or other description.	Qualification.	Situation of Property in respect of which qualification exists.	Race Distinction.	Name and Address of Employer in case of salary or wages qualification.

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No. 1—1900.] [July 28, 1900.

Repealed by Act. 25 of 1934

ACT

To Apply a further Sum not exceeding Two Hundred and Forty-four Thousand Seven Hundred and Sixteen Pounds Sterling for the Service of the Year ended the 30th June, 1900.

[Spent.]

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No. 2—1900.] [July 28, 1900.

ACT

To Apply a Sum not exceeding One Million Pounds Sterling towards the Service of the Year ending the 30th day of June, 1901.

[Spent.]

No. 3—1900.] [September, 1900.

ACT

To Give effect to the Will of the late John Mealey dated 7th July, 1897.

Preamble.

WHEREAS in the year 1877, one John Mealey and his wife Eliza Jane Mealey did adopt an orphan girl named Ellen Amelia Griffin, then about five years of age, who thereupon was given and thereafter bore the name of Ellen Amelia Mealey but was usually called and known as "Nellie Mealey."

And whereas by virtue of such adoption as aforesaid the said John Mealey thereupon assumed the position of a father to the said Ellen Amelia Griffin (or Mealey) and continued to stand towards her in such position until his death, as if he had been her lawful father, and as though she had been born to him of his marriage with his wife aforesaid.

And whereas the said John Mealey who died on the 22nd day of March, 1898, and his aforesaid wife who pre-deceased him on the 28th day of October, 1893, left no child or other descendant him or her surviving.

And whereas the said John Mealey in his lifetime believed himself to be, and always stated that he was, without any living relative, next of kin, or heir-at-law, and none of such were ever known or heard of, and whereas no next of kin of the said John Mealy have since his death made themselves known, or have been traced or discovered.

And whereas on the 7th day of July, 1897, the said John Mealey did with his own hand in writing make his last holograph will, a copy whereof forms the schedule hereto.

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No. 3—1900

And whereas the said will is written on three leaves and is signed by the testator, the said John Mealey, at the foot or end thereof on the third leaf, in the presence of two witnesses who there have also signed in attestation of his signature in conformity with law, but the second leaf does not bear the signature of the said testator and the first and second leaves do not bear the signature of the attesting witnesses.

And whereas the said will was after the death of the said John Mealey filed in the Office of the Master of the Supreme Court, but by reason of the informalities in the execution thereof, as set forth above, the said Master declined to recognise the said will as of any legal validity, and did appoint one Alan Bell Gordon of King William's Town to be the Executor Dative of the Estate of the said late John Mealey in order to administer the said estate "ab intestato."

And whereas the aforesaid Ellen Amelia Griffin (or Mealey), with the assistance of her husband James Robb, of Dordrecht, to whom she had been married without Community of Property on the 29th day of September, 1898, did thereupon institute an action in the Supreme Court of this Colony, as Plaintiff, against the Executor Dative appointed by the Master of the Supreme Court as aforesaid, as Defendant, in order to have it declared that the aforesaid holograph will was privileged and good and valid as the last will of the said late John Mealey in so far as in and thereby any benefits were conferred upon her, and for other relief.

And whereas the said Supreme Court by its judgment dated the 8th day of February, 1899 did order and declare that the said will was invalid, that it was not a privileged will, and that no relief could be granted to the said Plaintiff.

And whereas in default of any next-of-kin claiming the aforesaid estate the same will after the lapse of forty years become by law forfeited to the Crown.

And whereas the Government have agreed to waive the aforesaid right of forfeiture and to forego all claim to the said estate.

And whereas it is desirable that the aforesaid will of the said late John Mealey should be given effect to, and the estate of the said late John Mealey administered according to his intentions as expressed by him in the said will.

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:—

Estate to be administered in terms of will.

1. Subject to the provisions of the succeeding sections of this Act, the Estate of the late John Mealey of King William's Town, who died on the 22nd March, 1898, shall be administered by the Executor Dative appointed by the Master of the Supreme Court, according to the intentions of the said John Mealey as expressed by him in his last holograph will bearing date the 7th day of

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July, 1897, a copy whereof is set forth in the schedule hereto. And the said Executor shall in every respect give effect to all the provisions of the said will in the same manner as if the said will had been *ab initio* valid and of legal force and effect.

Security be given by legatees against claims by next-of-kin.

2. Ellen Amelia Robb (born Griffin) adopted daughter of the aforesaid John Mealey, now married without Community of Property to James Robb, of Dordrecht, shall together with such other legatees under the aforesaid will of the late John Mealey as may be willing to accept their legacies on the conditions herein set forth, lodge or cause to be lodged with the Master of the Supreme Court, good and sufficient security to the satisfaction of the said Master for the re-payment of the value of the property or of the sum awarded to them respectively in terms of the said will, to such next-of-kin of the said late John Mealey as may establish his, her, or their claim or claims thereto.

Act only applicable to such legatees as give security.

3. In the event of any of the legatees under the said will declining or failing to give or to join in giving the aforesaid security, his, her, or their legacy under the said will, or the subject matter thereof, shall be dealt with as if this Act had not been passed.

Amount of security.

4. Such security as aforesaid shall be for an amount equal to the value of the property or sum, awarded in terms of the said will, at the time of the decease of the said late John Mealey as declared by the valuation of a sworn appraiser to the Master of the Supreme Court.

Duration of security.

5. The said security shall endure and remain in force for a period of Seven years calculated from the date of the death of the said late John Mealey, that is to say until the 22nd day of March, 1905, at the expiration of which period the said legatees shall be absolved from their said liability.

Executor Dative authorised to administer estate.

6. The Executor Dative authorised to administer the said estate in terms of this Act shall be Alan Bell Gordon of King William's Town, but nothing herein contained shall be taken to prevent the Master of the Supreme Court from appointing another Executor or other Executors, in his place and stead, should the said Alan Bell Gordon die, refuse to act, be removed from his office as such Executor Dative, or in any other manner be or become incapable of carrying out his trust.

And may assume a joint executor.

7. The said Executor Dative shall be authorised to assume another Executor or Executors to act jointly with him, and the Master of the Supreme Court shall issue Letters of Administration to such assumed Executor or Executors.

Executor not to administer estate until security given

8. The said Executor Dative, or any other person or persons appointed in his place, or any assumed Executor or Executors, shall not enter upon the administration of, or in any way deal with, the said estate, in terms of this Act, until and unless the aforesaid security by any legatee shall have been duly given to and accepted by the Master of the Supreme Court.

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Act to lapse if security not given.

9. Should the said security be not duly given, accepted, and completed within Six months from the passing of this Act, all and singular the provisions of this Act shall lapse, become inoperative, and of no effect, and the Master of the Supreme Court shall be authorised to cause the estate of the said late John Mealey to be administered "ab intestato" as if this Act had not been passed.

Short Title.

10. This Act may be cited for all purposes as "The Mealey Will Act, 1900."

Schedule.

SCHEDULE.

SECTION 1.—This is the last will and testament of me, John Mealey, of King William's Town, Cape Colony, made this Seventh day of July, 1897, and I herewith appoint William Townsend Randall and my adopted daughter, known from childhood as Nellie Mealey, as my Executors to administer this my said estate, and by this I declare as my express wish and desire, that no inventory shall be required or lodged with the Master of the Supreme Court or that the Master shall in any way interfere with this said estate.

2.—I bequeath to my above said adopted daughter Nellie Mealey, the two erven of ground in Downing Street, being Lots Nos. 30 and 31, with all buildings thereon save and except an iron covered lean-to shed on the extreme back of the erven, it having been erected by Mr. George E. Cook, and which he may remove at his pleasure, he making good the fencing with roofing iron.

I also give her two erven of ground in Alexandra Road, being Erf No. 1 and Erf No. 3 of Block R, with all buildings and erections thereon, I do not will, but my desire and wish is, that these be not sold during her lifetime, but that one of the properties in Alexandra Road be used for her dwelling house, and the other above mentioned properties be reserved for the purpose of giving her a monthly rental. These properties are to be kept in a good state of repair and to be constantly insured against fire. Notwithstanding my above said will and desire should there be any absolute necessity for any of these properties being sold during her lifetime, such as her permanently leaving the Colony or for any other cause arising, which by her selling would be a benefit to herself or her children (having any) she may with the advice of her fellow Executor sell one or more of the properties, but should he not at the time be living she will be at liberty to act upon her own responsibility, keeping in mind that which she may do must be for her own benefit and that of her children.

3.—With regard to the property in Alexandra Road I hereby give notice, that the boundary fence between erven 1 and 2 of

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Block R stands above five feet on erf No. 2, and is to be returned to the owner of erf No. 2, said owner to be at the expense of removing the fence to its proper boundary should the owner so wish.

4.—Should my said adopted daughter marry the marriage must be by Ante-nuptial Contract, and having at the time of her death any children and her not having made any Will the father will hold in, or dispose of the said properties for the best benefit of the children.

5.—Having a husband or children, my said adopted daughter may not pass transfer of any of the said properties to either of them, to be held by them, during her lifetime.

6.—If my adopted daughter should die being unmarried or being married and not having any children, she may will these named properties in any way she may desire, but should a will not be made by her, I ordain that the said properties be sold and the proceeds be equally divided between her eldest sister (now Mrs. Osterroth, of London), and her brothers John and Ernest Jesse Griffin.

7.—At the request and on behalf of my dear departed wife, I give to the constituted authorities of the Wesleyan Methodist Church, the house with the ground attached, being Erf No. 2, Block R, Alexandra Road, said property to be used for a married, or unmarried minister, or it may be at the option of the said authorities, be let at a rental, if the latter, said rental to go to the Wesley Church Poor Fund of the town, or for other church purposes.

The house and ground must be reserved, and cannot be sold.

8.—I bequeath to the Committee of the Ladies' Benevolent Society of this Town the erf of ground being Lot No. 15, Catherine Street, with the cottage thereon to be held in perpetual trust as an Almshouse for the aged poor of the town with the perfect understanding that the committee remain as it now is, namely, formed from the churches in the town as it is at present, and here I express the hope that the Committee will add a cottage or two from funds collected by them for said purpose. Should the said Ladies' Benevolent Society cease to exist and the charity not assume another form for like benevolent purposes, I will that the said property be handed over to the Wesleyan Church in this Town for the benefit of the poor of said church.

PERSONAL ESTATE.

9.—I give to the Committee of the Ladies' Benevolent Society in this town the interest only of £200 (two hundred pounds), said £200 can be deposited by said Committee in the Government Post Office Savings Bank, or other safe security on interest, the interest to be used for the benefit of the poor of the town, but should the Committee build as suggested in section 8 of this will

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they may reduce the principal by £20 for every £100 collected by them for building almshouses on said erf of ground or elsewhere in the town, but for no other purpose can the principal be interfered with.

10.—I give to my adopted daughter Nellie Mealey the sum of £500 (five hundred pounds), and also 106 shares in the United Boating Company, at East London, of the value of one pound each share. I also give her the whole of my furniture with all and every other of my goods and effects not otherwise disposed of by me.

11.—I give to Ernest Jesse Griffin, brother of my adopted daughter, the sum of £200 (two hundred pounds), and 60 paid up shares of £5 each, said shares are African Banking Corporation Banking ones.

12.—I give to Mrs. Osterroth, sister of my adopted daughter, £60 (sixty pounds sterling).

13.—I give to Mr. William Townsend Randall, as executor of this estate, £100 (one hundred pounds).

14.—I give to Miss Winifred Tudhope £50 (fifty pounds), out of regard for her companionship with us all from her early childhood, that she may in her own good time provide herself some token in remembrance of us.

14.—I give £300 (three hundred pounds) to the Quarterly Board, or other constituted authority of the Wesleyan Methodist Church of this town, to be invested on interest or for the purchase of Government certificates in the Savings Bank of the Colony, or other safe security, said interest to be used for the maintenance of the Poor Fund of said church, the investment or deposit to be made in the name of Poor Fund of the Wesleyan Methodist Church, King William's Town, and the deposit vouchers to be held by the Quarterly Board, said interest is to be withdrawn in such a manner as not to disturb the "principal," and the interest to be expended upon the poor of the church only, and alike on church members and regular and consistent adherents the principal in whole or in part cannot be expended.

16.—I give £100 (one hundred pounds) to the Orphanage of the Roman Catholic Church in King William's Town.

17.—For the purpose of keeping the enclosure in good order wherein my dear wife is interred, I leave the sum of £100 (one hundred pounds) to purchase a Government certificate, the interest of which is to be used as required for the payment of said service, I requesting the Burial Board will accept the certificate and undertake the oversight of the said enclosure.

18.—The residue of all moneys (if any) after all legacies have been paid I leave to my said adopted daughter in Trust, to distribute to distressed widows and orphans and other charities at such times and in such amounts as she shall in her uncontrolled discretion see fit.

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19.—All my personal property to be free of legacy duty if possible, and if it is further possible, real estate to be free of duty also.

Lastly, I declare this to be my last will and testament, containing nineteen separate sections, whereto I set my hand the day, month and year first written in the presence of the subscribing witnesses.

JOHN MEALEY.

In the presence of John Mealey and in the presence of each other we subscribe our names as witnesses. J. J. BUCKLEY.

A. H. DAY.

No. 4—1900.] [September 28, 1900.

ACT

To Amend the Act (1) No. 17 of 1898, being the "Cape Flats and Suburban Railway Syndicate's Act, 1898."

Preamble.

WHEREAS by the thirteenth section of the "Cape Flats and Suburban Railway Syndicate's Act, 1898," it is provided that the railway contemplated thereby shall be completed within two years from the date of the first commencement of the works thereof, and that unless the said railway shall be commenced within two years of the taking effect of the said Act the powers conferred thereby shall cease and determine;

And whereas it has been found impracticable to proceed with and complete the construction of the said railway as above provided;

And whereas it is expedient to extend the time within which the said railway shall be constructed and completed;

Now, therefore, be it hereby 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:—

Extension of time within which railway is to be constructed and completed.

1. The said thirteenth section is hereby amended so as to read that the construction of the said railway shall be proceeded with and completed within two years from the taking effect of this Act, so that the said railway may be opened for the public conveyance of goods within the said period, provided that unless the said Company shall complete the said railway within the said period of two years from the said date, all and singular the powers and authorities conferred by the said "Cape Flats and Suburban Railway Syndicate's Act, 1898," and this Act shall cease and determine.

Short Title.

2. This Act may be cited for all purposes as "The Cape Flats and Suburban Railway Syndicate's Amendment Act, 1900."

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[1] Page 3899. See also Act 14, 1904 (p. 4661).

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No. 5—1900.] [September 28, 1900.

ACT

To Apply a further Sum not exceeding Six Hundred Thousand Pounds Sterling towards the Service of the Year ending the 30th day of June, 1901.

[Spent.]

No. 6—1900.] [October 12, 1900.

(1) ACT

To Indemnify the Governor of this Colony, and the Officer Commanding Her Majesty's Forces in this Colony, and all persons acting under their authority and in good faith in regard to acts during the existence of Martial Law; to provide for the trial and punishment of those persons who have taken up arms against Her Majesty the Queen or otherwise assisted Her Enemies; and to make certain provisions in regard to compensation to persons who have sustained direct loss and damage through military operations or through the acts of the Enemy or of Rebels.

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:—

CHAPTER I.

Indemnity for Acts done for the Public Safety.

Indemnity for certain acts.

1. 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 Her Majesty's Forces in this Colony, or against any person or persons acting under them or either of them respectively, in any command or capacity, civil or military, for or on account or in respect

[1] The Special Courts established under this Act were abolished by Act 35, 1904 (p. 4764).

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No. 6—1900.

of any acts, matters and things whatsoever in good faith advised, commanded, ordered, directed or done as necessary for the suppression of hostilities in, or the maintenance of good order and government, or for the public safety of this Colony between the date of the commencement of a state of war between Her Majesty's Government and the Governments of the South African Republic and the Orange Free State and the date of the taking effect of this Act, shall be discharged and become and be made void.

Certain persons indemnified.

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

Presumption of good faith.

3. 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.

Sentences pronounced by certain Courts Martial or Military Courts confirmed.

4. 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, during the existence thereof, upon persons, not ordinarily subject to Military Law, tried by such Courts for acts of High Treason, are hereby confirmed; and all such persons confined in any prisons or other legal places of confinement in this Colony, under and by virtue of such sentences, shall continue liable to be confined there or elsewhere as the Governor may direct until the expirations of the sentences respectively passed upon them or until their discharge by lawful authority, and such sentences shall be deemed to be sentences passed by duly and legally constituted Courts of this Colony, and shall be carried out or otherwise dealt with in the same manner as the sentences of the Courts of Law of this Colony.

Governor may alter Sentences by Courts Martial or Military Courts into sentences under section 50.

5. In all cases of convictions for High Treason or for crimes of a political character during the period specified in Section One of this Act, whether such convictions have taken place before Courts Martial or Military Courts constituted, convened and held as in the last perceding section set forth, or whether they have taken place before the ordinary Criminal Courts having jurisdiction over them, it shall be lawful for the Governor, should he consider that any such case would, had it been dealt with after the taking effect of this Act, have been a case proper for the consideration of the Commissioners appointed under Section Thitry-three hereof, to order that the sentences imposed upon such persons shall be altered into the sentence laid down in Section Fifty of this Act. The person affected by any such sentence shall thereupon become liable to suffer the penalty imposed by the said Fiftieth section and no other. Provided always that it shall be

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lawful for the Attorney-General to demand from and to receive from any person having the custody of the same any records or documents connected with any such conviction or sentence.

Persons arrested for High Treason in districts under Martial Law to be deemed to have been lawfully arrested.

6. All persons who have been, in good faith and under proper authority, arrested for High Treason in any of the districts in which Martial Law has been proclaimed, and during its existence, and all persons who in such districts have been similarly committed to gaol and are there detained to await their trial for High Treason, 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.

Recognizances taken in districts under Martial Law to be of full force and effect.

7. Every recognizance, whether taken by a Magistrate or any other person, in any district in which Martial Law has been proclaimed, and during its existence, upon which a person accused of High Treason has been admitted to bail shall be and is hereby declared to be of full force and effect.

CHAPTER II.

Establishment of Special Court for the Trial of Persons charged with High Treason and Crimes of a Political Character.

Special Court established for trial of cases of High Treason and crimes of a political character.

8. It shall be lawful for the Governor, by proclamation in the *Gazette*, to appoint three persons who shall constitute a Special Court for the purpose of trying all cases of High Treason and all cases of crimes of a political character, committed before or within six months after the passing of this Act, which shall be brought before it in manner hereinafter provided.

For all purposes of this Act a crime of a political character shall mean any crime in the opinion of the Attorney-General incidental to, and forming part of, political disturbances whether committed by an insurgent or by any member of any force at the time serving Her Majesty.

Constitution of Court.

9. Two at least of the members of the said Court shall be Judges of the Supreme Court of this Colony, and the third shall be either such a Judge or a Barrister-at-Law or Advocate of the Supreme Court, Eastern Districts Court or High Court of Griqualand of not less than ten years' standing who at the date of the passing of this Act was duly practising as such Advocate in this Colony, and who is not a Member of either House of Parliament. That member who shall be the senior Judge of the Supreme Court shall be the President of the said Special Court.

Governor may appoint substitute for Judge. Quorum of Superior Courts.

10. It shall be lawful for the Governor, should he deem it necessary so to do, to appoint some fit and proper person to act for and in the place of any such Judge as aforesaid during the whole or any part of the time that such Judge may be engaged in the discharge of his duties as a Member of the said Special Court, notwithstanding anything in the fourth section of the

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No. 6—1900.

Charter of Justice or any other Law. And during the existence of the said Special Court one Judge shall be sufficient to constitute a quorum in the Court of the Eastern District, the High Court, and in the Supreme Court, anything in the Act No. 35 of 1896 or any other Law to the contrary notwithstanding.

Remuneration to Members of Court.

11. There shall be paid to each of the members of the said Court for travelling and maintenance expenses such sum as the Governor may approve of, and that member who is not a Judge of the Supreme Court shall be paid in addition for his services such remuneration as the Governor may deem meet. All payments under this section shall be made out of money voted by Parliament for that purpose.

Vacancies.

12. In case any member of the said Court shall die, become incapacitated, resign, or be absent from the Colony, it shall be lawful for the Governor to appoint some other duly qualified person as a member thereof in the place of the member who has died, resigned, become incapacitated, or is absent from the Colony, and the person so appointed shall thereupon become, for the term of his appointment, a member of the said Court.

Powers of Court.

13. All cases of High Treason and of crimes of a political character, whether committed before or after the taking effect of this Act, in which the Attorney-General shall indict, shall be tried by the said Special Court, without a Jury; and the said Court shall, in hearing and determining any such case, or any proceedings in connection therewith, be vested with the same powers, jurisdiction and authority in all respects as the Supreme Court of this Colony or any single Judge thereof has in the exercise of the ordinary criminal jurisdiction of such Court in hearing and determining criminal cases and proceedings in connection therewith, as well as with the functions of a Jury, save that a verdict of the majority of the members shall suffice: Provided, however, that it shall be competent for the said Court upon an indictment for High Treason to convict the accused of any crime of a political character.

Jurisdiction of Court.

14. The jurisdiction vested in the said Special Court by the last preceding section shall include all powers, rights and privileges of the Supreme Court or any single Judge thereof, in respect of the following matters:—

(*a*) The enforcing the attendance of witnesses and examining them on oath;

(*b*) The compelling the production of documents;

(*c* The compelling the disclosure and production in evidence of telegraphic or cable messages; and

(*d*) The punishing the persons guilty of contempt:

and a summons, signed by the Registrar of either the said Special Court or the Supreme Court may be substituted for, and shall be equivalent to, any form of process capable of being issued in any criminal proceeding for enforcing the attendance of witnesses or compelling the production of documents.

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A warrant of committal to prison issued for the purpose of enforcing the powers conferred by this section shall be signed by the President of the said Court and shall specify the prison to which the offender is to be committed, and the gaoler of the said prison shall be compelled to receive such offender into gaol in terms of the said warrant.

Sentences of Court.

15. In all trials and proceedings in connection therewith before the said Special Court, other than proceedings within the jurisdiction of a single member thereof in Chambers, the three members shall sit, and a decision of the majority of them shall be deemed and taken to be the judgment of the said Court, and the said Court shall have power to pass any sentence upon any person convicted by it which a Judge of the Supreme Court might have passed had such person been convicted after trial before him and a Jury; and any sentence passed by the said Special Court shall have the same effect in every respect and be followed by the same legal consequences and be carried out in the same manner as if it had been a sentence passed by a Judge of the Supreme Court in a matter over which he had jurisdiction; provided that if any case tried by the Special Court is in the opinion of the majority of its members one which might properly have been dealt with by the Commissioners mentioned in Chapter III. of this Act, the said Court shall thereupon deal with such case in like manner in all respects as the said Commissioners might have dealt with the same, and shall have and exercise all the powers conferred on the said Commissioners by Section Fifty of this Act.

Any conviction or acquittal by the Court to be a bar to further criminal proceeding on the same charge.

16. Any conviction or acquittal by the said Special Court shall be a bar to any criminal proceeding against the person convicted or acquitted in any other court on the same charge as that on which such person was convicted or acquitted or on any charge arising out of the same facts.

Court may sit in any district of the Colony.

17. It shall be lawful for the said Special Court to sit, for the purpose of trying persons indicted therein or hearing proceedings in connection therewith, in any place in any district of this Colony. At least two weeks' notice shall be given in the *Gazette*, and in some newspaper published in the said district and when no newspaper is so published then in some newspaper circulating in the district, of the holding of the said Court therein, specifying the place and time thereof: Provided however that the Court shall have power to sit in any place in this Colony without notice for the purpose of duly dealing with any matter other than the trial of any accused persons.

Law to be applied.

18. The said Court shall adjudicate upon and determine all matters within its jurisdiction in accordance with the law administered by the Supreme Court of this Colony, save so far as expressly varied by this Act. An appeal shall lie to the Supreme Court at the instance of any convicted person from any decision, whether depending on questions of law or of fact, which has been arrived at not unanimously but by a majority only of the said

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Special Court. In dealing with every such appeal the Supreme Court shall have all the powers conferred upon the Special Court by this Act as well as the powers which it may exercise under the ordinary law in respect of criminal appeals from inferior tribuuals: Provided that within four days next after such conviction written notice shall be given by or on behalf of the person convicted to the Registrar of the Special Court of his intention to appeal: and provided further that every such appeal shall be prosecuted within forty-two days after the date of such notice unless upon application to the Supreme Court further time be allowed. If not so specified and prosecuted such appeal shall lapse. And when any such appeal is made, the provisions of the forty-seventh section of the Act No. 20 of 1856 in regard to the execution of any sentence and the circumstances under which it may be suspended shall *mutatis mutandis* apply to any sentence so appealed against. Save as aforesaid the judgments and orders of the said Court shall not be subject to appeal to or review by any other Court.

Sittings to be in public. Rules and orders.

19. The said Court shall hold its sittings in public, and until otherwise ordered by any rules to be made in pursuance of this Act, the practice, form and manner of procedure and rules of evidence in all cases pending before it shall be according to the laws and rules for the time being regulating the practice, form and manner of procedure and rules of evidence in criminal trials in the Supreme Court of this Colony.

Supreme Court Rules as to forms and service of indictment to be applied.

20. All prescutions in the said Court shall be in the name of Her Majesty the Queen, upon indictment signed by the Attorney-General, and shall be intituled "In the Special Court established by Act.....to be holden at....."; and the rules of the Supreme Court relative to the form and service of indictments, summonses and notices of trial shall apply, *mutatis mutandis*, to indictments, summonses and notices of trial in the said Special Court, and the process of the said Court for summoning the defendant to answer to any indictment shall be the same and shall be served as if it had been an indictment and summons in the Supreme Court. An indictment under this Act may be in the form set forth in the first schedule to the Act, or in any form to the like effect, provided that the said summons may be signed either by the Registrar of the Supreme Court, or by the Registrar of the Special Court, and that notices of trial may be signed either by the Attorney-General, or by his Chief Clerk.

Cases where preliminary investigations have taken place.

21. In all cases of High Treason or crimes of a political character in which preliminary investigations have been taken at the direction of the Military Authorities in districts in which Martial Law has been proclaimed, it shall be lawful for the Attorney-General unless it appear to him that the accused person would be prejudiced by such a course to indict in the said Special Court without requiring that preparatory examinations shall be taken in the usual manner. The Attorney-General may, however, when in any case he is not satisfied with such preliminary investiga-

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tion as aforesaid, direct a Magistrate either to supplement the said investigation or to take a preparatory examination in the usual way. In all other cases of High Treason committed either before or after the passing of this Act the ordinary procedure in criminal cases prior to indictment shall be followed.

Powers of Attorney-General.

22. The Attorney-General may, after considering the preliminary investigations held by the direction of the Military Authorities as aforesaid, or the preparatory examinations taken in the usual way, either

(*a*) Order that the accused shall be liberated, for which liberation a writing setting forth that the Attorney-General sees no grounds for prosecuting such person, and subscribed by him, shall be a sufficient warrant; or

(*b*) Order that a further investigation or a preparatory examination shall take place; or

(*c*) Subject to the provisions of the preceding section in regard to any prejudice to the accused indict him in the said Special Court in such district or place within the Colony as shall be most expedient for the ends of justice; or

(*d*) Direct that the said case shall be transmitted to and dealt with by the Commissioners referred to in Chapter III. of this Act.

Right of prosecution before the Special Court. Only persons whom the Attorney-General considers ringleaders or principal offenders to be prosecuted beforeSpecial Court.

23. The Attorney-General shall prosecute in all trials before the said Special Court, either in person or by any person qualified to appear to prosecute in criminal cases in the Supreme Court specially appointed by him thereto; and the accused may be represented by an Advocate or Attorney practising in this Colony, or by an enrolled agent practising or qualified to be admitted to practise in the resident magistrate's court of the district where the trial is held. The right and power of prosecution in the said Court shall be absolutely under the power and control of the Attorney-General: provided always that only those persons shall be prosecuted before the said Court who, in the opinion of the Attorney-General, were ringleaders or principal offenders in any act of High Treason or crimes of a political character. In determining whether any accused person is a ringleader or principal offender regard shall be had by the Attorney-General to the following considerations:

(*a*) Whether such accused person induced or invited the enemy to invade the Colony or any district thereof.

(*b*) Whether at the time of the invasion he occupied any official position or was on the Commission of the Peace in this Colony.

(*c*) Whether he accepted or held any command or any official position in the service of the enemy.

(*d*) Whether he appropriated to his own use and for his own benefit the property of British subjects or others in this Colony.

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(*e*) Whether, by using his influence to incite others to take up arms against the Queen or in any other respect he took a leading part in the rebellion; or whether there exist in his case such circumstances of special aggravation as in the opinion of the Attorney-General constitute him a prominent offender.

Provided always that the entire discretion shall remain in the hands of the Attorney-General, who shall decide each case upon its own merits.

Bail.

24. Notwithstanding the provisions of Ordinance No. 40 of 1828 or of any other law, no person accused of High Treason or of a crime of a political character shall be entitled to be liberated, before the dissolution of the Special Court, merely by reason of his not having been brought to trial as therein provided; but the said Court may require all gaolers in this Colony to make returns to it of all person in gaol accused of High Treason, and may, upon application of any such person, liberate him on bail, and shall have power to estreat any bail bond given under this section on breach by the accused of the conditions thereof; provided however that after the expiration of three months from the date of the proclamation constituting the said Court any person accused of the said crimes, and who has been in custody for a period of at least two months, shall be entitled to demand bail. It shall be lawful for the Attorney-General to impose such conditions as to residence or otherwise in connection with the said bail as he may deem necessary. It being however open to any such person at any time to move the said Court to annul, amend or vary any condition as aforesaid: provided always that in respect of every recognizance referred to in section seven of this Act, and every recognizance lawfully taken from any person accused of High Treason before this Act comes into force, the said Court shall be deemed and taken to be a "Competent Court" within the meaning of that expression in the said recognizance, and shall, in default of the appearance of such accused person who has been indicted in such Court on the day appointed for his trial, cause the said recognizances to be estreated in manner provided by the seventy-fifth of the Rules of the Supreme Court.

Jurisdiction of single Member of Court in Chambers.

25. Any member of the said Special Court shall be entitled to exercise in Chambers the jurisdiction of the said Court in all matters relating to cases of High Treason and offences of a political character, save and except trial, the making of rules or regulations, and such matters as may by rule be reserved for the decision of the full Court; but the judgment or order of any member of such Court in Chambers shall be subject to appeal to the full Court in the same manner as a judgment or order of a Judge of the Supreme Court in Chambers is subject to appeal to that Court.

Jurisdiction of other Courts suspended as regards

26. No Court within this Colony shall, until the dissolution of the Special Court as hereinafter provided, have or exercise jurisdiction in any matter within the jurisdiction of the Special Court

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save as to appeals brought before the Supreme Court in manner provided by section eighteen of this Act; but upon such dissolution as aforesaid such jurisdiction shall revive, provided always that such jurisdiction shall not be exercised in any case of High Treason, or of a crime of a political character committed during the period referred to in section eight of this Act unless, owing to the absence of the accused person from the Colony, it was not possible for the Attorney-General to have proceeded against him under this Act.

matters within the Jurisdiction of Special Court.

27. Any case of High Treason or crime of a political character pending in any competent Court when this Act comes into force shall be concluded in the same manner as if this Act had not been passed; but any such Court may, before plea, direct the case to be removed to and tried by the Special Court.

Cases pending.

28. It shall be lawful for the Governor to appoint such persons as he may think fit to be Registrar of the said Special Court, and to fill such other offices in connection with the said Court as he may deem necessary.

Registrar of Court.

There shall be paid to such Registrar and to such other persons for travelling and maintenance expenses and salary such sums as the Governor may approve of.

29. Subject to the provisions of this Act, the Special Court may from time to time make rules, orders and regulations touching any of the following matters, and may repeal and vary the same, namely:—

Court may make rules, orders and regulations.

(*a*) The carrying into effect, fully and completely, the provisions of this Act.

(*b*) The times and places of holding sittings of the said Court.

(*c*) The manner of recording or noting evidence and the proceedings of the said Court.

(*d*) The duties and proceedings of the Registrar and other officers of the Court.

(*e*) The fees and charges to be lawfully demanded by, and to be payable to, the Sheriff, Registrar or other officers of the Court, and the persons practising therein.

(*f*) All such other matters as may be necessary or advisable for the proper conduct of the business of the Court.

30. The Special Court shall be a Court of Record, and shall be dissolved, and the members thereof cease to hold office, upon such date as the Governor shall notify by proclamation in the *Gazette*; but such dissolution or proclamation shall not affect the validity or effect of any act or judgment of the Special Court or the members thereof made prior to such date, and any matters pending at such date in the Special Court shall be transferred to and determined by the Court which would have jurisdiction if this Act had not been passed.

Court shall be Court of Record. Dissolution.

31. The Registrar of the Special Court shall, on the dissolution thereof, transmit the records of such Court to the Registrar of the Supreme Court who shall take charge of and deposit such records in his office.

Record of Special Court to be transmitted to Registrar of Supreme Court.

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Persons who surrendered under certain proclamations not liable to death or imprisonment.

32. No person who complied with the provisions of a certain proclamation relating to the laying down of arms by certain residents in the districts of Aliwal North, Wodehouse and Barkly East, issued by Brigadier-General Brabant, dated at Dordrecht the 22nd day of February, 1900, and who shall have surrendered thereunder shall, if prosecuted under this Act, be liable to the punishment of death or imprisonment.

CHAPTER III.

Appointment of Commissioners to enquire into Cases of Persons accused of High Treason or Crimes of a Political Character and not brought to trial before the Special Court referred to in Chapter II.

Appointment of Commissioners to enquire into and determine cases of persons accused of High Treason or crimes of a political character not brought to trial before the Special Court.

33. It shall be lawful for the Governor to appoint such number of Commissioners as to him shall seem meet, to enquire into and determine, as hereinafter set forth, all cases of High Treason or of crimes of a political character, whether committed before or within six months after the passing of this Act, which the Attorney General shall require them or any three of them to inquire into. In regard to such appointment the following provisions shall apply:—

(*a*) The number of Commissioners shall be such as to form some multiple of three.

(*b*) One in every three of the said Commissioners shall be an Advocate of the Supreme Court, Eastern Districts Court or High Court of Griqualand of not less than seven years standing, and practising in this Colony at the date of the taking effect of this Act, or some person who has filled the office of Resident Magistrate in this Colony for a period of not less than ten years.

(*c*) None of the Commissioners shall be a member of either House of Parliament, a member of any recognised political association or, except as to professional or official members, be a resident of a district which is or has been under the operation of martial law.

Vacancies.

34. In case any Commissioner shall be or become unable or unwilling to act, or shall resign, or shall die, the Governor may appoint another Commissioner in his place, and any commission issued under this Chapter of this Act may be for any of the above reasons revoked by the Governor by a notification to that effect published in the *Gazette*.

Quorum.

35. Three Commissioners shall sit to hear and determine any such case as aforesaid. At every sitting one of the Commissioners who is one of the persons referred to in sub-section (*b*) of section thirty-three of this Act, shall preside, and the decision of the majority shall be binding.

Place of sitting.

36. The said Commissioners may sit at any place in any district of this Colony. At least three weeks' notice shall be given in the *Gazette* and in some newspaper published in the

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said district and where no newspaper is so published then in some newspaper circulating in the district of any sitting of the Commissioners therein and of the place and time of such sitting. It shall be lawful for the Commission to sit in more places than one at the same time; provided that at each place the necessary number of Commissioners shall be present.

Sittings in public.

37. The Commissioners shall hold their sittings in public; but they shall be entitled to exclude any particular person or persons for the preservation of order, for the due conduct of their enquiry or for any other reasonable cause.

Powers of Commissioners.

38. The said Commissioners shall have power to summon witnesses throughout the Colony and to call for the production of books and documens and to examine on oath all witnesses and any accused person who may tender his evidence. All summonses for the attendance of witnesses or the production of documents may be as nearly as possible in the form given in the second Schedule to this Act, and shall be signed by any one of the Commissioners, or by the person authorised by law to sign the process of the Court of Resident Magistrate for the district where the inquiry takes place, and oaths shall be administered by the Commissioner presiding at the sitting. And all persons accused shall have the right to have their witnesses summoned on application to the Resident Magistrate of the said district: Provided that the provisions of Act No. 20 of 1856 in reference to the summoning of witnesses for the accused in criminal cases, and generally in regard to all matters connected with the issue and service of process shall as far as possible apply: Provided further that it shall be lawful for the Resident Magistrate of any district to appoint one or more members of the Police to assist the Messenger in serving process, and due Service by any such person shall be considered good and sufficient Service for the purposes of this Act.

Penalty for false evidence.

39. Any witness who shall wilfully give false evidence at any sitting of the said Commissioners on any matter material to the inquiry before them shall be guilty of perjury and be liable to be prosecuted and punished accordingly.

Witnesses' expenses.

40. All persons summoned to attend and give evidence before the Commissioners or to produce books or other documents at any of their sittings shall be bound to obey the summons served on them, and shall be entitled to the like expenses as if they had been summoned to attend a Circuit Court on a criminal trial; but the Commissioners may for reasonable and sufficient ground disallow the whole or any part of such expenses in any case if they think fit. Orders for the payment of such witnesses shall be signed by the Commissioner presiding at the inquiry for which the said witnesses were subpœnaed, and shall, after due taxation by the Secretary of the Commission, be paid by the Resident Magistrate of the district in which the said inquiry took place.

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Penalty for certain offences.

41. Every person refusing or omitting without sufficient cause to attend at the time and place mentioned in the summons served on him, and every person attending but leaving without the permission of the Commissioners, or refusing to answer or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Commissioners, or refusing or omitting without sufficient cause to produce any books or documents in his possession or under his control and mentioned or referred to in the summons served on him, and every person who shall at any sitting of the Commissioners wilfully insult any Commissioner or the Secretary, or wilfully interrupt the proceedings at such sitting 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 such sitting was held, who is hereby specially given jurisdiction in the said matters and who, in default of payment forthwith, may award imprisonment with or without hard labour for any period not exceeding three months: Provided always that no person giving evidence before the Commission shall be compellable to criminate himself, and every such person shall, in respect of any evidence given by him, be entitled to all the privileges to which a witness giving evidence before the Supreme Court of this Colony is entitled in respect of evidence given by him before such Court.

Secretaries to Commissioners.

42. It shall be lawful for the Governor to appoint one or more Secretaries to attend the sittings of the Commissioners, to record their proceedings, keep their papers, minute the evidence of witnesses, and generally to perform such duties connected with such inquiry as the Commissioners shall prescribe, subject to the directions, if any, of the Governor.

Remuneration to Commissioners, Secretaries, &c.

43. The Governor may direct what remuneration shall be paid to each of the said Commissioners and to their Secretaries and to any other persons employed in or about any such Commission, and may direct payment of any other expenses attendant upon the carrying out of the duties of the said Commissioners. Such sums so directed to be paid shall be paid by the Treasurer out of moneys voted by Parliament for the purposes of this Act.

Accused may be heard by Counsel.

44. At any sitting of the said Commissioners the accused person shall be entitled to be represented by some person authorised by the terms of the twenty-third section to appear for the defence in any case before the Special Court constituted by the second chapter of this Act, and the Attorney-General shall be entitled, either himself or by some other person who is either an Advocate or Attorney of the Supreme Court, Eastern Districts Court or High Court of Griqualand, to appear and prosecute the accused.

Form of Summons.

45. The accused person, whose case the said Commissioners are directed by the Attorney-General to investigate, shall be summoned to appear before them at a time and place to be specified in the summons, not being less than ten days after service

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thereof upon him. The summons shall as nearly as possible be in the same form as that laid down for an indictment by the first Schedule of this Act. It shall be in the name of Her Majesty the Queen, and signed by the Attorney-General or on his behalf and under his direction by any one of the Commissioners or by the person authorised by law to sign the process of the Court of Resident Magistrate for the district where the inquiry takes place, and shall be served on the accused in the same manner and by the same officer as if it had been a civil summons issued in the Court of Resident Magistrate of the said district: Provided however that where necessary any such summons may be duly and sufficiently served by any member of the police, specially appointed by the said Resident Magistrate in manner set forth in the second proviso to section thirty-eight hereof.

Case of persons who have surrendered.

46. In regard to all persons whose surrender has been accepted subsequent to any proclamation issued by proper authority between the dates referred to in the first section of this Act, calling upon all those who had taken up arms against Her Majesty the Queen to surrender them, and who have not been indicted under the second Chapter hereof, the following provisions shall apply:—It shall be lawful for the Attorney-General to cause to be framed or prepared a list or lists of all such persons. And there shall be deposited with the Resident Magistrate of every district where any such persons reside a list of such persons so resident, which list shall be open at all reasonable times to be inspected or copied by all concerned. Every such list shall be so deposited at least three weeks before the sitting of the Commissioners at any place in the said district. There shall be served upon the persons whose names are included in the said lists a notice signed by, or by the direction of, the Attorney-General, informing such persons that their names have been included in such lists, and that in terms of the Act they will, at their trial, be presumed to have committed the offence with which they are charged until the contrary be proved. The said notice shall be served in the same manner and subject to the same conditions as to time as if it were a summons under the last preceding section of this Act. Every person whose name appears in any list duly framed and prepared as aforesaid and who has been duly notified of the fact as in this section provided shall be taken to be a person who has surrendered as hereinbefore referred to unless the contrary be proved.

Attorney-General may withdraw proceedings before Commissioners and indict before Special Court.

47. At any time before a case against any accused person has been called by the Commissioners it shall be lawful for the Attorney-General, upon fresh evidence coming to his notice, to withdraw any proceedings before the said Commissioners and to indict the accused person concerned before the Special Court constituted in Chapter II of this Act.

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Procedure and rules of evidence.

48. In the investigation into any case before the said Commissioners the procedure, practice and rules of evidence to be followed shall be as nearly as possible according to the rules of procedure, practice and evidence in criminal trials in the Courts of Resident Magistrates in this Colony, and it shall be competent for the accused person to raise any legal defence, including the defence of compulsion, to any charge against him before the said Commissioners which he could have raised had he been indicted on such charge in the Supreme Court, or in the Special Court referred to in Chapter II of this Act: Provided always that if in any case which is heard by the said Commissioners, it shall appear that the accused person is one of those referred to in section forty-six of this Act, whether by reason that his name appears upon the said list as therein provided, or whether the fact be in his presence duly proved in any other way, then in such case the said Commissioners shall presume that the said person is guilty until the contrary is proved by him.

No evidence shall be led in case an accused pleads guilty or is absent after due service of summons.

49. Whenever any person accused of High Treason or any crime of a political character shall have been summoned to appear before the said Commissioners, and fails so to do, and it shall be proved that summons was duly served on the accused, or whenever the accused shall admit his guilt in person at any sitting of the said Commissioners, the said Commissioners shall find such person guilty of the charge alleged against him in the summons without hearing any evidence.

Sentence: Disqualification for certain purposes, for five years.

50. The said Commissioners shall, after hearing the evidence, if any, for and against the accused, decide whether he is guilty or not of the charge brought against him, and in all cases in which an accused person shall be found guilty, the said Commissioners shall adjudge (1) that he shall be, for the period of five years and no longer, disqualified from being registered as a voter or from voting for the election of members of Parliament, or of a Divisional or Municipal Council, or of a Village Management Board or from being or continuing to be a Member of Parliament, or from holding any public office, or continuing upon the Commission of the Peace, or from serving upon a Jury in civil or criminal cases, anything contained in any Law or Act of Parliament to the contrary notwithstanding; and thereupon such person shall be in Law absolutely disqualified, in regard to all the aforementioned matters and his name, if upon any existing voters' list, shall be and is hereby removed therefrom, and the vote of any such person given at any such election shall be null and void and may be struck out in any proceeding in which the result of such election is challenged in any competent Court. Save as hereinafter provided the findings or decisions of the said Commissioners shall not be subject to appeal to or review by any Court whatever.

Accused persons may plead compulsion.

51. Whenever any accused person shall specially plead and shall prove to the satisfaction of the Commissioners or a majority of them that, although he did any act wherewith he stands charged,

[1] See also § 6, Act 35, 1904 (p. 4764).

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yet he did such act unwillingly and under actual compulsion, such person shall be acquitted in regard to such act; provided that such act shall be deemed to have been done under actual compulsion if committed under the influence of serious and well-grounded fear resulting from threats either of death or of such bodily harm or such substantial injury to or loss of property as in the opinion of the Commissioners or a majority of them would naturally so operate upon the mind of such person as to compel him to the performance of such act, provided further that no threat of injury to or loss of property shall be deemed to afford any defence under this section in regard to any charge of taking up arms against Her Majesty.

Papers and records.

52. It shall be the duty of the Secretary of the said Commissioners to forward to the Colonial Secretary all papers and records of such Commission and a list of all persons found guilty by the said Commission, with the christian name of each person in full and his proper number if any on the list of registered Parliamentary voters. All records and papers so received by the Colonial Secretary shall be preserved by him for a period of six years, and the Colonial Secretary shall send to each Registering Officer within whose jurisdiction any of the said persons reside, a list to be preserved by such Officer for the like period of such of the said persons as are resident within his jurisdiction; provided however that any registered voter shall be allowed to take a copy of such portion of any list as refers to the electoral division in which he is entitled to vote on application to any registering officer.

Conviction or acquittal by the Commissioners a bar to other criminal proceedings for same offence.

53. A conviction or acquittal of any person by the said Commissioners shall be a bar to any criminal prosecution against such person in any Court in this Colony for the same crime as that on which such person was convicted or acquitted, or for any crime arising out of the same facts, and the certificate of the Secretary of the Commissioners that such person was convicted or acquitted by the said Commissioners of the charge set forth in the certificate, shall be conclusive evidence of such conviction or acquittal; and every such conviction shall for all purposes of future consideration be regarded as a conviction before an ordinary court of law having jurisdiction in criminal matters in this Colony.

Cases referred to Commissioners by Attorney-General.

54. The Attorney-General shall direct the said Commissioners to investigate every case of High Treason or of a crime of a political character in which he has decided that there is a *primâ facie* case against the accused, but that it is not a case to be tried by the Special Court referred to in the last preceding Chapter of this Act.

Commissioners may in certain cases investigate, without a previous preliminary examination.

55. The Attorney-General may direct the said Commissioners to investigate any such case as aforesaid without first requiring a preliminary examination to be held.

Commissioners may make rules.

56. The said Commissioners may make such rules for their own guidance and the conduct and management of proceedings before them, and the hours and times and places for their sittings, and for the necessary or convenient postponement of cases brought

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before them, and generally for the purpose of carrying out their duties under this Act, but not inconsistent with its provisions, as they may from time to time think fit. At any meetings of the Commissioners for such purposes as aforesaid there shall be at least three Commissioners present who shall elect one of their number to be President of such meeting; and if, on any question arising at such meeting, the Commissioners shall be equally divided, the President shall have a second or casting vote.

Commissioners may reserve questions of law for consideration of Special Court.

57. If any question of law shall arise in the course of the trial of any case before any of the said Commissioners, it shall be lawful or them to reserve such question for the consideration of the Special Court established under the provisions of Chapter II of this Act. The question or questions reserved shall be stated, together with such facts as the Commissioners may consider necessary, and the statement shall be signed by the President of such Commissioners, and be transmitted to the Registrar of the said Special Court.

Procedure on question reserved.

58. If any question is so reserved, the said Commissioners may either proceed to conclude the case in connection with which it arose or may postpone their verdict and sentence until the Special Court has decided the said question. When any question has been so reserved, the Special Court shall decide upon it, and may do any of the following things:

(*a*) Confirm the judgment of the Commissioners.

(*b*) Direct that such judgment shall be set aside—which order shall, for all purposes, have the same effect as if the defendant had been acquitted.

(*c*) If judgment has not been delivered, remit the case to the Commissioners in order that they may deliver judgment.

(*d*) Give such judgment as the Commissioners ought to have given at the trial—in which case the judgment of the Court shall have the same effect and be followed by the same consequences as if it had been delivered by the said Commissioners.

(*e*) Call for such further information from the Commissioners before giving judgment as may seem to it desirable.

Appeal to Special Court.

59. An appeal shall lie to the Special Court at the instance of any convicted person from any decision of a necessary number of the said Commissioners, whether depending on questions of law or of fact, which has been arrived at not unanimously but by a majority only of such Commissioners: Provided that such appeals shall be noted and prosecuted within the time and subject to the conditions mentioned in section eighteen of this Act.

Supreme Court to deal with questions reserved or appeals on dissolution of Special Court.

60. Should the said Special Court have been dissolved before any questions reserved or appeals from the decisions of any of the Commissioners aforesaid have been fully determined, then all such matters shall be dealt with by the Supreme Court which shall, for that purpose, have all the powers conferred upon the Special Court in terms of this Act as well as, and in addition to, its own powers.

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Persons exempted from prosecution under certain conditions.

61. In any case of High Treason or a crime of a political character inquired into by the Commissioners as in section thirty-three provided in which the evidence shows to the satisfaction of the Commissioners that the person charged with such treason or crime has expressed or declared the same by words only, whether spoken or written, the Commissioners shall not find such person guilty unless such words induced or incited the enemy to invade the Colony or any part of the Colony, or any person in this Colony to commit the crime of High Treason or any crime of a political character.

CHAPTER IV.

Compensation for loss or damage sustained through Military Operations or the Acts of the Enemy or Rebels.

Powers of Commission as to summoning witnesses, &c.

62. The Commissioners appointed by the Governor in terms of Government Notice No. 465, 1900, published in the *Gazette* of the 17th July, 1900, and any Commissioners who may be duly appointed by the Governor to inquire into the administration of Martial Law shall have the powers of a Judge of the Supreme Court on Circuit to summon witnesses and to call for the production of books and documents and to examine witnesses on oath administered by their Chairman. All summonses 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 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.

Expenses of witnesses.

63. All persons summoned to attend and give evidence before the said Commissioners, or to produce books and other documents at any of their sittings shall be bound to obey the summons served on them, and shall be entitled to the like expenses as if they had been summoned to attend a Circuit Court in the trial of a civil case, if the same shall be allowed by the Commissioners, but the Commissioners may for sufficient and reasonable ground disallow the whole or any part of such expenses in any case if they think fit. Orders for the payment of such witnesses shall be signed by the Chairman of the Commission and shall be paid by the Resident Magistrate of the district in which the witnesses respectively reside.

Penalty for refusing or omitting to attend and give evidence.

64. Any person refusing or omitting without sufficient cause to attend and give evidence, or to produce books and documents at any sitting of the said Commissioners when summoned to do so, shall be liable to a penalty not exceeding fifty pounds to be recovered in the Court of the Resident Magistrate of the district in which such sitting took place, and in default of payment to be imprisoned with or without hard labour for a period not exceeding three months, the said penalty to be recovered and enforced in manner provided by section forty-one of this Act, the provisions of which, so far as applicable, are to be considered as if herein inserted.

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Penalty for false evidence.

65. Any witness who shall after being duly sworn wilfully give false evidence in any enquiry before the said Commissioners concerning the subject matter of such enquiry shall be guilty of perjury and shall be liable to be prosecuted and punished accordingly. It shall be lawful for the said Commissioners to recall any witness who gave evidence before them before the passing of this Act and require him to state on oath that the evidence given by him is true, and thereupon should he do so such evidence shall be deemed and taken to have been given by him on oath, after being duly sworn.

Payment of the compensation awarded by Commission to be paid by the Treasurer.

66. The said Commissioners may, acting within their power, recommend the amount of compensation, if any, to which in their judgment any claimant is entitled; and it shall be lawful for the Treasurer to pay the said amount, or such portion thereof as Parliament may determine, to the person entitled thereto out of moneys voted for that purpose by Parliament. Provided however that it shall be lawful for the Governor, in anticipation of the decision of Parliament, to advance to individuals whose claims have been recommended as aforesaid a proportion of the amount of the claims so recommended not exceeding one half thereof.

Short Title.

67. This Act may be cited for all purposes as "The Indemnity and Special Tribunals Act, 1900."

First Schedule.

FIRST SCHEDULE.

In the SPECIAL COURT
Established by Act —— of 1900,
to be holden at ——————.

A.B., ——————, *Attorney-General of Our Sovereign Lady the Queen within the Colony of the Cape of Good Hope, who prosecutes for and on behalf of Her Majesty, presents and informs the Court:*

That C.D. is guilty of the crime of

The particulars of the charge against him are that (*here the facts are to be shortly and concisely stated*), and that he thereby did commit the said crime of

In case of conviction the said Attorney-General prays for judgment against the said C.D. according to law.

(Signed) A.B.,
Attorney-General.

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SECOND SCHEDULE.

No. 7—1900.
Second Schedule.

SUMMONS TO WITNESSES.

To A.B. (*name of person summoned and his calling and residence if known*). You are hereby summoned to appear before the Commissioners appointed by the Governor and empowered by Act of 1900, to inquire (*state briefly the subject of inquiry*) at (*place*) upon the day of 1900, at o'clock, and to give evidence respecting such inquiry. (*If the person summoned is to produce any documents add*) And you are required to bring with you (*specify the books, plans and documents required*).

Given under the hand of Commissioner, this day of 1900.

No. 7—1900.] [October 16, 1900.

ACT

To Authorise the Namaqua Copper Company, Limited, to Construct a Railway.

Preamble.

WHEREAS it is expedient that powers should be granted to the Namaqua Copper Company, Limited, a Company duly registered in England, to construct, equip, maintain and work a line of railway from a point upon the property of the said Company near Concordia, in the Division of Namaqualand, to a point upon the line of railway constructed by the Cape Copper Company, Limited, under Acts No. 4 of 1869 and No. 3 of 1871, near Kraaifontein Station, and to effect to a junction at such point with the last-mentioned line.

And whereas it is also expedient that powers should be granted to the said Namaqua Copper Company, Limited, to construct and work lines of telegraph and telephons along or near to the said line in accordance with the provisions of this Act.

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

Authority to construct a line of railway.

1. The Company styled the Namaqua Copper Company, Limited, shall be and is hereby authorised and empowered to construct, equip, maintain and work a line of railway similar to railway lines already constructed in this Colony, on a gauge of not less than two feet six inches at a gradient at no point steeper than one foot in forty feet, and with no curves of less than five chains radius from a point upon the property of the said Company, situate in the Division of Namaqualand, near the Jubilee Mine,

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No. 7—1900.

Line of railway defined.

about three-quarters of a mile from the village of Concordia, passing thence in a northerly direction over the property of the said Company to the land held under mineral lease by one Daniel Martin le Roux, crossing the said land for a distance of about nineteen chains, and thence containing in a northerly direction to and passing by Leeuwpoort (about seven miles from Concordia), thence continuing in same direction to and passing by Gookas House (about eleven miles from Concordia) and crossing the Brak River (about sixteen and a half miles from Concordia), and successively crossing the Friday's River, Saturday's River and Sunday's River at distances of twenty-three, twenty-four and a quarter, and twenty-five and a half miles respectively from Concordia, and continuing in the said northerly direction to a point about twenty-six and three-quarter miles from Concordia, whence the said railway shall run in a westerly direction, and running close to the existing railway line of the Cape Copper Company, Limited, on the northern side thereof, shall terminate at a point close to Kraaifontein Station on the said railway, where a junction shall be effected with the said railway line of the Cape Copper Company, Limited, at a point upon the said railway line fifty-nine miles and seventy-seven chains from Port Nolloth, the total length of the said railway to be constructed being twenty-seven and three-quarters miles, the entire course thereof being over Crown Lands, with the exception of the land held under Mineral Lease by D. M. de Roux as aforesaid, portion of the said Crown Land being in the occupation of the Rhenish Missionary Society, provided that it shall be lawful for the said Company to vary or deviate from the line of railway as shewn upon the plan lodged as aforesaid to an extent not exceeding fifteen yards on either side of the said line.

Extent of deviation authorised.

Junction with Cape Copper Company's Railway.

2. Any interference with the works or property of the Cape Copper Company, Limited, necessary or convenient for effecting the junction in the last preceding section referred to, shall be made under the superintendence and to the reasonable satisfaction of the Superintendent for the time being of the said Cape Copper Company, and in case of any difference arising as to the mode of effecting the junction the same shall be determined by a referee to be appointed by the Governor on the application of either of the Companies interested, but at the cost of the Namaqua Copper Company. Provided that the cost of effecting the said junction and all costs necessarily incidental to the establishment of such junction or necessary to afford reasonable facilities for the working thereof shall be borne by the said Namaqua Copper Company.

Acquisition of servitude over land requisite for junction.

3. In respect of land the property of the Cape Copper Company which may be required by the Namaqua Copper Company for the purpose of effecting the said junction the last-mentioned Company may purchase and take and the first-mentioned Company may and shall sell and grant a servitude or right of using the

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said land for the purposes of the said junction, the price to be determined by arbitration, the "Lands and Arbitration Clauses Act, 1882," to apply to the said arbitration.

Powers of entry on land subject to compensation to occupier.

4. The Directors of the said 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 "Lands and Arbitration 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.

5. The Directors may, with the permission of the Government, enter upon, take possession of, 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 purposes relating to the execution of this Act, and also enter upon any waste Crown lasd situated in the vicinty 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:—

(*a*) 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 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 Lands" shall not be taken to apply to land which has been or may be acquired by the Colonial Government or any public body representing the Colonial Government, by purchase or otherwise for any special purpose.

Powers of Directors as to taking, &c., of lands and materials subject to conditions as to extent to be taken and method of calculating compensation.

6. 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 and repairing of any such roads as in the said Act is mentioned, or of any works in connection therewith, are hereby bestowed upon the Directors, 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 thirty 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.

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No. 7—1900.

(*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, and

(*c*) Nothing in this section shall be taken to refer to the land of the Cape Copper Company as to which special provision is made in the second and third sections of this Act.

Sections 205 and 206 of Act 40, 1889, apply *mutatis mutandis* to this railway.

7. The provisions of the 205th and 206th sections of Act 40 of 1889 shall, *mutatis mutandis*, extend and apply to the said railway.

Method to be adopted in crossing street or road.

8. 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, 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;

(*c*) To fence the approaches to all such crossings, viaducts, embankments, &c., or to provide otherwise for the due protection of the public safety thereat, and at all other places throughout the line in such manner as Government may require.

Provision for crossing of railway by new streets and roads.

9. 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.

Powers may be exercised by an 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.

For railway purposes telegraph and telephone may be constructed.

11. 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 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.

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Railway when to be opened for traffic

12. 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: provided that in the event of any difference or dispute arising between the officer so appointed and the Company, such difference or dispute shall be settled by arbitration, to which arbitration the "Lands and Arbitration Clauses Act, 1882," shall, so far as applicable, apply.

Application of Act No. 19 of 1861 to Railway when completed.

13. Such and so many of the provisions of the "Regulation of Railways Act, 1861," 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: provided, however, that the 29th and 30th sections of the said Act shall not be made applicable thereto.

Tariffs.

14. 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 subject to the approval of the Governor, and in the event of the Governor not approving of the rates submitted by the Company, the matter shall be referred to arbitration and shall after settlement be liable to be similarly re-adjusted from time to time at intervals of not less than five years at the instance of the Company, or at the instance of the Governor, and in case of any dispute the matter shall be referred to arbitration; and the tolls, fares of 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: Provided, however, that in no case shall such tariffs exceed a scale proprotionate to the existing tariffs upon the section of the existing railway line of the Cape Copper Company, Limited, between Port Nolloth and Kraaifontein.

Right of Government to purchase railway.

15. At any time after the date of opening for public traffic of the said railways, 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

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No. 8—1900.

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 Arbitrations Clauses Act, 1882."

Four years for completion of railway.

16. If four 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 and powers conferred by this Act shall cease and determine.

Company may sell or lease line.

17. The Company shall, without prejudice to the rights of the Government under section 15, 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.

Meaning of Terms.

18. In this Act, save when such meaning shall be inconsistent with the context, the word "Company" shall mean the "Namaqua Copper Company, Limited," and the word "Directors" shall mean the Directors for the time being of the said Company.

Short Title.

19. This Act may be cited for all purposes as "The Namaqua Copper Company Railway Act, 1900."

No. 8—1900.] [October 16, 1900.

ACT

To Apply a Sum not exceeding Three Thousand and Eighteen Pounds, Sixteen Shillings and One Penny Sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

[Spent.]

Repealed by Act No 3 of 1934.

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Repealed by Act. No 25 of 1934

No. 9—1900.] [October 16, 1900.

ACT

To Authorise the raising of a Loan of One Million Two Hundred and Ninety-three Thousand Eight Hundred Pounds Sterling for the purpose of certain new and additional Railway and other Works, to provide for Loans under the Local Works Loans Acts and Irrigation Acts, to transfer Moneys authorised for certain Works to the construction of other Works, and to reduce the Borrowing Power under Act No. 10 of 1892 by the sum of One Pound Sterling.

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 to be raised for Railway and Public Works, £877,000.

1. For the purpose of constructing the works set forth in Schedules A and B to this Act, it shall be lawful for the Governor to raise by loan the sum of Eight Hundred and Seventy-seven Thousand Pounds sterling.

For Irrigation Loans £200,000, and Local Works Loans £200,000.

2. It shall further 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 Local Works Loans Act No. 11 of 1882, as amended by the Local Works Loans Amendment Act No. 14 of 1895 and the Local Works Loans Amendment Act No. 14 of 1896, and a further 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.

£10,815 to be applied from Act 40 of 1898 for purposes of works specified in Schedule C.

3. For the purpose of constructing the Works set forth in Schedule C to this Act, it shall be lawful for the Governor to apply a sum of Ten Thousand Eight Hundred and Fifteen Pounds sterling out of the moneys authorised to be raised under the provisions of the Railway Extension Act No. 40 of 1898, being £3,180 of the provision of £439,000 for the construction of the Railway from Sir Lowry's Pass to Caledon, £5,790 of the provision of £505,000 for the construction of the Railway from Kalabas Kraal or Malmesbury to Pickeniers Kloof, and £1,845 of the provision of £92,250 for the construction of the Railway from a point near Queen's Town to Tarkastad.

£16,800 to be raised and £13,218 to be applied from Act 36 of 1899 for purposes of works specified in Schedule D.

4. For the purpose of constructing the Works set forth in Schedule D to this Act, it shall be lawful for the Governor to raise by loan the sum of Sixteen Thousand Eight Hundred Pounds sterling, and further to apply for the said purposes the sum of Thirteen Thousand Two Hundred and Eighteen Pounds sterling out of the moneys authorised to be raised under Section 3 of the Public Works Loan Act No. 36 of 1899.

Borrowing power under Act 10 of 1892 to be reduced by £1.

5. The authority to raise by loan the sum of £650,000 under the provisions of the Transvaal Railways Loan Act No. 10 of 1892 is hereby further reduced by the sum of One Pound sterling.

Short Title.

6. This Act may be cited for all purposes as "The Public Works Loans Act, 1900."

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No. 9—1900.

SCHEDULE A.

RAILWAY WORKS.

	£
Additional Rolling Stock	645,802
Cape Town Station Extension	20,000
Locomotive Workshops, Steam Sheds, Pits, &c.	35,450
Water Supply...	8,400
Additional Station Accommodation	12,660
Additional Siding Accommodation and Crossing Loops...	3,000
Additional Accommodation for Railway Employees	40,000
Stores, Warehouses, &c....	3,250
Overhead Bridges and Subways	25,000
Alterations and Additions to Culverts, Waterways, &c.	1,750
Fencing	1,000
Surveys	3,688
	£800,000

SCHEDULE B.

PUBLIC WORKS.

	£
Kenhardt Irrigation Scheme...	10,000
Acquisition of Property for Public Purposes...	40,000
Hartz River Irrigation Scheme...	3,000
Port St. John's Port and Harbour Appliances	6,000
Asylums	13,000
Cape Hermes Lighthouse...	5,000
	£77,000

(1) SCHEDULE C.

POST AND TELEGRAPHS.

Construction of Telegraphs along new lines of Railway:—

	£
Malmesbury to Eende Kuil...	5,790
Sir Lowry's Pass to Caledon	3,180
Bowker's Park to Tarkstaad	1,845
	£10,815

[1] See Act 43, 1905 (p. 4967).

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SCHEDULE D.

POST AND TELEGRAPHS.

Erection and Equipment of Lines of Telegraph and other Works:—

	£
Additional Wire, Cape Town to Durban Road and Malmesbury	550
Additional (Copper) Wire, Cape Town to Kalk Bay	500
Additional Wire, Uitenhage to Graaff-Reinet	1,650
Additional Wire, Beaufort West to Fraserburg Road	725
Additional Wire, East London, *via* King William's Town to Aliwal North	4,000
New Line, Port St. John's to Lusikisiki	1,680
Automatic Fast Speed Apparatus	3,150
Pneumatic Tube Service for the General Post Office	500
Extensions of Telephone System, Cape Town and Suburbs—Additional Wires and Underground Cables	10,000
Extensions of Telephone System, Port Elizabeth	2,000
Extension of Exchange Systems, East London, Kimberley and Queenstown	1,263
Establishment of New Exchanges and Trunk Lines	2,000
Additional Exchange Switchboard, Cape Town	1,250
Additional Exchange Switchboard, Port Elizabeth	750
	£30,018

No. 10—1900.] [October 15, 1900.

ACT

To Apply a Sum of Money for the Service of the Year ending the 30th June, 1901.

[Spent.]

No. 11—1900.] [October 16, 1900.

ACT

To Provide for the taking of a Census and the Collection of certain Statistics in the Year 1901.

[Repealed by Act 4, 1903.]

[Pages 4278—4281.]

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No. 12—1900.] Rep. in so far as it affects Railways Rep. by Act 22 of 1917 [October 16, 1900.

(1) ACT to Extend the operation of the "Sinking Fund Commissioners Act, 1897," to certain moneys. Rep. by Act 22 of 1916

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:—

The Governor may fix a period of time after which the control of the classes of moneys mentioned in Schedule shall be vested in Commissioners appointed under Act 11 of 1897.

1. It shall be lawful for the Governor, by notice in the *Gazette*, to fix, in respect of the several classes of unclaimed or surplus moneys enumerated in the Schedule to this Act, a period of time after the lapse of which the control and administration of such moneys shall be vested in the Commissioners appointed under Section 4 of Act No. 11 of 1897, and be applied by them for the gradual extinction of the Public Debt of the Colony, in the same manner as if the said moneys had been specially mentioned in Section 3 of the said Act.

The Governor may vest in the said Commissioners certain other funds.

2. It shall further be lawful for the Governor to vest in the said Commissioners for the purpose of being applied for the gradual extinction of the Public Debt of the Colony, all Surplus Interest and Lapsed Funds hitherto paid into Revenue by the Master of the Supreme Court.

The Governor may authorise the Commissioners to satisfy certain claims.

3. If any claim against any of the said moneys shall be established to the satisfaction of the Governor at any time after such moneys have been vested in the said Commissioners as aforesaid, it shall be lawful for the Governor to authorise the said Commissioners who shall thereupon be empowered to satisfy the said claim out of moneys vested in them other than those mentioned in sub-section (a) of the third section of the said Act No. 11 of 1897.

Short title.

4. This Act may be cited for all purposes as the "Sinking Fund Extension Act, 1900."

Schedule.

SCHEDULE.

Unclaimed Interest on Public Debt.

Unclaimed drawn or expired Debenture Bonds or other Government Stock.

Proceeds of Unclaimed Property and Stock.

Unclaimed Deposits in the Post Office Savings Bank.

Long Outstanding Treasury Drafts.

Surplus Interest on the administration of funds belonging to the Post (1) Office Savings Bank.

Proceeds of Customs Rummage Sales.

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[1] See Act 11, 1897 (p. 3724). See also Act 43, 1905 (p. 4965), void money orders and unclaimed postal notes added.

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No. 13—1900.] [October 19, 1900.

Ref-called ad-1910

ACT

To Amend Act 31 of 1899, entituled the "Fiscal Divisions Extension Act, 1899."

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 word "Cradock" shall be substituted for the word "Tarka" whenever the latter word is used in Act 31 of 1899, and the said Act shall be read as if the word "Cradock" had originally been used. "Cradock" substituted for "Tarka" in Act 31 of 1839.

2. This Act may be cited as the "Fiscal Divisions Extension Amendment Act, 1900." Short title.

No. 14—1900.] [October 19, 1900.

ACT

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

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, for the purpose of setting aside, enclosing, and maintaining as a burial ground any land in which officers, non-commissioned officers or men, whether belonging to Her Majesty's Imperial or Colonial Forces, or to the forces of the late Orange Free State and South African Republics, who have died from the effects of wounds or otherwise during the recent campaign in South Africa have been buried, to take, use, and expropriate so much of such land as may be necessary for the said purpose: provided that hereafter no such ground shall be used for the burial of any body without the consent of the Governor and the local authority of the urban area or district in which such burial ground is situated. Expropriation of land for burial grounds authorised

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No. 14—1900.

Acquisition of rights of way.

2. For the purpose of access to any land so expropriated, in case there shall exist no public access, it shall be lawful for the Governor to acquire and establish a right of way to any such land from the nearest or most convenient public road, and to that end to use so much land belonging to the different owners of property through which such right of way shall pass as shall be necessary.

Compensation.

3. There shall be paid for the expropriation of such land and such rights of way such compensation as may be agreed to between the Governor and the respective owners, and in the absence of any such agreement the amount of such compensation shall be determined by arbitration in manner provided by "The Lands and Arbitration Clauses Act, 1882."

Transfer to War Department.

4. Any land or right of way acquired under the provisions of this Act may be transferred by the Governor, free of transfer duty, to Her Majesty's Secretary of State for War upon payment to the Governor of so much of the total cost incurred in the expropriation of the said land and rights of way as may be agreed upon between the Governor and the said Secretary of State. The balance of the said cost shall be paid by the Treasurer out of moneys to be provided by Parliament for the purpose.

Enclosing, &c., of land.

5. It shall be lawful for the Governor, at the request of, and upon such conditions as to the cost thereof as he may arrange with the said Secretary of State, to cause any land expropriated for the purposes of this Act to be enclosed with proper and sufficient walls, rails, or fences with suitable gates and entrances, and to be maintained, preserved, and kept in a cleanly and orderly condition, and to make rules or regulations in that behalf.

Penalty clause.

6. Any person who shall contravene any regulation duly made by the Governor under the provisions of the last preceding section of this Act, and any person who shall wantonly or wilfully destroy, or do, or cause to be done, any damage to any monument, vault, tombstone, building, erection, railing, fence, tree, shrub or plant in or belonging to any land so enclosed as aforesaid, shall, upon conviction before any Magistrate having jurisdiction, be liable for every such offence to a penalty not exceeding £20, and in default of payment to imprisonment with or without hard labour for any period not exceeding three months, or to both such penalty and such imprisonment.

Appropriation of fines.

7. All moneys arising from fines and penalties imposed by this Act shall, when recovered, be paid to the Governor and shall be appropriated to the preservation, maintenance and improvement of the land set aside as a burial place as provided by this Act.

Short title.

8. This Act may be cited for all purposes as "The Imperial, Colonial, and Republican Forces Burial Grounds Act, 1900."

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Repealed by Act No 25 of 1934

No. 15—1900.] [October 19, 1900.

ACT

To Amend the Law relating to the Exportation of Arms, Ammunition and Military and Naval Stores.

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:—

The Governor may prohibit the exportation of arms, &c., under certain circumstances.

1. It shall be lawful for the Governor by Proclamation to prohibit the exportation of all or any of the following articles, namely:—Arms, Ammunition, Military and Naval Stores, and any article which the Governor shall judge capable of being converted into, or made useful in increasing the quantity of, arms, ammunition, or military or naval stores to any place therein named, whenever the Governor shall judge such prohibition to be expedient in order to prevent such arms, ammunition, military or naval stores being used against the subjects or forces of Her Majesty the Queen, or against forces engaged or which may be engaged in Military or Naval operations in co-operation with Her Majesty's forces.

Penalty for contravention of terms of Proclamation.

2. If any goods so prohibited shall be exported or brought to any quay or other place to be shipped for exportation from this Colony, they shall be forfeited, and the exporter or his agent or the shipper of any such goods shall be liable to a fine not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for any period not exceeding three years or to both such fine and imprisonment.

Short Title.

3. This Act may be cited as "The Exportation of Arms Act, 1900."

No. 16—1900.] [October 19, 1900.

(1) ACT

To Authorise a Loan of Two Hundred and Fifty Thousand Pounds sterling for the purpose of providing Compensation in respect of certain Claims for Compensation for War Losses.

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:—

Authority to raise a loan of £250,000 to meet certain Compensation Claims.

1. It shall be lawful for the Governor to raise by public Loan a sum not exceeding Two Hundred and Fifty Thousand Pounds sterling for the purpose of partially meeting the payment of

[1] See also Act 17, 1902 (p. 4385).

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No. 17—1900.

certain claims to compensation that may be assessed, after investigation, by any Commission duly authorised to make inquiry into the 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.

Expenditure of loan.

2. Any money so raised may be expended in manner and to the extent authorised and laid down by the 66th Section of the Indemnity and Special Tribunals Act, 1900.

Short title.

3. This Act may be cited as "The War Losses Compensation Loan Act, 1900."

No. 17—1900.] [October 19, 1900.

ACT

To Vary the application of certain Moneys already voted for the purpose of Prosecuting and Improving the Harbour Works of Port Elizabeth, and providing greater facilities for the conduct of the business of the Port.

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:—

Moneys raised for purposes of Schedule A to be used for purposes of Schedule B.

1. It shall be lawful for the Governor to apply the sums of money set forth in the several sections of Schedule A of this Act, for the purposes of prosecuting the Harbour Works of Port Elizabeth and of effecting improvements at the Port as set forth in the corresponding sections of Schedule B of this Act.

Jetty to be constructed at South End.

2. Notwithstanding anything to the contrary in the Schedule to Act 26 of 1896, it shall be lawful for the Governor to approve and sanction the erection of the New Jetty for landing Timber, Railway Material, Coal, &c., at the South End of the town of Port Elizabeth, instead of at the North End of the town of Port Elizabeth as contemplated under the said Schedule.

Application of moneys by Harbour Board.

3. The application of the moneys aforesaid for the above purposes shall be entrusted to the Port Elizabeth Harbour Board, and the said Harbour Board shall in respect to such application have and exercise all the powers conferred upon such Board by any Law.

Previous enactments re-affirming.

4. Nothing in this Act shall be taken to vary or repeal the provisions of Section 3 of Act 10 of 1894, and of Section 3 of Act 26 of 1896, and of Section 3 of Act 35 of 1898.

Short title.

5. This Act may be cited as "The Port Elizabeth Harbour Act, 1900."

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SCHEDULE A.

No. 18—1900.

a. (1) Out of the sum of £15,000 provided under the Schedule to Act 10 of 1894 for Locomotives and Rolling Stock...	£12,425	
(2) Out of the sum of £23,000 provided under the Schedule to Act 26 of 1896 for New Approach to North Jetty...	4,237	
		£16662
b. Out of the sum of £20,500 provided under the Schedule to Act 26 of 1896 for the Extension of North Embankment to Southward and up the Baakens River, and the Reclamation of land at back...	...	16,000
c. Out of the sum of £9,000 provided under Section 1 of the Schedule to Act 35 of 1898 for North Embankment Extension	...	5,000
		£37,662

SCHEDULE B.

a. Electric Power and Lighting Plant (additional)	...	£16,662
b. Hydraulic Plant Extension...	...	16,000
c. Widening Baakens River Bridge ...	...	5,000
		£37,662

Repealed by Act No. 3 of

No. 18—1900.] [October 19, 1900.

ACT

To Indemnify Persons who have taken part in, and to enable the Governor to remedy and validate, certain Irregularities in connection with the Elections, Meetings and Proceedings of certain Local Authorities; and to enable the Governor temporarily to nominate members to fill vacancies in such Local Authorities.

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 Governor may validate anything irregularly

1. It shall be lawful for the Governor, in the event of anything required by law to be done in connection with the elections

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No. 18—1900.

done in connection with elections of members of Local Authorities, &c.

of members of Divisional Councils, Municipal Councils, or Village Boards of Management, or with any meetings or proceedings of the same having been omitted to be done or having been omitted to be done within the time fixed by law, and for the remedying or validating of which no provision is already made by law, to order all such steps to be taken as may be necessary to remedy any omission or delay, and to validate anything which may have been irregularly done in matter or form, so that the intent and purposes of the laws regulating such local authorities as aforesaid may have effect. This section shall apply only to such elections, meetings or proceedings which have, or ought to have, taken place between the eleventh day of October, 1899, and the date of the taking effect of this Act.

The Governor may fill up certain vacancies on Local Authorities.

2. It shall be lawful for the Governor, in the event of any existing vacancy in the membership of any such local authority, and where it is not practicable to have an election in the ordinary way, at his discretion to nominate a member to fill any such vacancy.

Tenure of office of members nominated by the Governor.

3. The members nominated by the Governor under the preceding section shall hold office in each case only until the next annual or general election as the case may be of the members of the local authority taking place after the date of the passing of this Act, when they shall vacate office along with those members who shall by law be required to vacate office; but they shall be disqualified from membership at any time for reasons which would have disqualified them had they been members elected in the ordinary way.

Exemption from disqualification under certain circumstances.

4. No member of any such local authority shall be considered to have become disqualified to sit as a member on the ground only that he has failed to attend any meeting or meetings during the period mentioned in Section 1 of this Act.

Persons who have taken part in irregularities indemnified.

5. Every person who has taken part in any election, meeting or proceeding of such local authority as aforesaid which is irregular in matter or form and which is remedied or validated by the Governor under the powers conferred by Section 1 of this Act shall be freed, acquitted, discharged and indemnified against all and every person and persons whomsoever in respect thereof.

Application of Act.

6. This Act shall have force and effect only in the districts mentioned in the Schedule hereto, and shall be applicable to any local authority incorporated by special statute as well as to the local authorities which are governed by the general statutes regulating such local authorities respectively.

Short title.

7. This Act may be cited for all purposes as "The Local Authorities Emergency Act, 1900."

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SCHEDULE. No. 19—1900.

Albert.	Herbert.
Aliwal North.	Kenhardt.
Barkly East.	Kimberley.
Barkly West.	Mafeking.
Colesberg.	Prieska.
Gordonia.	Vryburg.
Hay.	Wodehouse.

No. 19—1900.] [October 19, 1900.

ACT

To Provide for Acquiring, Equipping, Maintaining and Working certain Lines of Railway.

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, as follows:—

PART I.—INDWE RAILWAY.

Acquisition of Indwe Railway

1. It shall be lawful for the Governor as soon after the taking effect of this Act as to him may seem expedient to cause to be acquired, equipped, worked and maintained the line of railway named in Schedule A to this Act.

Cost of acquisition.

2. The cost of acquiring the said line of railway and equipping the same shall not exceed the sum of £440,000, and it shall be lawful for the Governor if he so desire to pay the said sum of £440,000 by the issue of Cape Government three per cent. stock at par to the Indwe Railway Collieries and Land Company (Limited) in full satisfaction of the said sum as provided in terms of the letters in the next succeeding section referred to.

Confirmation of letters set forth in sections (*a*) and (*b*) of Schedule E.

3. The letter dated 13th October, 1899, from the General Manager of Railways to the Managing Director of the Indwe Railway Collieries and Land Company (Limited), and the reply set thereto dated the 20th October, 1899, which letters are set forth in sections (*a*) and (*b*) of Schedule E to this Act are hereby confirmed, and the said letters shall have the same effect and force as if they were set forth fully in the body of this Act.

PART II.—CAPE COLLIERIES RAILWAY.

Subsidy to Cape Collieries Railway.

4. It shall be lawful for the Governor to cause to be paid to the owners of the line of railway, mentioned in Schedule B to this Act, a subsidy not exceeding one thousand five hundred

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pounds (£1,500) per mile, and the amount of such subsidy when paid shall form a legal and valid first charge or mortgage on so much of the property of the said owners as comprises the line including sidings, station buildings, and all appurtenances, together with the rights of the owners in the land occupied by the buildings and works belonging to the railway.

Contract set forth in Schedule F confirmed.

5. The contract set forth in Schedule F to this Act is hereby confirmed, and shall have the same force and effect as if it was set forth fully in the body of this Act. And it is expressly provided that, in case the assets and rights of the Cape Collieries (Limited), be taken over and acquired by any new or other Company, such acquisition shall be subject to the said contract, the terms of which shall be as binding upon such new or other company as if it had been originally a party thereto: Provided that in the event of any dispute arising in regard to any clause or in regard to any matter arising under any clause of the said conment and the said Company or any successor of the said Company, tract, such dispute shall, failing agreement between the Governbe determined by arbitration in accordance with the provisions of the "Lands and Arbitration Clauses Act, 1882."

Right of purchase.

6. It shall be lawful for the Governor, if he deem it advisable, at any time during the period of twelve months after the taking effect of this Act to exercise the right of purchase conferred by the third section of the said contract upon the terms and conditions in that section set forth.

Application of provisions of Act 19 of 1861.

7. 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 the Railways referred to in the preceding sections of this Act, 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.

PART III.—Oudtshoorn-Klipplaat, Somerset East-King William's Town, Mossel Bay-Oudtshoorn and Port Elizabeth-Avontuur Railways.

Additional expenditure authorised on certain lines.

8. For the purpose of constructing and equipping the several lines of Railways mentioned in Schedule C to this Act, 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 such line the amount set opposite it in the said Schedule; anything to the contrary in the Railways Extension Act, 1898, or in any other Law notwithstanding.

Confirmation of contracts set forth in Schedules G, H, I.

9. The contracts set forth in Schedules G, H, I to this Act are hereby confirmed and shall have the same force and effect as if they were set forth fully in the body hereof.

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Repeal of repug nant Laws.

10. So many of the provisions of the "Railways Extension Act, 1898," and the "Railways Extension Act, 1895," as are inconsistent with, or in conflict with the provisions of the two last preceding sections of this Act, and the contracts referred to therein are hereby repealed, save as to acts done, rights acquired, or liabilities incurred before the taking effect hereof.

Application of Sections 15, 16, 17, of this Act to Port Elizabeth-Avontuur Line.

11. The provisions of Sections 15, 16 and 17, of this Act shall apply to the construction and working of the line of Railway marked (*d*) in Schedule C of this Act, as if the said line of Railway was specially mentioned in such sections.

PART IV.—Hopefield-Darling Railway.

Hopefield-Darling Line.

12. It shall be lawful for the Governor as soon after the taking effect of this Act as may to him seem expedient, to cause to be constructed, equipped, maintained and worked the line of Railway set forth in Schedule D hereto.

Two feet guage.

13. The line of Railway referred to in the preceding section shall be constructed upon a gauge of two feet.

Cost of Construction.

14. The cost of the construction and equipment of the said line of Railway shall not exceed the sum of £135,000.

Power of entry on land.

15. For the purpose of setting out the said line of Railway the Governor may by persons thereto duly authorised 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 any such land for the damage, if any, thereby occasioned.

Governor to have powers of Divisional Council under Sections 146 and 147 of Act 40 of 1889

16. The Governor shall for the purpose of the construction and maintenance of the said line 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

Proviso.

(*a*) The extent of the land taken for the said line 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 Railway.

(*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 Arbitrations Clauses Act, 1882."

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Method to be adopted in crossing road or street.

17. At all places where the line of the said Railway shall intersect or cross the line of any street or road, 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; 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 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.

Provision for funds.

18. For the purposes of this Act, that is to say for the provision of funds to meet the amount required for the purposes set forth in the preceding sections of this Act, it shall be lawful for the Governor from time to time as he may deem expedient to raise by way of loan a sum of money not exceeding one million one hundred and twenty-three thousand three hundred and thirty-nine pounds, either by Debentures or Stock or partly by Debentures and partly by Stock, and the costs necessarily incurred in raising any such loan or in the issuing of such Stock including discount, if any, commission and other charges shall be a first charge against the amount of such loan.

Short title.

19. This Act may be cited for all purposes as the "Railways Acquisition and Extension Act, 1900."

Schedule A.

SCHEDULE A.

Indwe Railway, Purchase of £440,000

Schedule B.

SCHEDULE B.

Cape Collieries Railway, Purchase of (after payment of a subsidy of £1,500 a mile) £80,000

together wit the cost of the betterments and extensions referred to in Section 3 of the Contract in Schedule F of this Act.

But not to exceed in all £80,000

Schedule C.

SCHEDULE C.

(*a*) Oudtshoorn-Klipplaat Railway £122,626
(*b*) Somerset East-King William's Town Railway £211,332
(*c*) Mossel Bay-Oudtshoorn Railway £9,231
(*d*) Port Elizabeth-Avontuur Railway £125,150

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SCHEDULE D.

No. 19—1900.
Schedule D.

A 2 feet gauge Railway from Kalabas Kraal or Malmesbury, or some point between Kalabas Kraal and Moorreesburg to Hopefield *via* Darling	£135,000
	£1,123,339

SCHEDULE E.

Schedule E.

(*a*) Letter dated 13th October, 1899, from General Manager of Railways to Managing Director of Indwe Railways Collieries and Land Company, Limited.

(*b*) Letter dated 20th October, 1899, from the Managing Director of Indwe Railways Collieries and Land Company, Limited, to the General Manager of Railways.

Office of the General Manager of Railways,
Cape Town, 13th October, 1899.

G.23881/169.

OPTION TO PURCHASE INDWE LINE.

SIR,—With reference to recent negotiations between the Government and your Company, concerning the question of the purchase by Government of the Indwe Line, I have the honour to state that the Government accepts your offer of the option to purchase the line in question up to the 31st July, 1900, on the following terms and conditions, viz.:—

1. The purchase price of the line, as it stands, with all appurtenances of buildings used for Railway purposes to be £400,000 (four hundred thousands pounds sterling).

2. The Company's Rolling Stock now in use to be taken over at a valuation.

Rolling stock now on order, or any more that may be ordered with the approval of Government before the 31st July, 1900, to be taken over at cost.

3. The rate for conveyance of coal over this line from Indwe to Sterkstroom to be the minimum rate in operation on any section of Cape Government Lines; provided always that in no case shall the rate exceed ½d. per ton per mile.

The minimum before mentioned, however, shall not mean the rate for conveyance of coal in return empties.

4. The Mine Sidings, including points of junction with the Main Line, to remain the property of the Indwe Company.

5. The Government to undertake to give all reasonable facilities in supply of trucks to the Mine.

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6. Any improvements or additions made to the line after the date of agreement, and approved by the Government before execution, to be taken over at cost price.

7. All contracts existing in connection with the Railway in respect of Water Supply and Stations to be taken over by Government.

8. The Company hands over all rights in respect of Railway that it possesses.

9. If the Government desires it the Company shall accept Cape 3 % (three per cent.) Stock at par in payment of the purchase price of £400,000 and extras.

I shall be pleased to be favoured with your confirmation of the foregoing.

I have the honour to be,
Sir,
Your obedient servant,

Sgd. C. B. ELLIOTT,
General Manager.

The Hon. Col. SCHERMBRUCKER, M.L.A.,
Managing Director, Indwe Railway Collieries & Land Co.,
Cape Town.

Indwe Railway Collieries and Land Co., Ltd.,
Cape Town, 20th October, 1899.

OPTION TO PURCHASE INDWE LINE.

SIR,—I have the honour to acknowledge receipt of your letter G. 23881/169 of the 13th October, and subsequent reminder of 15th October, 1899, containing the terms and conditions on which Government accepts the Company's offer of the purchase of the Indwe Line up to 31st July, 1900, all of which, from 1 to 9, are correctly stated, and hereby formally confirmed by me on behalf of the Company.

The delay in answering your letters, now under reply, is due to my absence from Cape Town, having returned only this morning.

I have the honour to be,
Sir,
Your obedient servant,

Sgd. F. C. SCHERMBRUCKER,
Managing Director.

C. B. ELLIOTT, Esq., C.M.G.,
General Manager of Railways,
Cape Town.

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SCHEDULE F.

AGREEMENT dated 24th August, 1900, between the Commissioner of Public Works and the Cape Collieries Company, Limited.

CAPE COLLIERIES COMPANY'S RAILWAY.

MEMORANDUM OF AGREEMENT made and entered into this 24th day of August, One Thousand Nine Hundred, between the Honourable Dr. THOMAS WILLIAM SMARTT, M.L.A., in his capacity as Commissioner of Public Works, and as such representing the Colonial Government, of the one part, and EDWARD RIDGE SYFRET as the authorised representative of the Cape Colleries, Limited, of the other part.

WHEREAS the Cape Collieries Company are the owners of a certain line of Railway from Bamboo Junction to the Cape Collieries Coal Mine; and whereas the said Company have made application to the Colonial Government for assistance in the form of a subsidy on the said line of Railway: and whereas the said Colonial Government have decided that it is in the public interests to grant such assistance upon certain conditions hereinafter mentioned.

Now therefore it is agreed, subject to the approval of Parliament, as follows:—

1. The Company shall become public carriers and the fares for passengers and rates for goods, produce, live-stock and vehicles, shall be in accordance with reasonable tariffs, subject to the approval of the Governor, and shall, after settlement, be liable to be re-adjusted by the Company from time to time with the like approval at the request of the Governor, acting upon a resolution of both Houses of Parliament; 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, produce, live-stock and vehicles shall be likewise charged equally after the same rate whether by ton or otherwise in respect of all goods, produce, live-stock and vehicles of the same description, and no reduction or advance in such tolls, fares or rates, shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the said Railway.

2. The said Company hereby undertake to permit other Coal Companies or proprietors or other persons desiring them, such facilities by way of sidings and connections, and the use thereof as the General Manager of the Cape Government Railways may

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direct, upon the certificate of a Government Engineer, at the cost of such companies or proprietors or other persons, and shall convey the goods or minerals of such companies or proprietors or other persons at rates approved of as provided in the preceding clause hereof.

3. Any betterments or extensions on the Railways undertaken by the said company shall be first approved by the General Manager of the Cape Government Railways at a schedule of fixed prices, and the Governor shall have the right of purchasing the Railway, including sidings, station buildings and all appurtenances, together with the land occupied by the buildings and works belonging to the Railway for the sum of £50,000 (fifty thousand pounds) sterling, plus the cost of the approved betterments or extensions, made subsequent to the date of this contract, within a period of twelve months after the ratification of this agreement by Parliament.

4. Reasonable arrangements conferring on the Government running powers and providing facilities for through traffic shall be made between the Company and the General Manager of the Cape Government Railways.

5. Should the option of purchase provided in clause 3 not be exercised within the period specified, the Governor shall at any time, after the expiration of twelve years from the date of the ratification by Parliament of this agreement, and after giving at least six months' notice, have subject to the approval of Parliament, the right to purchase and take possession of the said Railway. The purchase price to be the amount of actual cost with the addition of 10% (ten per cent.) less a reasonable amount for wear and tear; credit to be taken in the account for all amounts paid by way of subsidy.

6. The Company undertake immediately on payment of the subsidy herein provided for to work and thereafter to maintain the said Railway to the satisfaction of the General Manager of the Cape Government Railways, and should they at any time fail to do so, the Cape Government shall have the right to take possession of the said Railway (including sidings, station buildings and all appurtenances, together with the land occupied by the buildings and works belonging to the Railway), to work the same for and on account of the Company, and at the expense of the Company to maintain it in a proper and efficient state of repair.

7. All books, vouchers, drawings and other documents of the said Company, relating to the construction of the line shall be available for inspection by the General Manager of the Cape Government Railways and any other duly authorised Officer for the purpose of checking the cost of the said line.

8. In consideration of the aforesaid terms and conditions the Colonial Government shall pay to the said Company a subsidy of

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£1,500 per mile of the existing line of Railway or any extension thereof approved by Government, which amount shall be deducted from the purchase amount of the said line of Railway, in case the option of purchase should be exercised in accordance with clauses 3 and 5 hereof.

9. It is further agreed that the said subsidy of £1,500 per mile shall form a first charge on so much of the property of the said Company as comprises the line, including sidings, station buildings and all appurtenances, together with the rights of the owners in the land occupied by the buildings and works belonging to the Railway.

10. If at any time after the taking effect of this agreement an order of a competent Court be made placing the Company in Liquidation then the Governor shall be entitled to exercise without notice the option provided by clause 5 of this agreement to purchase the said line; and in the event of the said option not being exercised, then the line with the buildings, appurtenances and land aforesaid shall not be disposed of except subject to the provisions of this agreement.

In witness whereof the said parties hereto have hereunto set their hands this 24th day of August one thousand nine hundred in the presence of the subscribed witnesses.

T. W. SMARTT.
E. R. SYFRET.

As witnesses:

C. B. ELLIOTT, } As Witnesses to Signature of
R. A. HEMMENS, } T. W. SMARTT.
R. E. BALL, } As Witnesses to Signature of
R. B. MILLS, } E. R. SYFRET.

SCHEDULE G.

Schedule G.

AGREEMENT with Thames Ironworks Company, dated 4th July, 1900, for construction of line of Railway from Oudtshoorn to Klipplaat *via* Willowmore.

CAPE OF GOOD HOPE GOVERNMENT RAILWAYS.

OUDTSHOORN-KLIPPLAAT RAILWAY.

ARTICLES OF AGREEMENT made and entered into this fourth day of July, 1900, between the Honourable Dr. THOMAS WILLIAM SMARTT, M.L.A., in his capacity as COMMISSIONER OF PUBLIC WORKS, and as such representing the Colonial Government,

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of the one part, and WILLIAM LANGSTAFF AINSLIE, in his capacity as the duly authorised representative of THE THAMES IRONWORKS and SHIPBUILDING COMPANY, LIMITED, of BLACKWALL, LONDON, hereinafter called the Contractors, of the other part.

WHEREAS on the 2nd day of August, 1898, and on the 18th day of March, 1899, certain agreements were entered into between the said parties hereto for the construction *inter alia* of

> "A line of Railway from Oudtshoorn *via* Willowmore to a point on the Graaff-Reinet Railway at or near Klipplaat," being part of the lines of Light Railway described in the Act No. 28 of 1895 as "A Line of Railway from Mossel Bay *via* George, Oudtshoorn and Willowmore to a point on the Graaff-Reinet Railway at or near Klipplaat."

WHEREAS in the Agreement of the 11th March, 1899, it was agreed to continue the construction of the said line of Railway under the Agreement of the 2nd August, 1898, and under an Agreement of the 19th May, 1896, entered into between the Commissioner of Public Works and the Grand Junction Railways, Limited.

AND WHEREAS by reason of the said three Agreements being in force at the same time, certain complications and differences have arisen between the said parties hereto, and it has been deemed necessary to enter into a fresh Agreement, so as to make the conditions for the construction of the said line clearly understood by both parties.

NOW, THEREFORE, IT IS AGREED, subject to the approval of Parliament, that from the day upon which this Agreement and all plans, specifications and such other annexures as are herein mentioned are signed, the said Agreements of the 19th May, 1896, 2nd August, 1898, and 18th March, 1899, shall, as far as regards the said line of Railway from Oudtshoorn *via* Willowmore to a point on the Graaff-Reinet Railway at or near Klipplaat, hereinafter sometimes referred to as the Oudtshoorn-Klipplaat Line, be considered cancelled, and the following Agreement, conditions and stipulations shall be substituted therefor, and be binding on the parties hereto.

1. The Contractors undertake to construct the Oudtshoorn-Klipplaat Line as a complete line, including land, buildings, turntables, locomotive tanks, water supply, station yards, sidings, loops with spurs about every ten or twelve miles, permanent way, bridge superstructures, and all other matters and things necessary for the completion of the said line for the Government, in accordance with the specification, conditions of contract, plans, sections, drawings and schedules hereunto annexed, numbered—plans, sections and drawings 1 to 50 inclusive, and schedules 1 to 5 inclusive, respectively—and signed by or on behalf of the parties hereto, and in accordance with approved deviations therefrom, for

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the sum of £4,150 (four thousand one hundred and fifty pounds) per mile. All land acquired for the purposes of the line of railway aforesaid shall be registered in favour of the Colonial Government.

2. The Line shall be constructed on a ruling gradient of 1 in 70 throughout instead of 1 in 40 as originally contemplated and with a minimum radius of curve of 8 chains, and any reasonable deviation required to secure the improved gradient and location shall (in so far as the same have not already been sanctioned) be sanctioned by the Commissioner provided they do not in his opinion unduly lengthen the line.

3. The Government will treat sections of not less than 20 (twenty) consecutive miles commencing at Klipplaat and similar sections following immediately thereon as completed sections when fully ballasted and when all works required to be done thereon with the exception of bridges of a greater span than fifty (50) feet have been completed to the satisfaction of the Engineer, and will pay for the same at the contract price of four thousand one hundred and fifty pounds (£4,150) sterling per mile, together with such additional amounts as may be payable to the Contractors under the provision of Clause 5 hereof, less the schedule value of any bridges over 50 (fifty) feet span and of accessories not completed, and also less the amount of any monthly or other payments made on such sections under this or any previous Contract. Notwithstanding such payments, the Contractors shall maintain such sections of the line in good and proper repair until the whole line is completed and taken over by the Government, except such portions thereof as may have been taken over by the Government from time to time.

4. The Government will pay to the Contractors monthly the value of the work executed on the line as certified to by the Engineer, less ten per cent. (10 %), such value to be calculated at the prices shown on Schedule No. 3 hereto annexed.

5. In addition to the Contract price per mile provided for in Section 1 hereof, the Government shall pay to the Contractors the extra cost of heavier permanent way, viz.:—60 lbs. rails instead of $46\frac{1}{4}$ lbs. rails, and sleepers 7 feet by 10 inches by 5 inches instead of sleepers 6 feet 6 inches by 9 inches by $4\frac{1}{2}$ inches, together with a proportionately increased amount for additional ballast for such heavier permanent way in excess of the amount shown on Type drawings hereto annexed, numbered 9 and 44, or say 21 cubic yards per chain and extra weight of fastenings, and shall also pay for the additional cube of earthwork and masonry or concrete occasioned by the reduction of the ruling gradient from 1 in 40 to 1 in 70 in excess of the average quantities per mile shown on the said original plans and sections hereto annexed, at the rate of 1s. 10d. (one shilling and tenpence) per cube yard for earthwork and 45s. (forty-five shillings) per cube yard for masonry or concrete, provided that the quantities so paid for shall in the

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aggregate not exceed the difference between the total measurements on the original and the deviated line. The extra cost shall be computed at the prices fixed in said schedule except that

(*a*) Where the materials are provided or work done for which no prices appear in the said schedules, and such work or materials shall not be part of the complete line, the amounts to be paid shall be actual cost (including freight, insurance and other proper charges) plus ten per cent. (10 %) for Contractor's profit, and

(*b*) In the case of No. 9 deviation through Toverwater Poort, extending from 29 miles 42·81 chains, Sheet 3, to 98 miles 43·91 chains, Sheet 5, on the original section the following special prices shall be paid, viz.:—

Earthwork and soft shale ...	1s. 3d.	per cubic yard.
Hard shale and loose rock ...	2s. 6d.	do.
Hard rock, *e.g.*, Quartzite ...	4s. 3d.	do.

The amount to be paid shall be ascertained by taking out the quantities in masonry, excavation and embankment on the original section according to the above classification, and also dealing with the deviation or regrading on the original line in a similar manner, dividing the totals by the respective lengths of line in miles, the difference of quotients being the average excess per mile upon which payment is to be made.

6. It is agreed that as there is a contemplated saving in the length of the line by the adoption of the route proposed by deviation No. 13, extending from 15 miles 33·61 chains, Sheet 1, to 28 miles 77·92 chains, Sheet 2, on the original line, the Government will make a special payment in addition to all other payments at the rate of £5,000 (five thousand pounds) per mile to the Contractors for any distance actually saved by such deviation. This amount shall be paid upon completion of the whole line.

7. For the completion of the line from the west end of No. 13 deviation to Oudtshoorn, further deviations or regrades of the original section will have to be made to secure the 1 in 70 gradients, for which additional cube of earthwork and masonry or concrete over and above the average quantity per mile on the original section will be paid for at the rate of 1s. 10d. (one shilling and tenpence) and 45s. (forty-five shillings) per cubic yard respectively. In addition to deviations already approved, should other deviations be required by the Commissioner, the work in connection therewith shall be measured, and all work in excess of the average quantities per mile on the original section, which quantities shall be ascertained in manner aforesaid, shall be paid for at the prices shown on the Schedule No. 3 hereto annexed.

8. The Government will make payments in advance for the materials required for this line at the prices shown on Schedule

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No. 5 hereto annexed, except that where materials are provided for which no prices appear in the said schedules, the amounts to be paid shall be actual cost (including freight, insurance and other charges) against the Shipping documents in London in the usual way.

9. The Contractors shall accept the payments hereinbefore stated in full satisfaction of all claims under this Contract.

10. The Government shall be at liberty to retain ten per cent. (10%) on all the above payments to the Contractors as a guarantee fund, such retention to be credited to the Contractors and taken into account on final settlement, but subject to the terms as regards retention money set forth in the Contract for construction of the Mossel Bay-Oudtshoorn Line *via* George dated 4th July, 1900.

11. Every reasonable assistance for the speedy and economic construction of the said railway and works shall at all times be afforded by the Government including the lending of all type drawings and sections and results of surveys.

12. The expression "Railway and Works" herein and in the Schedules hereto, refers to and includes the said Railway with the Stations and other accessories thereto and works of every description intended to be hereby contracted for as mentioned or shown in or by, or to be implied from these presents, or the said specification, plans, sections and drawings.

13. The expression "the Colony" means the Colony of the Cape of Good Hope.

14. The expression "the Commissioner" means the Honourable Dr. Thomas William Smartt, M.L.A., while Commissioner of Public Works, or other person for the time being authorised to act and acting as such.

15. The expression "the General Manager" means Charles Bletterman Elliott, C.M.G., while such General Manager, or other person for the time being authorised to act and acting as such.

16. The expression "the Agent-General" means Sir David Tennant, K.C.M.G., while such Agent-General, or other person for the time being authorised to act and acting as Agent-General in England for the Colony.

17. The expression "the Government" means the Governor or Officer for the time being administering the Government in the Colony, acting by and with the advice of the Executive Council for and on behalf of the Colony.

18. The expression "Consulting Engineers" means the Engineers for the time being duly appointed to act as such Consulting Engineers in the matter of this Contract in the manner hereinafter provided in the General Conditions and Specification.

19. The expression "the Engineer" herein and in the General Conditions and Schedule hereto, means and includes (except when controlled by the context) for the purpose of matters and works

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in England, the Consulting Engineers, and for the purposes of matters and works in the Colony, the Engineer-in-Chief of the Railways of the Colony for the time being appointed by the Government respectively.

20. The expression "the Resident Engineer" means and includes the person or persons from time to time appointed by the Government to act as such for the purposes of this Contract.

GENERAL CONDITIONS.

General Manager to represent the Government.

1. The General Manager for the time being appointed by the Government shall represent the Government in the Colony for the purposes of this Contract.

General Manager, Consulting and Railway Engineers may delegate powers.

2. The General Manager, Consulting Engineers and Engineer-in-Chief respectively may, from time to time, delegate to Assistants, to be named by them respectively, such of the powers and authorities vested in them respectively by this Contract, as they respectively, with the consent of the Government or the Agent-General may think fit, and the Contractor will recognise such Assistants on written notice of their appointment, and of the powers and authorities respectively delegated to them, as lawfully exercising, for the purposes of this Contract, the powers and authorities so delegated.

General Manager's or Engineer's certificate to be binding.

3. Every certificate in writing of the General Manager or Engineer given under his hand for any of the purposes of this Contract shall be binding on the Government, the Agent-General, and the Contractor respectively, and shall, except where otherwise provided by these presents, be final and conclusive.

Contractor to construct and complete railway.

4. The Contractor shall substantially and in the best and most workmanlike manner, and with the best materials of their respective kinds and workmanship, construct, execute, and complete the section of railway and works mentioned and described in certain plans, sections and drawings hereinbefore mentioned, and in the specification and particulars of works contained in the Schedules hereto, with all accessories and conveniences whatsoever, temporary or permanent, necessary, or which shall by the Engineer be required, and shall provide all materials and things for the same, in accordance with the conditions contained in the said specification and with the signed plans, sections, and drawings, or with such supplementary plans, sections, designs, working drawings, instructions, explanations, and specifications as shall from time to time hereafter be furnished or given by the Engineer, and shall provide all and every kind of labour, and all structures, engines, implements, tools, plant, and things, permanent or temporary respectively, described or referred to or implied in the said specification or these presents, or which shall in the opinion of the Engineer, be required for the due execution, construction, or completion of all or any of the works to be executed by the Contractor. For the purposes of this Contract, all station-houses and buildings are to be built of wood and iron.

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Plans, &c., to be accepted as generally sufficient.

5. The said specification, plans, sections, and drawings respectively, shall be accepted and considered by the parties to this Contract as sufficient for the description generally of the railway and works; and, accordingly, the Contractors shall execute all other works, and find and supply all things which in the judgment of the Engineer shall be necessary or proper for that purpose, notwithstanding that any such works or things respectively may not be expressly mentioned or referred to in or shewn upon the said specification, plans, sections, and drawings respectively, or any of them, and the Contractors shall take upon themselves all risks arising from errors and omissions in the said specification, plans, sections, and drawings, or any of them, or in the quantities of the work, or in the local information supplied to the Contractors, and shall not be entitled to any allowance or compensation whatsoever on account thereof.

Contractors to employ Agents and competent Foremen.

6. The Contractors shall at all times, during the progress of the works, employ a duly authorised Agent in the Colony to represent them for all the purposes of this Contract, and shall give the Engineer and the Agent-General respectively, due notice of the appointment of every such Agent, and shall also provide and employ constantly upon the said works such or so many competent and responsible engineers, inspectors, and foremen to inspect, superintend, and direct the same as the Engineer shall from time to time require and approve, and to whom communications may be addressed and directions given in all matters touching the works hereby contracted for, and also such number of experienced, fit, and proper agents and overlookers for the efficient conduct of the works as shall, in the opinion of the Engineer, be required, and they shall at all times employ as much labour of every description as the Engineer shall deem necessary. They shall also provide all necessary medicines and medical attendance for all persons engaged upon the works, including those employed by the Government.

Contractors to pay and to ration workmen.

7. The Contractors shall ration all workmen, unless the Government shall in any case relieve them of this responsibility with respect to certain workmen, but it must be distinctly understood that the sale of general goods is not to be a monopoly, and that no intoxicating liquor is to be supplied.

Works to be executed under control of Engineer.

8. The Contractors shall execute all the works hereby contracted to be executed under the immediate inspection and control of the Engineer, and in such order and manner as he shall from time to time direct, and to his satisfaction, and in so doing shall conform to all local usages and laws.

Contractor to protect public, &c., against injury and trespass,

9. The Contractors shall take all necessary precautions by fencing, lighting, watching, and otherwise, to protect the public and the property of the Government and other parties from injury, and the adjoining land from trespass, during the progress of the works.

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As to injury to or interference with Roads.

10. The Contractors shall not, in the execution of any of the works or otherwise, permanently interfere with the free use of any public or private road or footpath, or injure the same further than may be indicated and allowed by the Engineer; and in constructing the Railway and works across public or other roads, streets or paths, and in every other case where any such injury or interference shall unavoidably or otherwise happen, the Contractors shall observe and be bound by the directions relative to the crossings of roads, streets and highways, of any law or usage in the Colony, and will be solely answerable for any such injury and interference, and shall indemnify the Government from all losses, damages, expenses, claims, and demands on account thereof; and in carrying any materials or otherwise passing across, over, or under any road, street or path, whether permanent or temporary, every proper precaution shall be taken by the Contractors to avoid injuring or interfering with the use of the same, and they shall indemnify the Government from all losses, damages, expenses, claims and demands on account, or in consequence thereof, or in consequence of any injury to the owners or occupiers of land or other parties from the failure of any of the works therein contracted for, or from delays in the commencement or completion thereof respectively, or from trespass. When any existing road is diverted or altered in level it shall be left, when so diverted or altered, in as good a state in all respects as it was prior to such diversion or alteration.

Roads made by Contractors may be taken by Government.

11. Any road or roads made by the Contractors for the purpose of carrying on the works shall, if so desired by the Government, become the property of the Government, without any charge being made in respect thereof by the Contractors.

Contractors to compensate owners of adjoining lands.

12. The Contractors shall make such full compensation and satisfaction as they shall be legally liable or adjudged to make to all owners, lessees, or occupiers of all lands and property adjoining or near to the site of the works (except land to be provided by the Government under Article 34), which shall be taken, injured, crossed, or otherwise temporarily used or occupied by the Contractors, for all loss or damage to or by such owners, lessees, or occupiers, or other persons respectively, occasioned or sustained by, or by reason of the construction or execution of the Railway and works, or by reason of any neglect or omission of the Contractors, and shall indemnify the Government in respect thereof.

Contractors may import certain materials free of duty.

13. The Government will not charge the Contractors with any import duty in respect of any Railway materials (see Act No. 6 of 1898, Clause 102, Schedule B); but for all other materials and things, including merchantable and consumable articles the usual import duties must be paid by the Conrtactors.

Contractors to pay Royalties, &c.

14. The Contractors shall pay all royalties and other sums of money which shall be due or payable in respect of any patented articles or designs which shall be used by them in or about the construction of the Railway and works.

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15. The Contractors shall at all times indemnify the Government against all penalties, fines, and payments whatsoever which the Government shall be legally required or compelled to pay or make by reason of the non-performance or non-observance of all or any of the engagements herein contained on the part of the Contractors and if at any time the Government shall be called upon under any law or usage, or otherwise, to pay any sum or sums of money by way of penalty, fine, compensation, or otherwise, for or in respect or on account of the breach, non-performance, or non-observance by the Contractors of any of the covenants herein on their part contained, or on account of any misfeasance, neglect or tresspass on their part, or liability of their incurring, or which may arise in carrying out the railway and works, the Contractors shall thereupon, on demand, repay to the Government, or the Government may deduct from any moneys payable to the Contractors under these presents, the full amount of all such penalties, fines and payments, including all costs, charges, damages and expenses attending the settling and ascertaining the amount thereof, or of defending any action, suit or other proceedings in respect thereof. Provided, nevertheless, that no such payment shall be made or action defended without reasonable notice, where practicable, being given beforehand to the Contractors, to the intent that they may have the opportunity of resisting, compromising, or settling the same.

Contractors to indemnify the Government against penalties, &c.

16. The Contractors shall at all times during the progress of the works take all requisite precautions, appoint such men as Constables as the Engineer may consider necessary, and use their best endeavours for preventing any riotous or unlawful behaviour by or amongst the labourers, workmen, and others employed on the works, and for the preservation of the peace and protection of the inhabitants, and the security of the property in the neighbourhood of the works.

Contractors to preserve the peace.

17. The Contractors shall not sell, or otherwise dispose of, or remove, except for the purposes of this Contract, the sand, stone, clay, soil, ballast, earth, minerals, or other substances or materials which may be obtained for the purposes of this Contract, nor any buildings or produce upon the site of the works at the time of the delivery of the possession of the land, but all the same premises respectively are, and shall be deemed the property of the Government if they so desire. Provided that the Contractors may, with the permission, in writing, of the Engineer, use any of the said materials for building purposes or ballasting the permanent way, subject to the provisions of the said Specification.

Contractors not to dispose of soil.

18. The Contractors shall from time to time, as and when required, furnish the Engineer with a statement in writing of the arrangements they propose to adopt for the execution of this Contract, and in case the Engineer shall at any time, or times, consider any alteration in the same desirable, the Contractors shall, on notice thereof, be bound to adopt and carry out such alteration.

Contractors to inform Engineer of arrangements for execution of works

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Engineer to set out the centre line of Railway.

19. The Engineer will set out the centre line of the Railway. The Contractors shall set out the other works under the direction and to the satisfaction of the Engineer, and according to the plans, sections and drawings, of which the Contractors shall make the necessary copies for their own use.

Contractors to find all pegs, &c.

20. The Contractors shall find all pegs, stakes and things, and do all clearing necessary for the use of the Engineer in checking all surveys and levels, and checking or setting out the line of Railway, or of any works, and for the periodical measurement of works executed and materials supplied.

Contractors to make borings, &c.

21. The Contractors shall, at their own expense, cause all such preliminary surveys and borings to be made as the Engineer shall require, for the purpose of ascertaining the nature of the subsoil at points proposed for stream or river diversions, or for the erection of bridges, or other constructions, and also for ascertaining the character of seats of embankments, and the material to be excavated from cuttings, and enabling the Engineer to determine the measures to be adopted for the proper execution of the work and whether or not any deviation is necessary or desirable.

Contractors to furnish returns.

22. The Contractors shall, on demand, furnish from time to time such returns, regularly or otherwise, as may be required by the Engineer, of the number and description of the engineers, agents and inspectors, foremen anl workmen of all sorts employed, and of the beasts of labour, materials and plant provided for the purpose of this Contract, and shall produce such vouchers for the same as the Engineer may require.

Engineer may require dismissal of incompetent workmen, etc., and employment of others.

23. If the Engineer shall at any time consider any engineer, agent, inspector, foreman, or workman employed by the Contractors for the purpose of the Contract to be inefficient, incompetent, or should they misconduct themselves, or the number of the workmen or beasts of labour, or the amount or character of the plant or materials then employed or provided by the Contractors in or upon or for the purpose of the works to be insufficient or improper, or that the works or any of them are not being executed with due diligence and despatch, then and in every or any such case it shall be lawful for the Engineer to give notice in writing to the Contractors, requiring them to dismiss any such inefficient or incompetent engineer, agent, inspector, foreman or workman, and to remove any unsuitable men, beasts, plant or materials, and to appoint in lieu of such persons respectively other fit and proper engineers, agents, inspectors or foremen, and to employ other workmen, and to provide other beasts, plant or materials, and also to make such additions to the engineers, agents, inspectors, foremen or workmen employed, or to the number or amount of the beasts, plant and materials, or such change in their character either until the completion of all or any of the works, or for a limited period as the Engineer may think necessary and shall by any such written notice require.

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In default may provide proper workmen and materials at Contractors' expense.

24. If the Contractors shall not, upon the receipt of any such notice, or within a time to be specified therein, comply with such notice, it shall be lawful for the Engineer, on the account and at the cost of the Contractors, to remove the engineers, agents, inspectors, foremen, workmen, beasts, plant, or materials complained of, and at the like cost to provide and employ such other or additional engineers, agents, inspectors, foremen and workmen for such time, and to purchase and provide such additional or other beasts, engines, plant and materials respectively as he may think necessary, and to pay such other or additional engineers, agents, inspectors, foremen and workmen such salaries or wages, and to pay for such additional beasts, plant and materials respectively, such prices as the Engineer may think proper, all which salaries, wages and prices respectively, if paid by the Government, and any extra expense the Government may incur in relation thereto, shall on demand be repaid to them by the Contractors, or the Government may retain or deduct the same out of the moneys then due, or thereafter to become due, from the Government to the Contractors under this Contract.

Engineer may require removal of defective and substitution of proper materials and work

25. The Engineer may require the Contractors to remove from the site of the railway all materials which, in the opinion of the Engineer, are of inferior or unsound quality, but when these materials have been previously inspected and approved by the Engineer and Inspecting Engineer, they shall be removed if damaged or deteriorated in quality. The Engineer may also require the Contractors to take down and remove all work which in his opinion shall have been imperfectly or improperly executed; and in either of the foregoing cases require the Contractors to substitute other and satisfactory materials and work.

In default may provide proper materials and work at contractors' expense.

26. If the Contractors shall not, within 14 days after notice in writing of any such requisition, comply with the same in all respects to the satisfaction of the Engineer, it shall be lawful for him, on the account and at the cost of the Contractors, to cause the imperfect or improper materials or work to be removed or taken down and other and satisfactory materials or work to be provided or executed as the case may be, by some other person or persons, and the costs, charges and expenses incurred by the Government thereby shall on demand be repaid to them by the Contractors, or the Government may retain or deduct the same out of the moneys then due, or thereafter to become due, from the Government to the Contractors under this Contract.

Times for completion.

27. The Railway and Works, including such modifications thereof, if any, as may be made under these presents, shall be pushed forward immediately upon the completion of this Agreement, and the work shall be uniformly and regularly carried on so that the section from Klipplaat to Willowmore shall be completed and handed over to the Government fit for traffic within six months of the approval of these presents by Parliament;

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and the remainder of the works included in the Contract shall be completed to the satisfaction of the Engineer and the line handed over to the Government fit for traffic within twelve months of the approval of these presents by Parliament.

Order of execution of works; penalty for delay in completing.

28. In order to expedite the completion of the Railway, the heaviest work shall be so far as possible executed first and the lighter work subsequently, as may be directed by the Engineer. If any delay shall occur in the completion in accordance with Article No. 27 at the stipulated times of the said Railway and Works, and notwithstanding any alleged act or omission of the Government or its Officers or Agents tending to prolong such delay, the Contractors shall pay to the Government as liquidated damages Ten pounds sterling for every day during which such section of the line from Klipplaat to Willowmore, and the remainder of such Railway and Works shall remain incomplete and undelivered beyond the time and date fixed by Article 27, or (in case the Engineer shall extend the time for completion under Article 30) beyond the dates to which the time for completion shall have been so extended, and for the purpose of this Article time shall be deemed to be of the essence of this Contract.

Contractors to take over Government Plant.

29. For the purposes of this Contract the Contractors shall from time to time, whenever required by the Government, take over from the Government all such plant or temporary materials as they may have in stock suitable and required by the Contractors for the execution of the Contract, at such prices representing the fair value thereof as shall be agreed upon by the Engineer and the Contractors' agent, or failing agreement, by the Consulting Engineer; the price shall be payable within fourteen days after possession of the articles is given to the Contractors, and if not paid, the Government may deduct the amount frrom any moneys payable to the Contractors under this Contract.

Extension of time.

30. If the Act of God, war, insurrection, rebellion, the execution of additional work, strikes, lock-outs, or combinations of workmen or the Railway Department, or any extraordinary or unforeseen circumstances which, in the opinion of the Engineer, may be beyond the control of the Contractors, shall, in the opinion of the Engineer, cause unavoidable delay, it shall be in his power to extend the time for completion, and he shall accordingly allow a reasonable extension of the same, but unless the Engineer shall so determine, any such events, causes, circumstances, or delay shall not put an end to the Contract, or give the Contractors any right to compensation or damages, or any other right than such extension of time (if any) as the Engineer may allow as aforesaid.

Conveyance and supply of materials

31. The Government will, along any portion of their Railways from Cape Town, or Port Elizabeth, or East London, convey such materials and things at the Contractors' risk as may be required for the purposes of the construction of the Railway and Works.

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and which the Contractors may desire to have so conveyed. And the Contractors shall pay to the Government for such carriage, exclusive of loading and unloading, at the rate of one penny per mile per South African ton of two thousand pounds weight. All materials, plant or stores sold, supplied or lent, or work done by the Railway Department for the Contractors shall be sold, supplied, lent or done at nett cost, and shall be charged against the monthly or other payments to be made to the Contractors under the provisions hereof.

Line to be in good order when handed over.

32. The Contractors shall be at liberty, at their own cost and risk, to use for the purposes of this Contract, any part of the Railway in course of construction by them under these presents, subject to the directions and control of the Engineer, and subject to the right of the Engineer at any time prior to the final acceptance of the Railway to reject any part thereof which may have been damaged by such use, until the same be put into good order and condition to his satisfaction. The Contractors shall not convey, either gratuitously or otherwise, any merchandize or other materials for any person or persons except for the purposes of this Contract.

Contractors may use permanent way material.

33. The Contractors shall be entitled to make use of so much of the permanent way materials as the Engineer may consider necessary and with his written consent, on condition that such permanent way materials shall only be used where the road is properly formed, and that any deterioration which the same materials may sustain shall be made good by the Contractors before the conclusion of the work, but the Contractors must provide temporary rails and other materials for tips, and such other purposes as the Engineer may direct.

Government to provide the land for Railway where on Crown lands.

34. The Government will, when and so often as the Contractors shall reasonably require, provide and give them possession, free of expense, and at such times as the Engineer may deem requisite for the due progress of the works, and the Government may be in a position to give the same, of all such waste Crown land as the Engineer shall determine to be required and proper for the sites of Railway and stations and other permanent works of the same, and for side cuttings, spoil banks, or for approaches or other accommodation works, and as the Contractors may by notice in writing require, but subject to the provisions of the Specification.

Notice that land is required to be given by Contractors.

35. Unless such notice shall be given by the Contractors at least one calendar month before possession is required by them, and unless it shall describe the quantity and situation of the land required, any interruption or delay of the works arising from or occasioned by the non-delivery of the possession of the land as aforesaid, shall not be deemed a breach of any of the covenants on the part of the Government herein contained, and the Contractors shall not be entitled to any extension of time in respect of such interruption or delay.

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Contractors' employés may travel at half rates.

36. The Contractors will be allowed, subject to traffic regulations, tickets for the conveyance over Government lines of any engineers, inspectors, foremen, or workmen to be engaged upon the construction of the said Railway at half the ordinary rates charged to the public for such tickets upon the existing lines, and the conveyance of personal effects, provisions, &c., for their own use, also at half the ordinary rates.

Government may enter lands in possession of Contractors.

37. The Government shall be at liberty, if they shall think fit from time to time to enter upon any lands which may be in the possession of the Contractors for the purpose of executing any works not included in this Contract which may be required for the completion of the Railway, with its equipments and conveniences; and to execute such works respectively by themselves or their agents or by other Contractors at their option. In such case they shall be at liberty to use for the purposes of transport any roads, rails, or accessories which may have been laid down or constructed, temporarily or permanently, by the Contractors, or any portion of the line still in the Contractors' possession. Provided always, that if the exercise of these powers shall cause any expense or damage to the Contractors they may, as and when such expense or damage arises, make a statement of the same to the Engineer, who shall from time to time certify to the Government the amount, in his judgment, of such expense or damage, and the Government shall from time to time pay to the Contractors the amounts (if any) so certified by the Engineer.

Locomotives and Ballast Trucks may be hired from the Government.

38. Upon the request of the Contractors in writing, addressed to the Engineer, the Government shall provide for the use of the Contractors for the purposes of this Contract one or more locomotive engines of the types referred to in Article 39 as such request shall specify and the Government is in a position to supply, and four-wheeled ballast trucks to be delivered to the Contractors at the nearest point on Open Lines within reasonable time after the receipt by the said Engineer of such request. The Government shall execute or pay for (at their option) all repairs necessitated by the fair wear and tear of such engines and rolling stock during use by the Contractors as aforesaid. Should any damage thereto be occasioned by accident, neglect, or any other cause than such fair wear and tear as aforesaid, the cost of the repairs consequent thereon shall be borne by the Contractors, and in case the same shall be executed by the Government, the Contractors shall pay therefor within fourteen days after the account thereof shall have been rendered by the Government, failing which, the amount payable in respect of such repairs may be deducted from any subsequent payments to be made by the Government to the Contractors under this Contract. The Contractors shall also, at their own expense, erect and maintain, to the satisfaction of the Engineer, such sheds as the Engineer shall, from time to time, require to be provided for the shelter of the said engine or engines, and the Engineer shall, at all

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times, have free access to such sheds, and to all other places where the said engines and trucks may, from time to time be found for the purpose of inspecting the same. The fuel and water to be supplied by the Contractors in the working of any such locomotive engines, shall be such as the Engineer shall approve, otherwise he shall be at liberty, on behalf of the Government, to resume possession of any such engines, and to decline to permit the Contractors to have the use thereof until they have obtained a sufficient supply of such fuel and water as the said Engineer shall deem satisfactory.

Payment for hire of Locomotive and Trucks, &c.

39. The Contractors shall pay to the Government for the use of locomotive engines, trucks, sheets and chains at the following rates:—

Four-wheeled coupled engine	10s. 0d. per diem, inclusive of Sundays.
Six-wheeled coupled engine	20s. 0d. per diem, inclusive of Sundays.
Carriages $\frac{3}{4}$d. per axle per hour, inclusive of Sundays.	
Short Vans...	2s. 0d. per diem, inclusive of Sundays.
Bogie Trucks	2s. 0d. ,, ,, ,,
Short	1s. 0d. ,, ,, ,,
Water Tank Trucks	1s. 6d. ,, ,, ,,
Pillar Brake Trucks	1s. 6d. ,, ,, ,,
Crane and Pilot Trucks ...	3s. 0d. ,, ,, ,,
Hopper Trucks...	2s. 0d. ,, ,, ,,
Ballast Plough Trucks ...	2s. 0d. ,, ,, ,,
Sheets	one-eighth ($\frac{1}{8}$) of a penny per hour.
Chains and Ropes	one-sixteenth ($\frac{1}{16}$) of a penny per hour.

The amounts from time to time payable to the Government under this Article shall be paid by the Contractors within the first seven days of each calendar month next after the expiration of the month during which such amounts shall have accrued due. Provided that if and so often as the same shall be unpaid at the times of payment by the Government of the monthly certificates mentioned in Article 46 the Government may deduct the total of such amounts from the money payable to the Contractors on any such certificate, and any payment of the balance thereof shall be accepted by the Contractors in satisfaction and discharge of the money so payable.

Materials, &c., shipped from Europe and America to be first approved by the Consulting Engineers.

40. All materials and things (except the Contractors' plant and temporary materials) manufactured in or derived from Europe and America and shipped by the Contractors to the Colony for the purposes of this Contract shall before being removed from the places at which they are prepared, be submitted to the inspection and approval of the Consulting Engineers or the Inspecting Engineer, and the Contractors shall give the Agent-General in London or the Consulting Engineer in America not less than ten days' notice in writing before removing any such materials or things for shipment.

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Engineer may inspect manufacture of materials and things in Europe and America.

41. If any such materials and things are manufactured or prepared in Europe or America expressly for the purpose of this Contract, the Consulting Engineers and Inspecting Engineer respectively shall be at liberty from time to time to inspect the same during the course of the manufacture or preparation, and the Contractors shall give the Inspecting Engineer not less than ten days' notice in writing of the time of the commencement of the manufacture or preparation of such materials and things, and therein specify the place of manufacture or preparation; and shall from time to time send to the Inspecting Engineer such reports of the progress of manufacture or preparation as he shall require.

Contractors to pay Freight, Insurance, &c.

42. The Contractors shall pay all expenses for freight and insurance of all materials and things manufactured in Europe or America and shipped by him for the purpose of the Railway and works, and all other expenses of, and incidental to the transport and delivery thereof at the works, subject to the provisions of these presents.

As to payment for materials shipped from Europe or America upon Certificates.

43. When any materials or things manufactured in or derived from Europe or America and intended to be shipped thence by the Contractors for the purposes of this Contract (but not including Contractors' plant or temporary materials) have been inspected and approved as required by this Contract, and have been actually shipped, the Contractors shall furnish the Consulting Engineers with a statement of the same in a form to be settled by the Agent-General, and such statement shall be certified as correct by the Contractors or their Agent and the Inspecting Engineer and the Shipping Agents (who shall be persons named or approved by the Agent-General) respectively under their respective hands, and within seven days next after any such statement shall have been delivered at the office of the Consulting Engineers, except in cases of unavoidable delay, they shall certify the value of the materials or things included in such statement according to the prices contained in the Schedules hereto, or if prices be not therein specified for any materials or things, then according to the actual cost as provided for in Clause 8 of the Agreement, and otherwise contemplated by the Contract, and on presentation by the Contractors, at the office of the Agent-General in London, of any such certificate, with the invoices, bills of lading, receipts for freight, and policies of insurance of the articles so shipped, duly assigned or otherwise transferred to the Agent-General on behalf of the Government, the amount, so certified shall, within one week from the day of the presentation and upon delivery of the said documents, be paid to the Contractors by a cheque or order, payable to such persons as they may in writing direct, on the bankers of the Agent-General in London, payable at sight. All insurances contemplated by this Contract shall be effected in an office or offices approved by the Agent-General.

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Progress measurement of works executed to be made and Certificates given by Engineer.

44. On or about the 27th of every calendar month, the Engineer, jointly with the Contractors' Agents, shall prepare a progress measurement of the work done, and a return of the materials provided and used by the Contractors for the purposes of the works during the current month, and the Engineer shall prepare an estimate, based on prices not exceeding the prices contained in the Schedule hereto of the value of the work executed and materials provided and used during that month, as appearing from such progress measurement and return, and shall certify under his hand the amount of such estimated value. In the final certificate the full lump sum plus the value of additions provided for at Schedule rates will be given.

Certificates only provisional.

45. Every certificate for payment on account for work, materials, or things, whether in England or the Colony, shall be regarded as only provisional and approximate, and all payments made on such certificates shall be regarded as being open payments, and shall respectively be subject to the revision and settlement of the Engineer, and in the event of his deciding that from any circumstances the measurements of works executed, returns of materials provided and used, or the estimates of value previously made, did not truly represent the proportion of works executed and materials provided and used, having reference to the total amount of the contract, and the work remaining to be executed by the Contractors, he shall have power from time to time to correct the total results by adding thereto or deducting therefrom such sum as after communication with the Contractors or Agent the Engineer may deem to be just, and such addition or deduction shall be credited or debited (as the case may be) to the Contractors at such time or times as the Engineer may think fit.

When Monthly Certificates are to be given and money paid.

46. Each monthly certificate of the Engineer shall, except in cases of unavoidable delay, be given within the first fourteen days after the said twenty-seventh day of each month, and the money payable thereon, after making the deductions in respect of the guarantee fund, and repayment of advances or otherwise contemplated by this Contract, shall be paid to the Contractors or their Agent in the Colony within twenty-one days next after the said twenty-seventh day of each month at the office of the Treasurer of the Colony at Cape Town or at such other office in the Colony as the Government may appoint.

Guarantee.

47. As security for the due performance of this Contract a sum equal to 10 % (ten per cent.) of the amount of every certificate will subject to the provisions of the Contract be deducted therefrom. Such deductions will remain in the hands of the Government as a Guarantee fund, to be applied in accordance with the terms of the agreement entered into for the construction of the Mossel Bay-Oudtshoorn Line dated 4th July, 1900.

Certificate of completion of Railway to be given.

48. When the Railway and works specified in this Contract, with all necessary and proper accessories, shall have been completed to the satisfaction of the Engineer, in accordance with the terms

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of the Contract, and it is fit to be opened for traffic, he shall give to the Contractors a certificate of the final completion of the Railway and works, and thereupon the Government shall take over the same, and the Engineer shall then revise and settle the monthly certificates, taking into account all payments heretofore made to the Contractors, and all damages, penalties, and expenses paid or incurred by the Government and under this Contract to be borne or defrayed by the Contractors, and shall certify what, in his judgment, is the net amount or balance payable to the Contractors, having regard to the total contract sum and to the terms of this Contract.

Application of Guarantee Fund.

49. The guarantee fund, or any part or parts thereof, respectively, shall, if necessary, be applied in or towards making good any defect or unsoundness which shall be certified by the Engineer as existing in the Railway and works, or any of them, or any part thereof or in the materials used in the formation and construction thereof, and in making good any default or neglect of the Contractors in relation to the premises and any breach of covenant on their part; and, subject thereto, the guarantee fund, or the balance thereof, shall be dealt with in terms of the Agreement entered into for the construction of the Mossel Bay-Oudtshoorn Line, dated 4th July, 1900.

Contractors may take partners in contract, subject to conditions.

50. The Contractors may admit any partner or partners with them in this Contract, provided that such partner or partners shall be approved by the Government under the hand of the General Manager, and shall at the expense of the partner or partners execute such contract for rendering himself and of themselves liable to perform the duties and obligations of these presents as the General Manager shall reasonably require.

Restriction on assigning and subletting.

51. The Contractors shall not assign this Contract without the permission of the Government certified in writing by the General Manager, except to Arnold Frank Hills, the Managing Director of the Thames Iron Works and Shipbuilding Coy., Limited, and except so as to form security for advances, nor shall they sub-let the works to any extent or in any manner beyond what in the written opinion of the Engineer shall be necessary and customary, or to any person whom the Engineer shall object to, and no partnership or sub-contract for the execution of the Works hereby contracted for, or any part thereof, nor any assignment of this Contract shall without the consent of the Government, certified as aforesaid, exonerate the Contractors from their liability under these presents.

Provision in case of Insolvency of Contractors, or their failure to complete.

52. If the Contractors or their permitted assignees (in case of assignment) become insolvent, or compound with their creditors, or if from any cause whatsoever, other than the Act of God, war, insurrection, rebellion, the execution of additional works, strikes, lock-outs, combinations of workmen, or any extraordinary or unforeseen circumstance, which in the opinion of the Commissioner are beyond the control of the Contractors, they shall fail to complete and deliver over the said Railway and Works to the Government

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in the manner and by the time in that behalf fixed by Article 27 hereof, or any extension of such time as provided by Article 30 hereof, the ten per cent. (10 %) retention money shall be retained and dealt with as provided in Articles 47 and 49 hereof, and thereupon this Agreement shall cease and determine, and it shall be lawful for the Government to enter upon and take possession of such incomplete line in so far as it has been constructed by the Contractors, and the Government shall thereafter so soon as the amount of the actual cost shall have been ascertained, pay to the Contractors the amount so ascertained, less such amount as shall have been paid on account and less the amount of retention money hereinbefore referred to.

Actual cost.

53. The amount of actual cost incurred in respect of the construction of the line shall be ascertained either by the certificate of the Engineer, or in such other manner as the Governor shall approve. All books, vouchers, drawings, and other documents in the possession of the Contractors shall be available for inspection by the Engineer or by any other duly authorised officer for the purpose of checking the cost of materials and works done.

Appointment of Consulting Engineers.

54. Messrs. Gregory and Eyles and Sir Douglas Fox and Sir Charles Metcalfe and an Engineer in America, to be nominated by the Agent-General and the Consulting Engineers in England, shall be the Consulting Engineers for the purposes of this Contract, and in case of their ceasing to be such Consulting Engineers the Government will, in such manner as they may see fit, from time to time, appoint other Civil Engineers in their place.

Construction of Contract in case of repeated terms.

55. In case of terms and provisions repeated wholly or partially in these Conditions of Contract, and in the Specification, and in case of any discrepancy between these Conditions of Contract and the Specifications the terms of the said Conditions of Contract shall prevail.

Differences to be decided by Arbitration.

56. In case and so often as any difference or dispute shall arise between the Government or the Agent-General and the Contractors, or between the Engineer or Resident Engineer and the Contractors, or any of their agents, concerning or relating to the Railway and works, or any of them, or any part thereof, or any covenant, engagement, matter or thing herein contained, or the construction thereof, the subject of every such difference or dispute not being a matter expressly, by some clause of this Contract, referred to the absolute decision of the Engineer, shall in every case, on the demand in writing of either party, be referred to two Arbitrators, one to be appointed by each party to the dispute, and in case it should be necessary, the Arbitrators to appoint an Umpire, whose decision shall be final.

May make several awards.

57. The Arbitrators shall have full power to make, if they think fit, several awards instead of one award, and every such award, though not on the whole matter, shall be conclusive so far as it extends, and as if the matter awarded on were the whole matter referred.

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May proceed *ex parte*.

58. The Arbitrators shall have full power to proceed in the absence of both or either of the parties, after giving to both parties such notice as the Arbitrators think sufficient, of their intention so to proceed.

Powers of Arbitration.

59. The Arbitrators shall have full power to inspect the accounts of both parties, and examine on oath, affirmation, or on statutory declaration in lieu of oath, the Contractors and the officers, agents, servants and witnesses of the parties respectively.

Costs of reference and award.

60. The cost of the reference and of the award shall be in the discretion of the Arbitrators.

Statutory provisions applicable to arbitration.

61. As far as the same are applicable and not hereby varied, the provisions of the Railway Companies Arbitration Act 1859 or any statutory modification thereof for the time being in force with reference to the settlement of disputes by arbitration, shall apply to the arbitration agreed to in these presents in case the matter in dispute arose in England, and the local laws with regard to arbitrations shall apply to the arbitration agreed to in case of matters in dispute that have been raised within the Colony.

Governor, Members of Government, General Manager, Agent General, &c., not to be personally liable

62. The Governor of the Cape of Good Hope, or any member or officer of the Government of the Cape of Good Hope, or the Commissioner or General Manager or Agent-General respectively, shall not be in anywise personally bound for the acts and observances of the Governor under these presents, or answerable for any default or omission in the observance, performance, or fulfilment of the acts, matters or things which are hereby made obligatory on the Government.

IN WITNESS WHEREOF the Commissioner and Contractors have hereunto set their respective hands and seals the day and year first above written.

WITNESSES:

C. B. ELLIOTT. T. W. SMARTT.
R. A. HEMMENS. W. L. AINSLIE.

Schedule H.

SCHEDULE H.

AGREEMENT with THAMES IRONWORKS COMPANY, dated 4th July, 1900, for the construction of a line of Railway from Somerset East to King William's Town.

CAPE OF GOOD HOPE GOVERNMENT RAILWAYS.

SOMERSET EAST—KING WILLIAM'S TOWN RAILWAY.

ARTICLES OF AGREEMENT made and entered into this Fourth day of July, 1900, between the Honourable Dr. THOMAS WILLIAM SMARTT, M.L.A., in his capacity as COMMISSIONER OF

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PUBLIC WORKS, and as such representing the Colonial Government, of the one part, and WILLIAM LANGSTAFF AINSLIE, in his capacity as the duly authorised representative of THE THAMES IRONWORKS and SHIPBUILDING COMPANY, LIMITED, of BLACKWALL, LONDON, hereinafter called the Contractors, of the other part.

WHEREAS on the 19th day of May, 1896, on the 2nd day of August, 1898, and on the 18th day of March, 1899, certain Agreements were entered into for the construction *inter alia* of

> " A line of Railway from a point at or near Somerset East *via* Cookhouse, Bedford, to Fort Beaufort, and a line of Railway from Fort Beaufort *via* Alice to King William's Town,"

as subsidised lines, hereinafter sometimes referred to as the Somerset East-King William's Town Line:

> AND WHEREAS it has been decided to continue the construction of the " Line of Railway from Somerset East, *via* Cookhouse, Bedford, Fort Beaufort, and Alice, to King William's Town,"

as a Government Line.

NOW, THEREFORE, IT IS AGREED, subject to the approval of Parliament, that from the day upon which this Agreement and all plans, specifications, and such other annexures as are herein mentioned are signed, the said Agreements of the 19th May, 1896, 2nd August, 1898, and 18th March, 1899, shall, as regards the Somerset East-King William's Town Line, be considered cancelled, and the following Agreement, conditions and stipulations, shall be substituted therefor and be binding on the parties hereto:—

1. The Contractors undertake to construct the Somerset East-King William's Town Line as a complete line, including land, buildings, turntables, locomotive tanks, water supply, station yards, sidings, loops with spurs about every 10 (ten) or twelve (12) miles, permanent way, bridge superstructures, and all other matters and things necessary for the completion of the said line for the Government, in accordance with the specifications, conditions of contract, plans, sections, drawings and schedules hereunto annexed —plans, sections, and drawings numbered 1 to 69 inclusive, and schedules 1 to 6 inclusive—and signed by or on behalf of the parties hereto, and in accordance with approved deviations therefrom for the sum of £4,500 (four thousand five hundred pounds) per mile.

All land acquired for the purposes of the line of Railway aforesaid shall be registered in favour of the Colonial Government.

2. The line shall be constructed on a ruling gradient of 1 in 70 from Somerset East to Adelaide and from Red Hill to King William's Town and with a minimum radius of curve of 8 chains, any reasonable deviations required to secure the improved gradient and location shall (in so far as the same have not already been

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sanctioned) be sanctioned by the Commissioner, provided they do not in his opinion unduly lengthen the line. From Adelaide to Red Hill the ruling gradient shall be 1 in 40, with a minimum radius of curves of 5 chains, as shown on the original plans and sections.

3. The Government will treat Sections of not less than 20 (twenty) consecutive miles commencing at Somerset East and King William's Town, and similar Sections following immediately thereon, as completed sections when fully ballasted and when all work required to be done thereon, with the exception of bridges of a greater span than fifty (50) feet, has been completed to the satisfaction of the Engineer, and will pay for the same at the contract price of four thousand five hundred pounds (£4,500) sterling per mile, together with such additional amounts as may be payable to the Contractors under the provision of Clause 4 hereof, less the schedule value of any bridges over 50 (fifty) feet span and of accessories not completed, and also less the amount of any monthly or other payments made on such Sections under this or any previous Contract. Notwithstanding such payments the Contractors shall maintain such sections of the line in good and proper repair until the whole line is completed and taken over by Government, except such portions thereof as may have been taken over by the Government from time to time.

4. The Government will pay to the Contractors monthly the value of the work executed on the line as certified to by the Engineer less ten per cent. (10 %), such value to be calculated at the prices shown on Schedule No. 3 hereto annexed.

5. In addition to the Contract price per mile provided for in Section 1 hereof, the Government shall pay to the Contractors the extra cost of heavier permanent way, viz., 60 lbs. rails instead of 46¼ lbs. rails, and sleepers 7 feet by 10 inches by 5 inches instead of sleepers 6 feet 6 inches by 9 inches by 4½ inches, together with a proportionately increased amount for additional ballast for such heavier permanent way, in excess of the amount shewn on the type drawing hereunto annexed numbered 29, or say 21 cube yards per chain and extra weight of fastenings, and shall also pay for the additional cube of earthwork and masonry or concrete occasioned by the reduction of the ruling gradient from 1 in 40 to 1 in 70 in excess of the average quantities per mile shown on the said original plans and sections hereunto annexed at the rate of 1s. 10d. (one shilling and tenpence) per cube yard for earthwork, and 45s. (forty-five shillings) per cube yard for masonry or concrete, provided that the quantities so paid for shall in the aggregate not exceed the differnce between the total measurements on the original and the deviated line. The extra cost shall be computed at the prices fixed in said Schedules, except that

where materials are provided or work done for which no prices appear in the said Schedules, and such work or materials shall not be part of the complete line, the

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amounts to be paid shall be actual cost (including freight, insurance, and other proper charges), plus ten per cent. (10 %) for Contractor's profit.

6. In addition to deviations already approved, should deviations be required by the Commissioner, the work in connection therewith shall be measured, and all work in excess of the average quantities per mile on the original Section shall be paid for at the prices shown in the Schedule No. 3 hereto annexed. The land required for such deviations shall be provided by the Government, and the Contractors shall allow a deduction for the cost at the rate shewn in the said Schedule, calculated upon the mileage of the said deviations.

7. The Government shall, within fourteen days after the approval of Parliament to this Contract has been obtained, pay to the Contractors at the prices shewn in the Schedule No. 3 hereto annexed, the value of the work done on the said Line, as already certified, or to be certified, by the Engineer, as to quantities, after deducting the amount of subsidy already paid thereon, and any advances that may have been made, whether to the Contractors or the Grand Junction Railways, less 10 per cent. on the balance; and all such payments shall be taken into account, and shall be credited by the Contractors in the final settlement.

8. The Government will make payments in advance for the materials required for the Somerset East-King William's Town Line at the prices shown in the Schedule No. 6 hereto annexed against the shipping documents in London in the usual way, except that where materials are provided for which no prices appear in the said Schedule, the amounts to be paid shall be the actual cost (including freight, insurance and other charges), and for materials already delivered on the proposed line of railway will pay the difference between actual payments made and amounts due under Schedule prices.

9. Inasmuch as a deep cutting and a high embankment are being made at or near Wienand's Nek (from 37 miles 8 chains through mileage to 37 miles 41 chains, and from 35 miles 18 chains to 35 miles 58 chains respectively), to secure the said gradient of 1 in 70 a special payment of £5,000 (five thousand pounds) in addition to all other payments will be made in respect thereof, such payment to be made upon completion of the line to Bedford.

10. The Contractors shall accept the payments hereinbefore stated in full satisfaction of all Claims under this Contract.

11. The Government shall be at liberty to retain 10 % (ten per cent.) on all the above payments to the Contractors as a guarantee fund, such retention to be credited to the Contractors and taken into account on final settlement, but subject to the terms as regards retention moneys set forth in the Contract for the construction of the Mossel Bay-Oudtshoorn Line *via* George, dated 4th July, 1900.

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12. The expression "Railway and Works" herein and in the Schedules hereto refers to and includes the said Railway with the Stations and other accessories thereto and works of every description intended to be hereby contracted for as mentioned or shown in or by, or to be implied from these presents, or the said specification, plans, sections and drawings.

13. The expression "the Colony" means the Colony of the Cape of Good Hope.

14. The expression "the Commissioner" means the Honourable Dr. Thomas William Smartt, M.L.A., while Commissioner of Public Works, or other person for the time being authorised to act and acting as such.

15. The expression "the General Manager" means Charles Bletterman Elliott, C.M.G., while such General Manager, or other person for the time being authorised to act and acting as such.

16. The expression "the Agent-General" means Sir David Tennant, K.C.M.G., while such Agent-General, or other person for the time being authorised to act and acting as Agent-General in England for the Colony.

17. The expression "the Government" means the Governor or Officer for the time being administering the Government in the Colony, acting by and with the advice of the Executive Council for and on behalf of the Colony.

18. The expression "Consulting Engineers" means the Engineers for the time being duly appointed to act as such Consulting Engineers in the matter of this Contract, in the manner hereinafter provided for in the general conditions and specifications.

19. The expression "the Engineer" herein and in the general conditions and schedules thereto means and includes (except when controlled by the context) for the purposes of matters and works in England, the Consulting Engineers, and for the purposes of matters and works in the Colony, the Engineer-in Chief of the Railways of the Colony for the time being appointed by the Government respectively.

20. The expression "the Resident Engineer" means and includes the person or persons from time to time appointed by the Government to act as such for the purposes of this Contract.

GENERAL CONDITIONS.

General Manager to represent the Government.

1. The General Manager for the time being appointed by the Government shall represent the Government in the Colony for the purposes of this Contract.

General Manager, Consulting and Railway Engineers may delegate powers.

2. The General Manager, Consulting Engineers and Engineer-in-Chief respectively may, from time to time, delegate to Assistants, to be named by them respectively, such of the powers and authorities vested in them respectively by this Contract, as they respectively, with the consent of the Government or the Agent-General, may think fit, and the Contractor will recognise such

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Assistants on written notice of their appointment, and of the powers and authorities respectively delegated to them, as lawfully exercising, for the purposes of this Contract, the powers and authorities so delegated.

General Manager's or Engineer's certificate to be binding.

3. Every certificate in writing of the General Manager or Engineer given under his hand for any of the purposes of this Contract shall be binding on the Government, the Agent-General, and the Contractor respectively, and shall, except where otherwise provided by these presents, be final and conclusive.

Contractor to construct and complete railway.

4. The Contractor shall substantially and in the best and most workmanlike manner, and with the best materials of their respective kinds and workmanship, construct, execute, and complete the section of railway and works mentioned and described in certain plans, sections and drawings hereinbefore mentioned, and in the Specification and particulars of works contained in the Schedules hereto, with all accessories and conveniences whatsoever, temporary or permanent, necessary, or which shall by the Engineer be required, and shall provide all materials and things for the same, in accordance with the conditions contained in the said Specification and with the signed plans, sections and drawings, or with such supplementary plans, sections, designs, working drawings, instructions, explanations, and specifications as shall from time to time hereafter be furnished or given by the Engineer, and shall provide all and every kind of labour, and all structures, engines, implements, tools, plant, and things, permanent or temporary respectively, described or referred to or implied in the said Specification or these presents, or which shall, in the opinion of the Engineer, be required for the due execution, construction, or completion of all or any of the works to be executed by the Contractor For the purposes of this Contract, all station-houses and buildings are to be built of wood and iron.

Plans, &c., to be accepted as generally sufficient.

5. The said specification, plans, sections, and drawings respectively, shall be accepted and considered by the parties to this Contract as sufficient for the description generally of the railway and works; and, accordingly, the Contractors shall execute all other works, and find and supply all things which in the judgment of the Engineer shall be necessary or proper for that purpose, notwithstanding that any such works or things respectively may not be expressly mentioned or referred to in or shown upon the said specification, plans, sections, and drawings respectively, or any of them, and the Contractors shall take upon themselves all risks arising from errors and omissions in the said specification, plans, sections and drawings, or any of them, or in the quantities of work, or in the local information supplied to the Contractors, and shall not be entitled to any allowance or compensation whatsoever on account thereof.

Contractors to employ Agents and competent Foremen.

6. The Contractors shall at all times, during the progress of the works, employ a duly authorised Agent in the Colony to represent them for all the purposes of this Contract, and shall give

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the Engineer and the Agent-General respectively, due notice of the appointment of every such agent, and shall also provide and employ constantly upon the said works such or so many competent and responsible engineers, inspectors, and foremen to inspect, superintend, and direct the same as the Engineer shall from time to time require and approve, and to whom communications may be addressed and directions given in all matters touching the works hereby contracted for, and also such number of experienced, fit, and proper agents and overlookers for the efficient conduct of the works as shall, in the opinion of the Engineer, be required, and they shall at all times employ as much labour of every description as the Engineer shall deem necessary. They shall also provide all necessary medicines and medical attendance for all persons engaged upon the works, including those employed by the Government.

Contractors to pay and to ration workmen.

7. The Contractors shall ration all workmen, unless the Government shall in any case relieve them of this responsibility with respect to certain workmen, but it must be distinctly understood that the sale of general goods is not to be a monopoly, and that no intoxicating liquor is to be supplied.

Works to be executed under control of Engineer.

8. The Contractors shall execute all the works hereby contracted to be executed under the immediate inspection and control of the Engineer, and in such order and manner as he shall from time to time direct, and to his satisfaction, and in so doing shall conform to all local usages and laws.

Contractors to protect public, &c., against injury and trespass.

9. The Contractors shall take all necessary precautions by fencing, lighting, working, and otherwise, to protect the public and the property of the Government and other parties from injury, and the adjoining land from trespass, during the progress of the works.

As to injury to or interference with Roads.

10. The Contractors shall not, in the execution of any of the works or otherwise, permanently interfere with the free use of any public or private road or footpath, or injure the same further than may be indicated and allowed by the Engineer; and in constructing the Railway and works across public or other roads, streets or paths, and in every other case where any such injury or interference shall unavoidably or otherwise happen, the Contractors shall observe and be bound by the directions relative to the crossings of roads, streets and highways, of any law or usage in the Colony, and will be solely answerable for any such injury and interference, and shall indemnify the Government from all losses, damages, expenses, claims and demands on account thereof; and in carrying any materials or otherwise passing across, over, or under any road, street or path, whether permanent or temporary, every proper precaution shall be taken by the Contractors to avoid injuring or interfering with the use of the same, and they shall indemnify the Government from all losses, damages, expenses, claims and demands on account, or in consequence thereof, or in consequence of any injury to the owners or occupiers of land or

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other parties from the failure of any of the works therein contracted for, or from delays in the commencement or completion thereof respectively, or from trespass. When any existing road is diverted or altered in level it shall be left, when so diverted or altered, in as good a state in all respects as it was prior to such diversion or alteration.

Roads made by Contractors may be taken by Government.

11. Any road or roads made by the Contractors for the purpose of carrying on the works shall, if so desired by the Government, become the property of the Government, without any charge being made in respect thereof by the Contractors.

Contractors to compensate owners of adjoining lands.

12. The Contractors shall make such full compensation and satisfaction as they shall be legally liable or adjudged to make to all owners, lessees, or occupiers of all lands and property adjoining or near to the site of the works (except land to be provided by the Government under article 34), which shall be taken, injured, crossed, or otherwise temporarily used or occupied by the Contractors, for all loss or damage to or by such owners, lessees, or occupiers, or other persons respectively occasioned or sustained by, or by reason of the construction or execution of the Railway and works, or by reason of any neglect or omission of the Contractors, and shall indemnify the Government in respect thereof.

Contractors may import certain materials free of duty.

13. The Government will not charge the Contractors with any import duty in respect of any Railway materials (see Act No. 6 of 1898, Clause 102, Schedule B); but for all other materials and things, including merchantable and consumable articles the usual import duties must be paid by the Contractors.

Contractors to pay Royalties, &c.

14. The Contractors shall pay all royalties and other sums of money which shall be due or payable in respect of any patented articles or designs which shall be used by them in or about the construction of the Railway and works.

Contractors to indemnify the Government against penalties, &c.

15. The Contractors shall at all times indemnify the Government against all penalties, fines, and payments whatsoever which the Government shall be legally required or compelled to pay or make by reason of the non-performance or non-observance of all or any of the engagements herein contained on the part of the Contractors, and if at any time the Government shall be called upon under any law or usage, or otherwise to pay any sum or sums of money by way of penalty, fine, compensation, or otherwise, for or in respect or on account of the breach, non-performance, or non-observance by the Contractors of any of the covenants herein on their part contained, or on account of any misfeasance, neglect or trespass on their part, or liability of their incurring, or which may rise in carrying out the Railway and works, the Contractors shall thereupon, on demand, repay to the Government, or the Government may deduct from any moneys payable to the Contractors under these presents, the full amount of all such penalties, fines and payments, including all costs, charges, damages and expenses attending the settling and ascertaining the amount thereof, or of defending any action, suit, or

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other proceedings in respect thereof. Provided, nevertheless, that no such payment shall be made or action defended without reasonable notice, where practicable, being given beforehand to the Contractors, to the intent that they may have the opportunity of resisting, compromising, or settling the same.

Contractors to preserve the peace.

16. The Contractors shall at all times during the progress of the works take all requisite precautions, appoint such men as Constables as the Engineer may consider necessary, and use their best endeavours for preventing any riotous or unlawful behaviour by or amongst the labourers, workmen and others employed on the works, and for the preservation of the peace and protection of the inhabitants, and the security of the property in the neighbourhood of the works.

Contractors not to dispose of soil.

17. The Contractors shall not sell, or otherwise dispose of, or remove, except for the purposes of this Contract, the sand, stone, clay, soil, ballast, earth, minerals, or other substances or materials which may be obtained for the purposes of this Contract, nor any buildings or produce upon the site of the works at the time of the delivery of the possession of the land, but all the same premises respectively are, and shall be deemed the property of the Government if they so desire. Provided that the Contractors may, with the permission in writing of the Engineer, use any of the said materials for building purposes or ballasting the permanent way, subject to the provisions of the said Specification.

Contractors to inform Engineer of arrangements for execution of works.

18. The Contractors shall from time to time, as and when required, furnish the Engineer with a statement in writing of the arrangements they propose to adopt for the execution of this Contract, and in case the Engineer shall at any time, or times, consider any alteration in the same desirable, the Contractors shall, on notice thereof, be bound to adopt and carry out such alteration.

Engineer to set out the centre line of Railway.

19. The Engineer will set out the centre line of the Railway. The Contractors shall set out the other works under the direction and to the satisfaction of the Engineer, and according to the plans, sections and drawings, of which the Contractors shall make the necessary copies for their own use.

Contractors to find all pegs, &c.

20. The Contractors shall find all pegs, stakes and things, and do all clearing necessary for the use of the Engineer in checking all surveys and levels, and checking or setting out the line of Railway, or of any works, and for the periodical measurement of works executed and materials supplied.

Contractors to make borings, &c.

21. The Contractors shall, at their own expense, cause all such preliminary surveys and borings to be made as the Engineer shall require, for the purpose of ascertaining the nature of the subsoil at points proposed for stream or river diversions, or for the erection of bridges, or other constructions, and also for ascertaining the character of seats of embankments, and the material to be excavated from cuttings, and enabling the Engineer to determine the measures to be adopted for the proper execution of the work and whether or not any deviation is necessary or desirable.

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Contractors to furnish returns.

22. The Contractors shall, on demand, furnish from time to time such returns regularly, or otherwise, as may be required by the Engineer, of the number and description of the engineers, agents and inspectors, foremen and workmen of all sorts employed, and of the beasts of labour, materials and plant provided for the purpose of this Contract, and shall produce such vouchers for the same as the Engineer may require.

Engineer may require dismissal of incompetent workmen, &c., and employment of others.

23. If the Engineer shall at any time consider any engineer, agent, inspector, foreman, or workman employed by the Contractors for the purpose of the Contract to be inefficient, incompetent, or should they misconduct themselves, or the number of the workmen or beasts of labour, or the amount or character of the plant or materials then employed or provided by the Contractors in or upon or for the purpose of the works to be insufficient or improper, or that the works or any of them are not being executed with due diligence and despatch, then or in every such case it shall be lawful for the Engineer to give notice in writing to the Contractors, requiring them to dismiss any such inefficient or incompetent engineer, agent, inspector, foreman or workman, and to remove any unsuitable men, beasts, plant, or materials, and to appoint in lieu of such persons respectively other fit and proper engineers, agents, inspectors or foremen, and to employ other workmen, and to provide other beasts, plant or materials, and also to make such additions to the engineers, agents, inspectors, foremen or workmen employed, or to the number or amount of the beasts, plant and materials, or such change in their character either until the completion of all or any of the works, or for a limited period, as the Engineer may think necessary, and shall by any such written notice require.

In default may provide proper workmen and materials at Contractors' expense.

24. If the Contractors shall not upon the receipt of any such notice, or within time to be specified therein, comply with such notice, it shall be lawful for the Engineer, on the account and at the cost of the Contractors, to remove the engineers, agents, inspectors, foremen, workmen, beasts, plant or materials, complained of, and at the like cost to provide and employ such other and additional engineers, agents, inspectors, foremen and workmen for such time, and to purchase and provide such additional or other beasts, engines, plant and materials respectively as he may think necessary, and to pay such other or additional engineers, agents, inspectors, foremen and workmen such salaries or wages, and to pay for such additional beasts, plant and materials respectively, such prices as the Engineer may think proper, all which salaries, wages and prices respectively, if paid by the Government, and any extra expense the Government may incur in relation thereto, shall on demand be repaid to them by the Contractors, or the Government may retain or deduct the same out of the moneys then due, or thereafter to become due from the Government to the Contractors under this Contract.

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Engineer may require removal of defective and substitution of proper materials and work.

25. The Engineer may require the Contractors to remove from the site of the Railway all materials which, in the opinion of the Engineer, are of inferior or unsound quality, but when these materials have been previously inspected and approved by the Engineer and Inspecting Engineer, they shall be removed if damaged or deteriorated in quality. The Engineer may also require the Contractors to take down and remove all work which in his opinion shall have been imperfectly or improperly executed: and in either of the foregoing cases, require the Contractors to substitute other and satisfactory materials and work.

In default may provide proper materials and work at Contractors' expense.

26. If the Contractors shall not, within 14 days after notice in writing of any such requisition, comply with the same in all respects to the satisfaction of the Engineer, it shall be lawful for him, on the account and at the cost of the Contractors, to cause the imperfect or improper materials or work to be removed or taken down and other and satisfactory materials or work to be provided or executed as the case may be, by some other person or persons, and the cost, charges and expenses incurred by the Government thereby shall on demand be repaid to them by the Contractors, or the Government may retain or deduct the same out of any moneys then due, or thereafter to become due, from the Government to the Contractors under this Contract.

Times for completion.

27. The Railway and Works, including such modifications thereof, if any, as may be made under these presents, shall be pushed forward immediately upon the completion of this Agreement, and the work shall be uniformly and regularly carried on, so that the section of the line from Somerset East to Cookhouse and from Cookhouse to Bedford shall be completed and handed over to the Government fit for traffic within nine (9) months of the approval of these presents by Parliament, and the remainder of the works included in the Contract shall be completed to the satisfaction of the Engineer and the line handed over to the Government fit for traffic within fifteen months of the approval of these presents by Parliament.

Order of execution of works: penalty for delay in completion.

28. In order to expedite the completion of the Railway, the heaviest works shall, so far as possible, be executed first and the lighter works subsequently, as may be directed by the Engineer. If any delay shall occur in the completion in accordance with Article 27, at the stipulated times, of the said Railway and Works, and notwithstanding any alleged act or omission of the Government or its Officers or Agents tending to prolong such delay the Contractors shall pay to the Government as liquidated damages ten pounds (£10) sterling for every day during which such section and the remainder of such Railway and Works shall remain incomplete and undelivered beyond the times and date fixed by Article 27, or (in case the Engineer shall extend the time for completion under Article 30) beyond the dates to which the time for completion shall have been so extended, and for the purposes of this Article time shall be deemed to be of the essence of this Contract.

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29. For the purposes of this Contract the Contractors shall from time to time, whenever required by the Government, take over from the Government, all such plant or temporary materials as they may have in stock suitable and required by the Contractors for the execution of the Contract, at such prices representing the fair value thereof as shall be agreed upon by the Engineer and the Contractors' agent, or failing agreement, by the Consulting Engineer; the price shall be payable within fourteen days after possession of the articles is given to the Contractors, and if not paid the Government may deduct the amount from any moneys payable to the Contractors under this Contract.

Contractors to take over Government plant.

30. If the Act of God, war, insurrection, rebellion, the execution of additional work, strikes, lock-outs, or combinations of workmen or the Railway Department, or any extraordinary or unforeseen circumstances which in the opinion of the Engineer may be beyond the control of the Contractors, shall, in the opinion of the Engineer, cause unavoidable delay, it shall be in his power to extend the time for completion, and he shall accordingly allow a reasonable extension of the same, but unless the Engineer shall so determine, any such events, causes, circumstances, or delay shall not put an end to the Contract, or give the Contractors any right to compensation or damages, or any other right than such extension of time (if any) as the Engineer may allow as aforesaid.

Extension of time.

31. The Government will, along any portion of the Railways from Cape Town, or Port Elizabeth, or East London, convey such materials and things at the Contractors' risk as may be required for the purposes of the construction of the Railway and Works, and which the Contractors may desire to have so conveyed. And the Contractors shall pay to the Government for such carriage, exclusive of loading and unloading, at the rate of one penny per mile per South African ton of two thousand pounds weight. All materials, plant or stores sold, supplied or lent or work done by the Railway Department for the Contractors shall be sold, supplied, lent or done at nett cost and shall be charged against the monthly or other payments to be made to the Contractors under the provisions hereof.

Conveyance and supply of materials.

32. The Contractors shall be at liberty, at their own cost and risk, to use for the purposes of this contract, any part of the Railway in course of construction by them under these presents, subject to the directions and control of the Engineer, and subject to the right of the Engineer at any time prior to the final acceptance of the Railway to reject any part thereof which may have been damaged by such use, until the same be put into good order and condition to his satisfaction. The Contractors shall not convey, either gratuitously or otherwise, any merchandize or other materials for any person or persons except for the purposes of this Contract.

Line to be in good order when handed over.

33. The Contractors shall be entitled to make use of so much of the permanent way materials as the Engineer may consider

Contractors may use permanent way material.

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necessary and with his written consent, on condition that such permanent way materials shall only be used where the road is properly formed, and that any deterioration which the same materials may sustain shall be made good by the Contractors before the conclusion of the work, but the Contractors must provide temporary rails and other materials for tips, and such other purposes as the Engineer may direct.

Government to provide the land for Railway when on Crown lands.

34. The Government will, when and so often as the Contractors shall reasonably require, provide and give them possession, free of expense, and at such times as the Engineer may deem requisite for the due progress of the works, and the Government may be in a position to give the same, of all such waste Crown land as the Engineer shall determine to be required and proper for the sites of Railway and stations and other permanent works of the same, and for side cuttings, spoil banks, or for approaches or other accommodation works, and as the Contractors may by notice in writing require, but subject to the provisions of the Specification.

Notice that land is required to be given by Contractors.

35. Unless such notice shall be given by the Contractors at least one calendar month before possession is required by them, and unless it shall describe the quantity and situation of the land required, any interruption or delay of the works arising from or occasioned by the non-delivery of the possession of the land as aforesaid, shall not be deemed a breach of any of the covenants on the part of the Government herein contained, and the Contractors shall not be entitled to any extension of time in respect of such interruption or delay.

Contractors' employés may travel at half rates.

36. The Contractors will be allowed, subject to traffic regulations, tickets for the conveyance over Government lines of any engineers, inspectors, foremen, or workmen to be engaged upon the construction of the said Railway at half the ordinary rates charged to the public for such tickets upon the existing lines, and the conveyance of personal effects, provisions, &c., for their own use, also at half the ordinary rates.

Government may enter lands in possession of Contractors.

37. The Government shall be at liberty, if they shall think fit, from time to time to enter upon any lands which may be in the possession of the Contractors for the purpose of executing any works not included in this Contract which may be required for the completion of the Railway, with its equipments and conveniences; and to execute such works respectively by themselves or their agents or by other Contractors at their option. In such case they shall be at liberty to use for the purposes of transport any roads, rails, or accessories which may have been laid down, or constructed, temporarily or permanently, by the Contractors, or any portion of the line still in the Contractors' possession. Provided always, that if the exercise of these powers shall cause any expense or damage to the Contractors they may, as and when such expense or damage arises, make a statement of the same to the Engineer, who shall from time to time certify to the Government the amount, in

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his judgment, of such expense or damage, and the Government shall from time to time pay to the Contractors the amounts (if any) so certified by the Engineer.

Locomotives and Ballast Trucks may be hired from the Government.

38. Upon the request of the Contractors in writing, addressed to the Engineer, the Government shall provide for the use of the Contractors for the purposes of this Contract one or more locomotive engines of the type referred to in Article 39 as such request shall specify and the Government is in a position to supply, and four-wheeled ballast trucks to be delivered to the Contractors at the nearest point on Open Lines within reasonable time after the receipt by the said Engineer of such request. The Government shall execute or pay for (at their option) all repairs necessitated by the fair wear and tear of such engines and rolling stock during use by the Contractors as aforesaid. Should any damage thereto be occasioned by accident, neglect, or any other cause than such fair wear and tear as aforesaid, the cost of the repairs consequent thereon shall be borne by the Contractors, and in case the same shall be executed by the Government, the Contractors shall pay therefor within fourteen days after the account thereof shall have been rendered by the Government, failing which, the amount payable in respect of such repairs may be deducted from any subsequent payments to be made by the Government to the Contractors under this Contract. The Contractors shall also, at their own expense, erect and maintain, to the satisfaction of the Engineer, such sheds as the Engineer shall, from time to time, require to be provided for the shelter of the said engine or engines, and the Engineer shall, at all times, have free access to such sheds, and to all other places where the said engines and trucks may, from time to time be found, for the purpose of inspecting the same. The fuel and water to be supplied by the Contractors in the working of any such locomotive engines, shall be such as the Engineer shall approve, otherwise he shall be at liberty, on behalf of the Government, to resume possession of any such engines, and to decline to permit the Contractors to have the use thereof until they have obtained a sufficient supply of such fuel and water as the said Engineer shall deem satisfactory.

Payment for hire of Locomotives and Trucks, &c.

39. The Contractors shall pay to the Government for the use of locomotive engines, trucks, sheets and chains at the following rates:—

Four wheeled coupled engine 10s. 0d. per diem, inclusive of Sundays.

Six wheeled coupled engine 20s. 0d. per diem, inclusive of Sundays.

Carriages, $\frac{3}{4}$d. per axle per hour, inclusive of Sundays.

Short Vans	2s. 0d.	per diem, inclusive of Sundays.
Bogie Trucks	2s. 0d.	,, ,, ,,
Short ,, ...	1s. 0d.	,, ,, ,,
Water Tank Trucks	1s. 6d.	,, ,, ,,
Pillar Brake Trucks	1s. 6d.	,, ,, ,,

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Crane and Pilot Trucks	3s. 0d. per diem, inclusive of Sundays.
Hopper Trucks...	2s. 0d. „ „ „
Ballast Plough Trucks ...	2s. 0d. „ „ „
Sheets	one-eighth ($\frac{1}{8}$) of a penny per hour.
Chains and Ropes...	one sixteenth ($\frac{1}{16}$) of a penny per hour.

The amounts from time to time payable to the Government under this Article shall be paid by the Contractors within the first seven days of each calendar month next after the expiration of the month during which such amounts shall have accrued due. Provided that if and so often as the same shall be unpaid at the times of payment by the Government of the monthly certificates mentioned in Article 46 the Government may deduct the total of such amounts from the money payable to the Contractors on any such certificate, and any payment of the balance thereof shall be accepted by the Contractors in satisfaction and discharge of the money so payable.

Materials, &c., shipped from Europe and America to be first approved by the Consulting Engineers.

40. All materials and things (except the Contractors' plant and temporary materials) manufactured in or derived from Europe and America and shipped by the Contractors to the Colony for the purposes of this Contract shall, before being removed from the places at which they are prepared, be submitted to the inspection and approval of the Consulting Engineers or the Inspecting Engineer, and the Contractors shall give the Agent-General in London or the Consulting Engineer in America not less than ten days' notice in writing before removing any such materials or things for shipment.

Engineer may inspect manufacture of materials and things in Europe and America.

41. If any such materials and things are manufactured or prepared in Europe or America expressly for the purposes of this Contract, the Consulting Engineers and Inspecting Engineer respectively shall be at liberty from time to time to inspect the same during the course of the manufacture or preparation, and the Contractors shall give the Inspecting Engineer not less than ten days' notice in writing of the time of the commencement of the manufacture or preparation of such materials and things, and therein specify the place of manufacture or preparation; and shall from time to time send to the Inspecting Engineer such reports of the progress of the manufacture or preparation as he shall require.

Contractors to pay freight, insurance, &c.

42. The Contractors shall pay all expenses for freight and insurance of all materials and things manufactured in Europe or America and shipped by him for the purposes of the Railway and works, and all other expenses of, and incidental to, the transport and delivery thereof at the works, subject to the provisions of these presents.

As to payment for materials shipped from Europe or America upon Certificates.

43. When any materials or things manufactured in or derived from Europe or America and intended to be shipped thence by the Contractors for the purposes of this Contract (but not including Contractors' plant or temporary materials) have been inspected and approved as required by this Contract, and have

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been actually shipped, the Contractors shall furnish the Consulting Engineers with a statement of the same in a form to be settled by the Agent-General, and such statement shall be certified as correct by the Contractors or their Agent and the Inspecting Engineer and the Shipping Agents (who shall be persons named or approved by the Agent-General), respectively under their respective hands, and within seven days next after any such statement shall have been delivered at the office of the Consulting Engineers, except in cases of unavoidable delay, they shall certify the value of the materials or things included in such statement according to the prices contained in the Schedules hereto, or if prices be not therein specified for any materials or things, then, according to the actual cost as provided for in Article 8 of the Agreement, and otherwise contemplated by this Contract, and on presentation by the Contractors, at the office of the Agent-General in London, of any such certificate, with the invoices, bills of lading, receipts for freight, and policies of insurance of the articles so shipped, duly assigned or otherwise transferred to the Agent-General on behalf of the Government the amount, so certified shall, within one week from the day of the presentation and upon delivery of the said documents, be paid to the Contractors by a cheque or order payable to such persons as they in writing direct on the bankers of the Agent-General in London payable at sight. All insurances contemplated by this Contract shall be effected in an office or offices approved by the Agent-General.

Progress measurement of works executed to be made and Certificates given by Engineer.

44. On or about the 27th day of every calendar month, the Engineer, jointly with the Contractors' Agents, shall prepare a progress measurement of the work done, and a return of the materials provided and used by the Contractors for the purposes of the works during the current month, and the Engineer shall prepare an estimate, based on prices not exceeding the prices contained in the Schedule hereto of the value of the work executed and materials provided and used during that month, as appearing from such progress measurement and return, and shall certify under his hand the amount of such estimated value. In the final certificate the full lump sum plus the value of additions provided for at schedule rates will be given.

Certificates only provisional.

45. Every certificate for payment on account of work, materials, or things, whether in England or the Colony, shall be regarded as only provisional and approximate, and all payments made on such certificates shall be regarded as being open payments, and shall respectively be subject to the revision and settlement of the Engineer, and in the event of his deciding that from any circumstances the measurements of works executed, returns of materials provided and used, or the estimates of value previously made, did not truly represent the proportion of works executed and materials provided and used, having reference to the total amount of the Contract, and the work remaining to be executed by the Contractors, he shall have power from time to time to correct the total

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results by adding thereto or deducting therefrom such sum as after communication with the Contractors or Agent the Engineer may deem to be just, and such addition or deduction shall be credited or debited (as the case may be) to the Contractor at such time or times as the Engineer may think fit.

When Monthly Certificates are to be given and money paid.

46. Each monthly certificate of the Engineer shall, except in cases of unavoidable delay, be given within the first fourteen days after the said twenty-seventh day of each month, and the money payable thereon, after making the deductions in respect of the guarantee fund, and repayment of advances or otherwise contemplated by this Contract, shall be paid to the Contractors or their Agents in the Colony within twenty-one days next after the said twenty-seventh day of each month at the office of the Treasurer of the Colony at Cape Town or at such other office in the Colony as the Government may appoint.

Guarantee.

47. As security for the due performance of this Contract a sum equal to 10 % (ten per cent.) of the amount of every certificate will subject to the provisions of the Contract be deducted therefrom. Such deductions will remain in the hands of the Government as a guarantee fund, to be applied in accordance with the terms of the agreement entered into for the construction of the Mossel Bay-Oudtshoorn Line dated 4th July, 1900.

Certificate of completion of Railway to be given.

48. When the Railway and works specified in this Contract, with all necessary and proper accessories, shall have been completed to the satisfaction of the Engineer, in accordance with the terms of the Contract, and is fit to be opened for traffic, he shall give to the Contractors a certificate of the final completion of the Railway and works, and thereupon the Government shall take over the same, and the Engineer shall then revise and settle the monthly certificates, taking into account all payments heretofore made to the Contractors, and all damages, penalties, and expenses paid or incurred by the Government and under this Contract to be borne or defrayed by the Contractors, and shall certify what, in his judgment, is the net amount or balance payable to the Contractors, having regard to the total contract sum and to the terms of this Contract.

Application of Guarantee Fund.

49. The guarantee fund, or any part or parts thereof, respectively, shall, if necessary, be applied in or towards making good any defect or unsoundness which shall be certified by the Engineer as existing in the Railway and works, or any of them or any part thereof, or in the materials used in the formation and construction thereof, and in making good any default or neglect of the Contractors in relation to the premises and any breach of covenant on their part; and subject thereto, the guarantee fund or the balance thereof, shall be dealt with in terms of the Agreement entered into for the construction of the Mossel Bay-Oudtshoorn Line, dated 4th July, 1900.

Contractors may take partners in contract subject to conditions.

50. The Contractors may admit any partner or partners with them in this Contract, provided that such partner or partners shall be approved by the Government under the hand of the

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General Manager, and shall, at the expense of the partner or partners, execute such contract for rendering himself and of themselves liable to perform the duties and obligations of these presents as the General Manager shall reasonably require.

Restriction on assigning and subletting.

51. The Contractors shall not assign this Contract without the permission of the Government certified in writing by the General Manager, except to Arnold Frank Hills, the Managing Director of the Thames Ironworks and Shipbuilding Coy., Limited, and except so as to form security for advances, nor shall they sublet the works to any extent or in any manner beyond what in the written opinion of the Engineer shall be necessary and customary, or to any person whom the Engineer shall object to, and no partnership or sub-contract for the execution of the Works hereby contracted for, or any part thereof, nor any assignment of this Contract shall without the consent of the Government, certified as aforesaid, exonerate the Contractors from their liability under these presents.

Provision in case of Insolvency of Contractors, or their failure to complete.

52. If the Contractors or their permitted assignees (in case of assignment) become insolvent, or compound with their creditors, or if from any cause whatsoever, other than the Act of God, war, insurrection, rebellion, the execution of additional works, strikes, lock-outs, combinations of workmen, or any extraordinary or unforeseen circumstance, which in the opinion of the Commissioner are beyond the control of the Contractors, they shall fail to complete and deliver over the said Railway and Works to the Government in the manner and by the time in that behalf fixed by Article 27 hereof, or any extension of such time as provided by Article 30 hereof, the ten per cent. (10%) retention money shall be retained and dealt with as provided in Articles 47 and 49 hereof, and thereupon this Agreement shall cease and determine, and it shall be lawful for the Government to enter upon and take possession of such incomplete line in so far as it has been constructed by the Contractors, and the Government shall thereafter so soon as the amount of the actual cost shall have been ascertained, pay to the Contractors the amount so ascertained, less such amount as shall have been paid on account and less the amount of retention money hereinbefore referred to.

Actual cost.

53. The amount of the actual cost incurred in respect of the construction of the line shall be ascertained either by the certificate of the Engineer, or in such other manner as the Governor shall approve. All books, vouchers, drawings and other documents in the possession of the Contractors shall be available for inspection by the Engineer or any other duly authorised officer for the purpose of checking the cost of materials and work done.

Appointment of Consulting Engineers.

54. Messrs. Gregory and Eyles and Sir Douglas Fox and Sir Charles Metcalfe, and an Engineer in America, to be nominated by the Agent-General and the Consulting Engineers in England, shall be the Consulting Engineers for the purposes of this Contract, and in case of their ceasing to be such Consulting

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Engineers the Government will, in such manner as they may see fit, from time to time, appoint other Civil Engineers in their place.

Construction of Contract in case of repeated terms.

55. In case of terms and provisions repeated wholly or partially in these Conditions of Contract, and in the Specification, and in case of any discrepancy between these Conditions of Contract and the Specification the terms of the said Conditions of Contract shall prevail.

Differences to be decided by Arbitration.

56. In case and so often as any difference or dispute shall arise between the Government or the Agent-General and the Contractors, or between the Engineer or Resident Engineer and the Contractors, or any of their agents, concerning or relating to the Railway and Works, or any of them, or any part thereof, or any covenant, engagement, matter or thing herein contained, or the construction thereof, the subject of every such difference or dispute not being a matter expressly, by some clause of this Contract, referred to the absolute decision of the Engineer, shall in every case, on the demand in writing of either party, be referred to two Arbitrators, one to be appointed by each party to the dispute, and in case it should be necessary, the Arbitrators to appoint an Umpire, whose decision shall be final.

May make several awards.

57. The Arbitrators shall have full power to make, if they think fit, several awards instead of one award, and every such award, though not on the whole matter, shall be conclusive so far as it extends, and as if the matter awarded on were the whole matter referred.

May proceed *ex parte*.

58. The Arbitrators shall have full power to proceed in the absence of both or either of the parties, after giving to both parties such notice as the Arbitrators think sufficient, of their intention so to proceed.

Powers of Arbitration.

59. The Arbitrators shall have full power to inspect the accounts of both parties, and examine on oath, affirmation, or on statutory declaration in lieu of oath, the Contractors and the officers, agents, servants and witnesses of the parties respectively.

Costs of reference and award.

60. The cost of the reference and of the award shall be in the discretion of the Arbitrators.

Statutory provisions applicable to arbitration.

61. As far as the same are applicable and not hereby varied, the provisions of the Railway Companies Arbitration Act, 1859, or any statutory modification thereof for the time being in force with reference to the settlement of disputes by arbitration, shall apply to the arbitration agreed to in these presents in case the matter in dispute arose in England, and the local laws with regard to arbitrations shall apply to the arbitration agreed to in case of matters in dispute that have been raised within the Colony.

Governor, Members of Government, General Manager, Agent-General, &c., not to be personally able.

62. The Governor of the Cape of Good Hope, or any member or officer of the Government of the Cape of Good Hope, or the Commissioner or General Manager or Agent-General respectively, shall not be in any wise personally bound for the acts and observances of the Governor under these presents, or answerable

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for any default or omission in the observance, performance, or fulfilment of the acts, matters or things which are hereby made obligatory on the Government.

IN WITNESS WHEREOF the Commissioner and Contractors have hereunto set their respective hands and seals the day and year first above written.

WITNESSES:

C. B. ELLIOTT. T. W. SMARTT.
R. A. HEMMENS. W. L. AINSLIE.

SCHEDULE I.

Schedule I.

AGREEMENT with Thames Ironworks Company, dated 4th July, 1900, for the subsidising of a line of Railway from Mossel Bay *via* George to Oudtshoorn.

MOSSEL BAY—OUDTSHOORN RAILWAY.

MEMORANDUM OF AGREEMENT made and entered into this Fourth day of July, 1900, between the Honourable Dr. THOMAS WILLIAM SMARTT, M.L.A., in his capacity as COMMISSIONER OF PUBLIC WORKS, and as such representing the Colonial Government of the one part, and WILLIAM LANGSTAFF AINSLIE in his capacity as the duly authorised representative of the THAMES IRONWORKS and SHIPBUILDING COMPANY, LIMITED, of BLACKWALL, LONDON, hereinafter called the Concessionary, of the other part.

WHEREAS on the 2nd day of August, 1898, and on the 18th day of March, 1899, certain agreements were entered into between the said parties hereto for the construction *inter alia* of

"A line of Railway from Mossel Bay *via* George to Oudtshoorn."

WHEREAS in the Agreement of the 18th March, 1899, it was agreed to continue the construction of the said line of Railway under the Agreement of the 2nd August, 1898, and under a contract of the 13th of October, 1896, entered into between the Commissioner of Public Works and the Grand Junction Railways, Limited.

WHEREAS it has been deemed advisable to enter into a new agreement for the construction of the said line, to stand in the place of the said Agreements of the 13th of October, 1896, 2nd of August, 1898, and 18th March, 1899.

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NOW, THEREFORE, IT IS AGREED, subject to the approval of Parliament, that from the day upon which this Agreement and the Specification hereinafter mentioned are signed, the said Agreements hereinbefore mentioned shall, so far as regards the said line of Railway, be considered cancelled, and the following Agreement, conditions and stipulations shall be substituted therefor, and be binding on the parties hereto.

1. For and in consideration of the subsidy to be paid as hereinafter mentioned, and the rights and privileges conferred under the provisions of the Railway Extension Act of 1895, the Concessionary agrees to construct, in terms of the said Act, a line of Railway from Mossel Bay *via* George to Oudtshoorn in accordance with plans and sections signed or to be signed by the Engineer-in-Chief on behalf of the Government, and by the said William Langstaff Ainslie on behalf of the Concessionary. The Concessionary shall have the right to deviate at any point with the consent of the Commissioner.

2. The line of Railway shall be constructed in accordance with the specification hereunto annexed, marked "A," and with the plans and sections referred to in Clause 1, which plans and sections together with approved deviations therefrom the Concessionary hereby undertakes to accept as the plans and sections under this Contract and to sign the same when required.

3. It is agreed that the Concessionary may adopt a route beyond George towards Oudtshoorn *via* Zwart River or Kayman River Valley, either or both. The total distance, however, between Mossel Bay and Oudtshoorn shall not exceed seventy-five (75) miles.

4. The Concessionary shall be at liberty to reduce any grade to 1 in 70 in place of 1 in 40, and to increase curves to any radius of eight chains and upwards instead of five chains radius, and to lay 60 lb. rails instead of 46¼ lb. rails, with a corresponding increase in the size of sleepers and amount of ballast, provided that before any deviation in the route surveyed and set forth in the plans, sections and specifications of the Department is made, detailed plans, sections and specifications of the proposed deviation, accompanied by a statement of the reasons for such alteration, shall be submitted to and approved of in writing by the Engineer-in-Chief of the Railway Department prior to work being commenced on such deviation.

5. The Government shall pay to the Concessionary by way of subsidy for and in respect of the construction of the said line of railway a percentage of one-third of the actual cost of construction, but not exceeding the total of £2,000 (two thousand pounds) per mile of railway complete, constructed in accordance with the terms of Act 28 of 1895. The subsidy shall, however, not exceed one hundred and fifty thousand pounds sterling (£150,000).

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6. The Government will make advances of subsidy at the rate of forty per cent. (40%) of the value of the work done as calculated at the prices shown on the Schedule marked "C" hereunto annexed, with the proviso that when the total advances of subsidy amount to a sum of £1,800 (one thousand eight hundred pounds), *i.e.*, £2,000 (two thousand pounds) less ten per cent. per completed mile of railway, all advances of subsidy shall cease, and further provided that the amount so advanced shall in no case exceed either forty per cent. (40%) of the actual cost so certified, or £2,000 (two thousand pounds) per mile completed. The Government will retain the balance of ten per cent. (10%) of the authorised subsidy until completion of the line.

7. The amount of actual cost incurred in respect of the construction of any section of the line shall be ascertained either by the certificate of the Government Engineer, or in such other manner as the Governor shall approve, and the total amount of the subsidy shall be computed upon the actual cost of the construction of the entire line, including the cost of such bridges, culverts, tunnels, stations, or other fixed appurtenances of the line as the Governor may approve. All books, vouchers, drawings and other documents relating to the construction of the line, whether in the possession of the Concessionary or of their Contractor for the purpose of checking the cost of materials or work done, shall be available at all times for inspection by the Government Engineer or by any other duly authorised Officer.

8. The Colonial Government shall have the right at any time within twelve months of the date of final completion of the line to take over the same as a Government line upon making payment to the Concessionary at the rate of £8,000 (eight thousand pounds) per mile of Railway completed, plus the value of heavier permanent way any additional ballast at the prices shewn on the Schedule marked "C" attached hereto, less such sums as may have been advanced to the Grand Junction Railway Company, Limited, and to the Concessionary on account of subsidy.

9. At any time after the expiration of twelve (12) years from the date hereof it shall be lawful for the Governor with the authority of both Houses of Parliament, and after giving at least six months' notice, to purchase from the Concessionary and take possession of the said line; the purchase price to be the amount of the actual cost determined as aforesaid with the addition of ten per cent. (10%) and the deduction of an amount for wear and tear to be determined in case of difference by arbitration; credit to be taken in the account for all amounts paid by way of subsidy.

10. The tariffs of fares for passengers and rates for goods, produce, live-stock and vehicles shall be reasonable tariffs subject to the approval of the Governor, and shall after settlement be liable to be re-adjusted by the Concessionary from time to time with the like approval at the request of the Governor, acting upon

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a resolution of both Houses of Parliament; and the toll, 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 toll, fares, or rates of charges 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, and no reduction or advance in any such tolls, fares, or rates shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the said railway.

11. The Government shall have the right to run trains with through traffic over the line to be constructed under this contract 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 to be used by the Colonial Government shall not be heavier than those employed by the Concessionary upon the line constructed under this Contract nor run at any higher rate of speed than that used in conducting the ordinary traffic upon said line.

(*c*) That so long as the through traffic is confined to special trains the toll or compensation to be paid by the Colonial Government to Concessionary shall be forty per cent. (40%) of the fares or rates fixed and determined under Clause 10 of this Agreement. If and when the Colonial Government require a regular service of through trains then the conditions shall be such as may be mutually agreed upon, and in the event of any difference the terms shall be settled by arbitration.

(*d*) The through trains shall only stop for the purpose of taking water or when required by the Concessionary for the purpose of working their traffic.

(*e*) That any water required for such through trains shall be paid for at the rate which was formerly charged to the Metropolitan and Suburban Railway Company by the Colonial Government.

(*f*) That the officials of the Colonial Government conducting the through traffic shall be under the Concessionary's rules and the orders of their officials when and so long as the through traffic is upon the Concessionary's lines.

(*g*) That if any extra or special assistance is required at stations, signals, sidings, line staff, or junctions for conducting the through traffic the cost of such shall be borne in equal shares by the Colonial Government and the Concessionary.

(*h*) That the Colonial Government shall not compete against the Concessionary for the traffic at terminals or crossings of the line to be constructed under this Agreement.

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(*i*) The amount of toll shall be settled monthly for the earnings of the previous month, and the accounts of all such through traffic shall be open to the inspection of the Concessionary's duly appointed officer for the purpose of checking and agreeing to the accounts in respect of such through traffic.

12. Any junction work that may be necessary shall be carried out and subsequently maintained by the Colonial Government or by the Concessionary to the satisfaction of the Government as the Government may determine.

The cost of the work at the junctions shall be borne in equal shares by the Government and the Concessionary.

13. The staff and other requirements for working the Junctions, including signals and other appliances, shall be provided by and be under the control of the Colonial Government, the cost of the same over and above existing outlay, at the Stations where the Junctions are, will have to be borne in equal shares by the Government and the Concessionary.

14. The ten per cent. (10%) retention money provided for in Clause No. 6 hereof shall be retained by the Government as part security for the due construction and completion of the line, and shall be paid to the Concessionary upon the completion of the line to the satisfaction of the Government Engineer.

15. The further security to the value of £50,000 (fifty thousand pounds sterling) lodged with the Cape Agent-General in London, together with the ten per cent. retention money held by the Government under the conditions of the Agreements entered into on the 4th July, 1900, for the construction of the Oudtshoorn-Klipplaat Line and the Somerset East-King William's Town Line respectively, shall be dealt with as follows:—

(1) Upon the completion, in the opinion of the Government Engineer, of one-third of the actual value of the total work on the line from Mossel Bay to the point of junction with the Oudtshoorn-Klipplaat Line, one-third of the said security and retention money shall be paid to the Concessionary.

(2) Upon the completion of two-thirds of the actual value of the total work on the said line or on the completion of the section of the line from Mossel Bay to George, and the completion of the cuttings and embankments, tunnels, bridges and culverts, with the exceptions provided for in Clause 16 on the section of the line from George to Doorn River (48 miles from Mossel Bay on the original Government plan), a further third of the security and retention moneys shall similarly be paid to the Concessionary.

(3) The remaining one-third shall be paid to the Concessionary on the completion of the said line throughout.

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Interest at the rate of 4% (four per cent.) per annum on the retention moneys shall be paid to the said Concessionary from the date of the completion of the Oudtshoorn-Klipplaat Line and the Somerset East-King William's Town Line respectively until payment of the same is made, as hereinbefore provided.

16. The Concessionary undertakes within two months from the date of approval of this Agreement by Parliament, to submit to the Department detailed plans, sections, and specifications, for a deviation from a point on the original line surveyed by order of Government, at or beyond George proceeding towards Oudtshoorn *via* the Zwart River or Kayman River Valley, either or both, and within fifteen months from the approval thereof by the Engineer, undertakes to complete the cuttings and embankments, whether in earth or rock, with the following exceptions:—

(1) Heavy rock cutting or high embankment (say over 40 feet in depth or 40 feet in height respectively) of which at least a proportion of two-thirds of the total cube must be completed.

(2) Tunnels up to 500 yards in length shall be completed, and over that length to be at least two-thirds complete.

The Concessionary further undertakes to complete within the said period of fifteen months, all Culverts and Bridges on the said section, with the exception of bridges of fifty feet and upwards, or large viaducts. And the Concessionary also undertakes, within 18 months from the approval of this Agreement by Parliament, to complete the section of the line from Mossel Bay to George, with the exception of platelayers' cottages and station buildings.

If the Concessionary shall not complete the sections of the line and works described in this Clause within the periods aforesaid the Concessionary shall forfeit to Government the sum of £10,000 (ten thousand pounds sterling), unless the delay is proved to the satisfaction of the Commissioner to have been caused by the Act of God, war, insurrection, rebellion, strikes, lock-outs, or combinations of workmen or other extraordinary or unforeseen circumstances beyond the control of the Concessionary or from or on the part of the Railway Department.

17. The Concessionary undertakes to push forward the construction of the line with all possible speed and to complete the same within two years of the date of the approval of this Agreement by Parliament. In the event of the non-completion of the line within the time hereinbefore mentioned, unless the delay is proved to the satisfaction of the Commissioner of Public Works to have been caused by the Act of God, war, insurrection, rebellion, strikes, lock-outs, or combinations of workmen, or other extraordinary or unforeseen circumstances beyond the control of the Concessionary, or from or on the part of the Railway Department, the security referred to in this Agreement to wit:—

The ten per cent. (10%) retention money under the Agreement, together with the ten per cent. retention money under the Agreements for the construction of the Oudtshoorn-Klipplaat

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and the Somerset East-King William's Town Lines, dated 4th July, 1900, and the security lodged with the Cape Agent-General shall be forfeited to the Colonial Government as and for liquidated damages sustained by the said Government for the non-completion of the said line, and thereupon the Agreement between the Government and the said Concessionary shall cease and determine, and it shall be lawful for the Government to enter upon and take possession of such incomplete line of Railway as has been constructed by the said Concessionary, and the Government shall thereafter as soon as the amount of the actual cost of such incomplete line shall have been ascertained pay to the said Concessionary the amount so ascertained less such amount as shall have been paid on account of subsidy and less the amount of retention money and security hereinbefore referred to.

18. The Concessionary shall be bound and hereby undertakes to work and to maintain the Mossel Bay-Oudtshoorn Line, when completed, in a proper and efficient manner, to the satisfaction of the Government, and to run not less than three trains per week in each direction for Passenger and Goods traffic, under payment in respect of any period during which the said line has not been properly worked and maintained of a sum calculated at the rate of £1,000 (one thousand pounds sterling) per month in case of non-compliance, such sum, however, not to exceed £25,000 (twenty-five thousand pounds sterling) in all, to be recoverable against the Company in the ordinary way, and to be a charge, if not recovered, against the purchase price of the line—should the Government exercise its option under this Contract. It is hereby expressly stipulated and agreed 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.

19. Upon completion of the Mossel Bay-George Section as stipulated for in Clause 16 of this Contract, the Concessionary shall be bound and hereby undertakes to work and maintain such Section to the satisfaction of the Government, and to run not less than three trains per week in each direction for Passenger and Goods traffic. Upon failure to comply with this undertaking, the Concessionary shall be liable to pay an amount similar to that provided for in Clause 18 of this Contract, the special conditions of which are to be applicable to the nature and means of recovery of any such amount. But it is distinctly understood any sums recovered under either this Clause or the said Clause 18, shall never together exceed the total sum of £25,000 (twenty-five thousand pounds sterling).

20. Should the Concessionary fail to work and maintain the lines referred to in the two preceding Clauses, or either of them, in manner and subject to the conditions therein provided, it shall

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be lawful for the Government in addition to any other remedy given under this Contract, to work the said line or lines for purposes of local traffic, and at the expense of the Concessionary to maintain the said line or lines in a proper and efficient state of repair. And for that purpose the Government shall have the same rights to enter upon the said lines and all buildings, works and ground appurtenant thereto, as it would have if the said lines were lines of Government Railway.

21. It is hereby agreed that so long as the Government has not exercised any option of purchase under this agreement, and so long as the Concessionary works and maintains the said Mossel Bay-Oudtshoorn Line to the satisfaction of the Government, then the said Government shall not authorise or sanction the construction of any line of Railway from Oudtshoorn, or any point beyond, on the Oudtshoorn-Klipplaat Line to any point on any line of Railway running from or beyond Riversdale in the direction of Mossel Bay.

22. All materials and things (except the Concessionary's plant and temporary materials) manufactured in or derived from Europe and America and shipped by the Concessionary to the Colony for the purposes of this Contract shall, before being removed from the places at which they are prepared, be submitted to the inspection and approval of the Consulting Engineers or the Inspecting Engineer, and the Concessionary shall give the Agent-General in London, or the Consulting Engineer in America, not less than ten days' notice in writing before removing any such materials or things for shipment.

23. If any such materials and things are manufactured or prepared in Europe or America expressly for the purposes of this Contract, the Consulting Engineers and Inspecting Engineer respectively shall be at liberty from time to time to inspect the same during the course of the manufacture or preparation, and the Concessionary shall give the Inspecting Engineer not less than ten days' notice in writing of the time of the commencement of the manufacture or preparation of such materials and things, and therein specify the place of manufacture or preparation, and shall from time to time send to the Inspecting Engineer such reports of the progress of manufacture or preparation as he shall require.

24. When any materials or things manufactured in or derived from Europe or America and intended to be shipped thence by the Concessionary for the purposes of this Contract (but not including Concessionary's plant or temporary materials) have been inspected and approved as required by this Contract, and have been actually shipped, the Concessionary shall furnish the Consulting Engineers with a statement of the same in a form to be settled by the Agent-General, and such statement shall be certified as correct by the Concessionary or the Agent and the Inspecting Engineer and the Shipping Agents (who shall be persons named or approved by the Agent-General) respectively

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under their respective hands, and within seven days next after any such statement shall have been delivered at the office of the Consulting Engineers, except in cases of unavoidable delay, they shall certify the value of the materials or things included in such statement according to the prices contained in the Schedule hereto, or if prices be not therein specified for any materials or things, then, according to the actual cost as provided for in Clause 28 and otherwise contemplated by this Contract, and on presentation by the Concessionary, at the office of the Agent-General in London, of any such certificate, with the invoices, bills of lading, receipts for freight, and polices of insurance of the articles so shipped, duly assigned or otherwise transferred to the Agent-General on behalf of the Government, the amount, so certified, shall, within one week from the day of the presentation and upon delivery of the said documents, be paid to the Concessionary by a cheque or order, payable to such person or persons as they may in writing direct, on the bankers of the Agent-General in London, payable at sight. All insurance contemplated by this Contract shall be effected in an office or offices approved by the Agent-General.

25. Messrs. Gregory and Eyles and Sir Douglas Fox and Sir Charles Metcalfe, and an Engineer in America, to be nominated by the Agent-General and the Consulting Engineers in England, shall be the Consulting Engineers for the purposes of this Contract, and in case of their ceasing to be such Consulting Engineers the Government will, in such manner as they may see fit, appoint other Civil Engineers in their place.

26. All materials, plant or stores required for or in connection with the construction of the said Railway shall be carried and conveyed over the Government lines at the rate of 1d. per Cape ton per mile, and all materials, plant or stores sold, supplied or lent, or work done by the Railway Department for the Concessionary shall be sold, supplied, lent or done at nett cost and shall be charged against and deducted from the subsidy hereinbefore mentioned.

Further, every reasonable assistance for the speedy and economic construction and working of the proposed line shall at all times be afforded by the Government, including the lending of all type drawings and sections and results of surveys.

27. The Government will not charge the Concessionary with any import duty in respect of Railway material (See Act No. 6 of 1898, Clause 102), but for all materials and things including merchantable and consumable articles the usual import duties must be paid by the Concessionary.

28. The Government will pay for the materials required for this line at the rate of forty per cent. (40%) of the value at the prices shown in the Schedule marked "C" hereto annexed, against the shipping documents in London in the usual way, except that where materials are provided for which no prices appear in the said Schedule the amounts to be paid shall be ascertained upon the actual cost (including freight, insurance and other charges).

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29. Any differences arising out of this Contract shall be settled by arbitration under the Lands and Arbitration Clauses Act, 1882.

IN WITNESS WHEREOF the Commissioner and the Concessionary have hereunto set their respective hands and seals the day and year first above written.

WITNESSES:

C. B. ELLIOTT. T. W. SMARTT.
R. A. HEMMENS. W. L. AINSLIE.

Repealed by Act No 23 of 1934

No. 20—1900.] [October 19, 1900.

ACT

To Provide for the raising of a Loan of Nine Hundred and Sixty-four Thousand Eight Hundred and Thirty- nine 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.

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 of £259,475 for improvement of Table Bay Harbour Works, &c.

1. It shall be lawful for the Governor to raise by loan the sum of two hundred and fifty-nine thousand four hundred and seventy-five pounds sterling 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 landing and shipment of cargo, provided that the sum so raised shall be expended for the purposes already authorised by Parliament as set forth in the Schedule to the Table Bay Harbour Loan Act No. 33 of 1898.

Power to raise £129,603 for completing works already authorised by Parliament as set forth in Schedule A.

2. For the purpose of completing the said works already authorised by Parliament as set forth in the said Schedule to the said Harbour Loan Act No. 33 of 1898, it shall be lawful for the Governor to raise the sum of one hundred and twenty-nine thousand six hundred and three pounds sterling, as set forth in Schedule A to this Act.

Power to raise £338,261 for improving the Harbour Works as set forth in Schedule B.

3. It shall be lawful for the Governor to raise the sum of three hundred and thirty-eight thousand two hundred and sixty-one pounds sterling for improving the works of the said Harbour as set forth in Schedule B to this Act.

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4. To enable the Harbour Board of Port Elizabeth to purchase and take over the plant of the Port Elizabeth Boating Company, and for the purpose of other services as detailed in Schedule C of this Act, it shall be lawful for the Governor to raise the sum of one hundred and twenty-eight thousand pounds sterling.

Power to raise £128,000 for improving the Harbour Works, Port Elizabeth, as set forth in Schedule C.

5. It shall be lawful for the Governor to raise the sum of ninety-nine thousand five hundred pounds sterling for the purpose of enabling the Harbour Board of East London to extend its dredging operations and for the purpose of constructing an aerial tramway, as set forth in Schedule D to this Act.

Power to raise £99,500 for improving Harbour Works, East London, as set forth in Schedule D.

6. It shall be lawful for the Governor to raise the sum of ten thousand pounds sterling for completing the Harbour Works of Mossel Bay.

Power to raise £10,000 for completing Harbour Works of Mossel Bay.

7. 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.

8. 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.

Capital and Interest upon loans to be chargeable upon the Revenues of the said Boards.

9. This Act may be cited as "The Harbour Boards Loans Act, 1900."

Short Title.

SCHEDULE A.—TABLE BAY HARBOUR AND DOCKS.

	£
Improvement of Harbour of Table Bay, as per plan submitted to Parliament in 1895	95,786
Protective Capping to Breakwater	14,496
Improved Coaling facilities	19,131
Adaptation of West Quay for Railway Traffic	190
	£129,603

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SCHEDULE B.—TABLE BAY HARBOUR AND DOCKS.

	£
Cranage and other appliances and cargo stores in connection therewith	168,463
Facilities for dealing with Coal, including Cranes, Railways, Roads and Electric Lighting	126,798
Securing Quay Walls, East Pier and South Pier Elbow	30,000
Reclamation of Land south of South Pier	13,000
	£338,261

SCHEDULE C.—PORT ELIZABETH HARBOUR.

	£	£
Purchase of Boating Company's plant of lighters, steam tugs, property, stores, &c., as valued in 1899 (which valuation the Boating Company agreed to)	92,500	
Less estimated allowance for two years' depreciation of plant at 10%	9,250	83,250
Locomotives, trucks and tarpaulins purchased from Railway Department in 1899		11,590
300 additional trucks—special 9 ton carriers		25,000
2 New Locomotives		3,000
Expenses of raising Loan £115,000 under Act 35 of 1898		5,160
		£128,000

SCHEDULE D.—EAST LONDON HARBOUR.

	£
Dredging from Seaward end of East Pier to up river end of Milling Company's property:	
400,000 cubic yards, rough material	25,000
1,520,000 cubic yards, soft material	63,530
Produce Warehouse, on Upper Terminal near No. 3 Quarry	3,670
Aerial Tramway	5,850
Alteration to Warehouse and Jetty at Lower Terminal	1,450
	£99,500

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No. 21—1900.] [October 19, 1900.

Repealed by Act No 25 of 1934.

ACT (1)

To Legalize and extend the Suspension of the Operations of certain portions of the "Customs Amendment and Tariff Act, 1898."

Preamble.

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

Notices and instructions confirmed.

1. All notices and instructions issued by His Excellency the Governor of the Cape of Good Hope or by his authority, between the 11th October, 1899, and the date of the taking effect of this Act, authorising the suspension of parts of the Customs Amendment and Tariff Act, 1898, are hereby confirmed and made law, and shall have legal effect until the same are revoked by Proclamation under the hand of the Governor; provided that unless such Proclamation shall sooner have been issued, such notices and instructions shall authorise the suspension of the duties thereby suspended only until the expiration of one month from the assembling of the next (2) session of Parliament, [or until the first day of July, 1901, whichever date shall soonest arrive]; and provided further that at the time of the reimposition of the duties the Government shall be authorised to take stock of all imported meat in the various cold storage establishments of the Colony, and for such purposes all such stock shall be taken to be in Bond and liable to the Customs duty; and provided always that at least six weeks before the issue of any such Proclamation as is in this section referred to, notice of an intention so to issue it shall be published in the *Gazette*, such notice to be signed by the Treasurer.

Non-payment of duties legalized.

2. The Customs duties suspended under the authority of such notices and instructions, and under the authority of this Act, shall be regarded as if they had never been payable, and all actions, indictments and legal proceedings whatsoever which might be brought or instituted in any of the Courts of this Colony for the recovery of, or in respect to the non-payment of such duties shall be discharged and become and be made void.

Short Title.

3. This Act may be cited as the "Customs Duty Indemnity and Suspension Act, 1900."

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[1] Amended by Act 35, 1902 (p. 4485.)

[2] Words in brackets are not to be considered in reading this section. The session of 1903 to be deemed the "next session." See Act 5, 1903 (p. 4547.)

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No Session of Parliament was held in 1901 for the reasons given in Acts 1902. Page 4357

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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.

[Spent.]

No. 2—1902.] [Sept. 10, 1902.

ACT

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

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 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.

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.

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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."

Repealed by Act No 25 of 1934

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.

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 "person" 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 public 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.

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No. 4- 1902.

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. 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 subsection shall be deemed for all purposes to have acted legally. Gaolers indemnified.

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No. 4—1902.

Certain Acts of deportation 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

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execution, of the said Commission, have the powers of a Judge of the Supreme Court on Circuit:—Provided

(*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.

Powers conferred on Governor to give effect to recommendations of Commissioners.

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.

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.

Short title.

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

First Schedule.

SOUTH AFRICA.

Schedule I.

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-

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No. 4—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

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No. 4—1902.

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, paper 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.

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No. 5—1902.
Schedule II.

SECOND SCHEDULE.

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, etc., 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,

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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.

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, 1853, 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

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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.

Certain prorogations declared to be legal.

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

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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.

Repealed by Act 12, 1918, so far as it relates to future registration of voters

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."

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No. 6—1902.] [October 14, 1902.

Repealed by Act No 25 of 1934

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.

Preamble.

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:

(*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:—

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

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.

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No. 6—1902.

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

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.)

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

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.

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

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.

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

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 328 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.

Proceeds of Bond of £1,800,000 issued by late Orange Free State Government to be supplied to cover balance of expenditure authorised by § 4 hereof.

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

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the late Orange Free State, under authority of 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.

Short Title.

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

SCHEDULE A.

Schedule A.

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

Month.	Ordinary Expenditure.	Extraordinary Expenditure.
Financial Year 1900-1901.	£	£
June, 1901 ...	...	533,000
Financial Year 1901-1902.		
July, 1901 ...	633,660	100,000
August, „ ...	494,215	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
Financial Year 1902-1903.		
July, 1902 ...	347,909	541,400
Grand Totals ...	5,251,907	3,905,950

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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	£1,109,923	1	1

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

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Repealed by Act 25 of 1934

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.

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:—

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

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.

Owners of land not to be entitled to compensation.

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.

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

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.

Right of entry for purposes of removal conferred.

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.

Compensation to be determined by arbitration if not agreed upon.

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 of the

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No. 8—1902.

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.] [October 14, 1902.

(1) ACT

Repealed by Act No 25 of 1934

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.

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 Com-

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[1] See Act 30, 1904 (p 4754).

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missioners 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.

Sub-Commissioner already appointed to be deemed appointed under this Act.

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.

Commissioners may act upon evidence taken before previous Commissioners.

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.

Extension of period covering losses to be inquired into.

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.

Short title.

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

No. 9—1902.] [Oct. 14, 1902.

ACT

To Amend the Oudtshoorn Municipality Water Supply Act, 1898.

Preamble.

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.

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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 authorised.

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 aforesaid 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 borrowing 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."

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No. 10—1902.] [Oct. 24, 1902.

Fully Repealed by Act No 25 of 1934

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.

Preamble.

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.

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:—

"Person" defined.

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

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

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.

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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

Sections 6-10 Repealed by Ord. No. 13 of 1917.

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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.

Elections to be held.

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.

Valuation rolls to be made.

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 sub-division 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.

Appointment of Auditors by Government legalised.

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

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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 Voter's 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.

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15. As soon as possible after Voters' 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.

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."

Shorttitle.

SCHEDULE.

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). (*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

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No. 10—1902.	STATUTE.	MATTERS, ETC., INDEMNIFIED.
		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.
	2. "The Municipal Act, 1882." (Act No. 45 of 1882.) Ordinance No. 9 of 1836.	(*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.
	3. "The Village Management Act 1881" (Act No. 29 of 1881) and Acts extending or applying the same.	Failure duly to hold meetings for the election 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.
	4. "The Regulation of Railways Act, 1861." (Act No. 19 of 1861, and Acts amending and applying the said Act.)	(*a*) The conferring and making of undue advantages and preferences in favour of the military forces of Her late

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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,	

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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.	The non-application of the provisions thereof in various districts of the Colony .
	9. "The Customs Act, 1872," and amending Acts.	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.

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STATUTE.	MATTERS, ETC., INDEMNIFIED.
	(*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.

Preamble.

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 sub-divided with a view to the establishment of a town to be called "Walmer."

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*

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fide visiting or upon business at Walmer became in terms of the conditions of sale of the said erven or lots entitled to certain 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 roods 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:—

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No. 11—1902.

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

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

(*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.

Council to have powers conferred by Act 45 of 1882.

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.

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

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.

No transfer or stamp duty payable.

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.

Short title.

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

SCHEDULE A.

DEED OF TRANSFER.

By Virtue of a Power of Attorney.

Schedule A.

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

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No. 11—1902.

Magdalena Anderson (born van Rooyen) previously widow of the late Stephanus Muller, in whose Estate she 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 Baakens 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

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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.

In my presence

JOHN E. MONTAGUE,

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 of a certain piece of land for the building of a Public Library.

Preamble.

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:

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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 so 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 Townsmen 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 Combridge 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 Roods 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.

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No. 13—1902.

Trustees for the purposes of this Act, in the event of the office of Trustees as aforesaid becoming or being vacant.

Repeal of conflicting laws.

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.

Short title.

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

No. 13—1902.] [Oct. 27, 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.

Preamble.

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:

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:—

Section 2 and parts of sections 1 and 3 of Act No. 4 of 1898 repealed.

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.

Transfers passed in pursuance of Act No. 4 of 1898 to be read as free from the conditions and restrictions imposed by sections hereby 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

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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.

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

Repealed by 1922 Act 38 Sec. 15.

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

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

Repealed by 1910 Act 30 of 1910.

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

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

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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."

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-

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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 contractoral 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."

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No. 17—1902.] [Nov. 6, 1902.

Repealed by Act 25 of 1934

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.

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

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.

How money so raised may be expended.

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."

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

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 payment of compensation may be recommended by the Commission shall be classified as follows:—

(*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.

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(*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."

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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.

Preamble.

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.

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.

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 members of the Town Council in office

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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 immediately 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, Zypherfontein, Goodwin's Kloof, Howison's Poort Farm, Featherstone's Kloof, Woest 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.

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4. The Town Council may, from time to time, if it shall see fit to do so, alter the boundaries of the said wards.

Same may be altered.

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.

Incorporation 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

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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 days or less than seven, days from

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the 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 nominations insufficient.

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 notice of election 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 returning 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 shall

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Time of polling.

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.

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 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,

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with the names of the wards for which they are elected, to be published by advertisement in one of the local newspapers.

No candidate to stand for more than one ward.

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.

Defect in title of officer not to invalidate election.

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.

Election and tenure of office of Mayor and Deputy Mayor.

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.

Rotation of Councillors.

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.

Proceedings in case of extraordinary vacancy amongst 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

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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 the 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.

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Settled list to be Citizens' Roll.

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.

Roll to be posted.

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.

Copy to be *prima facie* evidence.

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 *primâ facie* evidence of such Roll and of the contents thereof.

If time passed Governor may sanction framing of Roll.

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.

No Councillor to receive reward or act as agent.

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 vote on matter in which he is interested.

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 defect in office of Councillor or other officer to affect proceedings.

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.

How Councillor's office may become vacant.

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

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meeting of the Council declared vacant, and such vacancy shall be deemed an extraordinary vacancy within the meaning of this Act, provided that if the absence of any Councillor, as in this clause referred to, arise from sickness or other cause deemed by the Council a sufficient cause, the Council shall be empowered to extend the term for one month longer.

Mayor may resign.

44. It shall be lawful for the Mayor to resign his office, provided that he shall give to the Council, in writing, not less than one calendar month's notice of his intention to do so.

How Mayor's office may become vacant.

45. If any Mayor shall die, or resign, or become insolvent or otherwise disqualified as a Councillor, or shall neglect to attend the meetings of the Council for one calendar month, without the permission of such Council, such Mayor shall be held to have vacated office, and the Council shall elect out of its members a successor for the remainder of the year, a week's notice of such election having been given to each Councillor: Provided always that if such neglect to attend the aforesaid meetings arise from sickness or other sufficient cause the Council shall be empowered to extend the Mayor's term of absence from such meetings for three months longer.

Auditors.

46. At the second ordinary meeting after the annual election of the Mayor, in June, the Council shall appoint two persons to be auditors of the accounts of the Council, who shall continue in office until the same day in the year following.

Who eligible.

47. No person shall be eligible as an auditor who shall be a Councillor, treasurer, clerk or other officer of the Municipality.

Vacating of Auditor's office.

48. If any auditor shall die, resign, or become insolvent, or otherwise become disqualified, another auditor shall be elected in his stead, on a day to be fixed by the Mayor.

Procedure when Auditors tie.

49. In case of an equality of votes at any election of auditors, the Mayor, Deputy Mayor or Chairman of the Council as the case may be shall determine by his casting vote which of the persons for whom an equal number of votes shall have been given shall be elected, in case such persons cannot be both or all of them elected.

Existing regulations to remain in force.

50. The existing rules and regulations of the Municipality of Grahamstown framed under Act No. 23 of 1869 and Act No. 12 of 1878, 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.

Council may repeal or amend rules and regulations.

51. The Council may, from time to time, at any meeting at which not less than three-fourths of the members shall be present, repeal, alter, add to or amend any of the municipal rules and regulations, and may frame any new rules and regulations

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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.

Council may make regulations for certain purposes

52. The Council may also, from time to time, at any meeting at which not less than three-fourths of the members shall be present, 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 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 the 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 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;

(6) 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;

(7) For prohibiting brothels, the overcrowding of houses, dwelling places and rooms, and the erection of objectionable buildings;

(8) 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;

(9) 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 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;

(10) For compelling the pulling down, removing or rendering safe all buildings, walls, bridges, earthworks and stoeps which shall be certified in writing by any three

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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 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, 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;

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(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 such 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;

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(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.

Regulations may impose penalties and repayment of expences incurred.

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.

Imprisonment in default of payment of fine.

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.

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

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."

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

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.

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

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.

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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 into 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.

Regulations 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.

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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.

"Gazette" to be proof of regulation.

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.

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

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.

Majority of Councillors to decide Quorum.

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.

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

Special meeting may be called on notice.

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.

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

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

Chairman to have 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.

Minutes of meetings to be kept.

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-thrds of the Councillors present, and voting on the question to suspend a Councillor for a period not exceeding one

Rules of order.

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month, and such rules of order shall include the power to remove a Councillor who shall have been asked to retire from the Council after being suspended and shall have refused.

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.

Owners and occupiers of property may be rated.

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

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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 upon the owner and the occupier of any one property in respect of such property.

Quinquennial appraisement to be made.

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.

Sections 77-85 repealed by ...

Appraiser may enter on property to value same.

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 interrogate owner or occupier; penalty for refusing to answer or giving false answers.

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.

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

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 published immediately after the valuation shall be ready for such

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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 revalued.

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 appraisier, 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 against valuation.

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-divisions; or may be re-valued.

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

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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.

Interim valuations.

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.

Council may adopt valuation of Divisional Council.

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.

General powers and authorities of 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 thoroughfares upon application to the said Council by the

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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 casuality; 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 poundmaster 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.

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Cost of public functions and entertaining allowance to Mayor.

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.

Council for general purposes authorised to levy dues, fees and taxes and may assess municipal rate.

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 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

What properties exempted from payment of rate.

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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 any way 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.

Power of Council to assess a rate on immovable property; no rate exceed-

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

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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 unforseen 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.

ing threepence in the pound to be levied without the consent of Citizen'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 day's 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 from the date upon which such period of three months shall expire.

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 his 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 occupier may have become liable for any rate 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

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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.

In proceedings for rates, books of Council or extracts to be *prima facie* evidence.

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 *primâ 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.

Statement of rates in arrear to be published annually

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.

When rates unpaid for five years, Council may take possession and grant leases of same.

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.

Such lease may be for five years.

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.

Council not to take possession until notice served and published.

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 payment the said Council will take possession of such property under the provisions of this Act has been served upon the owner of such

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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 interest 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

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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.

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

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.

Council may lease Municipal lands or buildings by public competition.

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 mines or quarries.

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.

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

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.

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.

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

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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 holders shall, according to their respective amounts and interests, rank *par 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,

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

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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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-

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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.

Derelict property to vest in Council.

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.

Council may levy tolls at roads, bridges or markets.

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.

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Storing of explosives regulated.

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.

Council may close overcrowded burial grounds.

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.

Council may maintain fire brigade.

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.

Powers of Superintendent of fire brigade.

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

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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.

Police to assist fire brigade.

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.

Indemnification of fire brigade, police and Council for acts properly done in case of fire.

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.

Council authorised to charge buildings which have been on fire or in danger with payment of certain expenses.

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

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no 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 salved 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 salved 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.

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Superintendent to report to Council and Resident Magistrate after fire.

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.

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.

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

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

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.

Acknowledgments for loan to be granted by Council.

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

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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.

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."

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

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.

Sanction of rate payers' meeting required to authorise loan.

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.

Temporary borrowing powers of Council.

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.

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

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

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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.

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

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.

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

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.

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

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.

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

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.

If List or Roll not completed within time provided by Act, Governor may sanction subsequent proceedings

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,

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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.

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 where 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 this 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.

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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. 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.

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).

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.

No. 19—1902.

ACT

To Provide for the Construction of certain Irrigation Works.

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 laws as is repugnant to or inconsistent with the provisions of this Act is hereby repealed. Repeal of repugnant Laws.

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No. 19—1902.

Irrigation Works authorised.

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."

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SCHEDULE.

No. 20—1902.

Description of Scheme.	Area.	Cost.
Thebus Irrigation Scheme:—		
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	Morgen. 24,000	£ 142,462

No. 20—1902.] [Nov. 18, 1902.

amended by Act 16 of 1913 sec 1.

ACT

To Amend the Forest Act, 1888.

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 empowered to make Regulations for control of Crown Forests.

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:

(*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

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No. 20—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."

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(*g*) Section thirty-nine is hereby repealed, and the following Section is hereby substituted therefor:

"39. Any person found within any forest or on any road in its vicinity, and having in his possession unstamped timber, wattles, fire wood 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 posessed 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."

Alienations without the consent of Parliament prohibited.

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.

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

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 such Municipality, or Village Management Board, if the said Minister, after due investigation, is satisfied, and reports that

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No. 21—1902.

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 Unauthorised Expenditure.

Repealed by Act 23 of 1934

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 shillings and ninepence sterling, to meet unauthorised expenditure beyond the amount 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 "Unauthorised Expenditure Act, 1902."

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No. 22—1902.] [November 18, 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.]

Preamble.

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

Provision for Establishment of Queen Victoria Scholarships.

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.

Regulations for award and tenure of 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*.

Short Title.

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

No. 23—1902.] [November 18, 1902.

Repealed by Act 10 of 1911 see 1

ACT

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

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:—

Definition of Electric Telegraph in Act No. 20 of 1861, extended.

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

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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."

Licence 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.

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No. 24—1902.] Repl. by Act 9 of 1916 [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.

Preamble.

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,

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:—

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

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.

Effect of payment within time limited by this Act.

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 non-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.

Short title.

4. This Act may for all intents and purposes be cited as "The Patents Fees Relief Act, 1902."

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No. 25—1902.] [Nov. 18, 1902.

ACT (1)

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 purpoose 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.

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.

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[1] The provisions of Act 11, 1904, providing for a Sinking Fund do not apply to this Act. See § 3, Act 11, 1904, (p. 4648.)

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No. 25—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:—

Interpretation Clause.

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.

Power to construct necessary works for securing water supply.

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 take water from Sand, Palmiet and Bulk River.

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.

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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 telephone 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 purpose, 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

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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

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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 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 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.

Borrowing powers conferred.

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.

Annual rate to be levied.

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

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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

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to impart: Provided that every such account shall be made up to the 31st December in each and every year.

Sinking Fund for repayment of moneys borrowed.

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.

Tariff of charges and bye-laws.

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.

Penalty for injuring buildings, &c., or other works.

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 polluting water.

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

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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."

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No. 26—1902.] [December 16, 1902.

ACT (1)

Repealed by Act 12/1918, Sect. 147

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

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 repugnant laws.

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.

Interpretation clause.

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—

"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-cornetcy" shall include any portion of an Electoral Division for 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 by reason only of the candidate or any agent of the

[1] See Act 21, 1859 (p. 755), and notes thereto.

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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 Practice.

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 payments.

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.

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(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.

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

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.

(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.

Knowingly providing money for a payment contrary to this Act is 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.

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

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.

(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.

Corrupt inducement of candidate to withdraw.

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.

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Exemption of payments made in ignorance.

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, posters, etc. 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.

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Illegal practice.

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.

(2) Any person who before or during an election knowingly publishes a false statement of the withdrawal of a nominated candidate at such electon 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.

Consequences of corrupt or illegal practices to the candidate and his agents.

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.

Competent Court, jurisdiction applicable.

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.

Disabilities of candidates and agents incapacitated under this Act from being elected to or sitting

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

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in either House of Parliament.

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 revocaton 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 any 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

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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.

Election agent to appoint polling agent, &c.

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.

(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.

All payments to be by election 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

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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

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fails to pay it within the said period of forty-two days, such claim shall be deemed to be a disputed claim.

(7) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and the 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 purpose 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.

Taxation of amount of disputed claim.

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.

Candidate's personal expenses.

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.

(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

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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).

(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 of 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

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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 inadvertance 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

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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.

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

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 the 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.

(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

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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 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 provisions 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."

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SCHEDULES.

No. 26—1902.

FIRST SCHEDULE.

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.

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.

PART III.

Part III.

Maximum for miscellaneous matters.

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.

PART IV.

Part IV.

Maximum Scale.

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

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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 persons joint candidates.

(*b*) Nothing in this enactment shall prevent candidates from ceasing to be joint candidates.

(*c*) Where any excess of expenses above the minimum 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

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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.

SECOND SCHEDULE.

Second Schedule.

PART I.

Part I.

FORMS OF DECLARATION AS TO EXPENSES.

Form for Candidate.

Forms of declaration as to expenses.

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.

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

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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

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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.

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 candinate 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 (of if the candidate is his own election agent, add, "acting as election agent") ... ... £

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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-cornetcy 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' service ... ... £
Paid to as messenger for days' service ... £

(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.)

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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 where 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*

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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 at 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.

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 solemnized 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-

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tively, good and valid and effectual to all intents and purposes whatsoever, any law or usage to the contrary notwithstanding, and all pains, penalties, forfeitures, and proceedings of whatsoever 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.

Proof of Marriage.

2. All such marriages may be proved in the same manner as 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.

Registration in Colony.

3. On the application of both or either of the parties to any 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 duplicate marriage registers, who shall thereupon deal with, file, and safely preserve the same, in conformity, so far as may be, with the law of this Colony, as though it were a duplicate register.

Proof after Registration in Colony.

(*d*) Any such marriage as aforesaid on being registered as aforesaid may be proved and the fact of its solemnization be received in evidence in all courts or before

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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 documentary 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 successor —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:—

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Repeal of inconsistent laws.

1. So much of Act No. 35 of 1887 entitled the "Capetown Municipality Additional Water Supply Act," Act No. 26 of 1893, entitled the "Cape Town 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 any other Acts or laws as may be inconsistent with this Act, is hereby repealed."

Voters list.

2. Section 18 of Act 26 of 1893 is hereby amended by inserting after the words "alphabetical order" the words "of streets."

Hour of sending in nomination.

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."

Votes given in representative capacity.

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?"

Section 30 of Act 26 of 1893 amended.

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."

Amendment of previous Act.

6. Section 42 of Act No. 26 of 1893 is amended by expunging the words "by the Council" in the eighth line.

Counting of Votes.

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."

Return of Councillors elected.

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."

Filling of vacancy in office of Deputy Mayor.

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

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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 Cape Town 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 to the end of 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

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"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.

Execution of Contracts.

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."

For what Contracts tenders need not be called.

Council may supply electricity, &c

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.

Prohibition against other persons supplying electricity, etc., within Municipality.

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

Exceptions.

(*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;

(*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 of which is vested in the Council or to which the inhabitants of the Municipality have or may acquire any common right;

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(*e*) 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 1885 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 fires.

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, trailor 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.

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Amendment of previous Act.

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."

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.

Council may contribute £500 to Somerset Hospital.

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."

Power to acquire buildings or land for artizans' dwellings.

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 artizans and other members of the poorer classes, provided that the ratepayers shall sanction the expenditure required for the purposes of this section.

How compensation for same may be calculated.

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.

Council may pave and sewer any streets and contribute funds for purpose.

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 sewering, 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; provided that nothing in this section shall apply to any road or street within the Dock area.

Council may take water and land for waterworks outside Cape Division.

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

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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.

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.] [November 18, 1902.

ACT

To Amend "The Census Act, 1900."

[Repealed by Act 3, 1903.]

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Repealed by Act No 25 of 1935

No. 30—1902.] [November 18, 1902.

ACT

To Facilitate the Investment of Trust and Other Funds in the United Kingdom in Cape of Good Hope Government Securities.

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:—

This Act to apply to Colonial Stock, Securities, etc.
Meaning of "Cape GovernmentSecurities."

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."

Governor's power to give directions as to inscribing, etc. the above Stock.
Securities, etc., in Register.

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.

The Registrar.

(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.

Governor authorised to take steps necessary to the recording of Securities.

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."

Treasurer empowered to satisfy judgment of Court in England.

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.

Governor may make etc., Regulations.

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:

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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.

Repealed by Act No 25 of 1910

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."

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	£47,500

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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, *via* Graham's Town, additional wire (copper)	3,100
8.	Umtata to Umzimkulu, 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 $2\frac{3}{4}$ miles	4,600
15.	Rebuilding main lines:— Wellington to Porterville Road (to complete); Ceres Road to Worcester; Alicedale to Cradock; Blaney to Kei River; Queenstown to Lesseyton Halt; Worcester to Pieter Meintjes Bank	33,250
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	
			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		£230,500

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Repealed by Act 25 of 1934

No. 32—1902.] [November 18, 1902.

(1) 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.

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.

[1] Extended to all Native Territories by Proclamation 273, 1902.

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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.

SCHEDULE.

Laws Repealed.

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 31 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.

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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.

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 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.

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, Capital and Interest upon loans to be chargeable upon the Revenues of the said Boards.

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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

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SCHEDULE C.—EAST LONDON HARBOUR.

Schedule C.

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

No. 34—1902.] [Nov. 18, 1902.

Repealed by Act 10 of 1911 Sec 1.

ACT

To Further Amend the Post Office Act, 1882

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:—

Governor empowered to make regulations regarding the insurance of and compensation for postal letters, &c.

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.

Scope of such regulations.

2. Such regulations may *inter alia* deal with the following matters:—

(1) The conditions under which such letters, parcels and packets as aforesaid may be posted, conveyed and delivered.

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(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 or of 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 or of 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 arrangements or conventions made between the Government of this Colony and the Postmaster-General of the United Kingdom, or the proper authorities of any British possession or foreign country, and copies of all regulations or orders made by the Governor under the provisions of this Act, shall from time to time be laid before both Houses of Parlia-

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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.

Repealed by Act No 25 of 1934

No. 35—1902.] [Nov. 18, 1902.

ACT

To Further extend the operation of the "Customs Duty Indemnity and Suspension Act, 1900."

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.

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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."

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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"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.

"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.

Gaming House Prohibited.

4. It shall be unlawful to keep or frequent any gaming house within the Colony, or the territorial waters thereof.

Power to enter under Special Warrant.

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.

Rep. by Act 31/1917

(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.

Penalty for keeping and frequenting Gaming-house, and forfeiture of moneys, etc., seized.

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.

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No. 36—1902.

(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 property, and discovery of gaming instruments.

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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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.

(*a*) 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.

Cheating at Cards.

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,

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.

Avoidance of Contracts.

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:

Saving as to horse racing, etc.

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.

PART III.

Betting Houses.

Betting houses prohibited.

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.

Powers to enter and search betting houses.

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

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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 of 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 payment 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, I.O.U.'s, good fors 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

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under the provisions of this Act be adjudged to be forfeited to the use of His Majesty the King in his Colonial Government.

Penalty for receiving deposits on bets.

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

(*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 acknowledgment, 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.

Penalty for exhibiting placards, &c., as to betting.

18. Whosoever (*a*) Exhibits or publishes or causes to be exhibited or published any placard, handbill, card, writing, sign or advertisement,

(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 or 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, or 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.

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No. 36—1902.

PART IV.

BROTHELS AND IMMORALITY.

Penalties for keeping brothels.

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.

Husband and wife may be jointly prosecuted.

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

Who deemed to be keepers of brothels.

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

(*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.

On refusal to disclose keepers, women to be deemed to be the keepers, and presumption as to male residents.

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 *primâ 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.

Onus of proving knowledge on part of owner or landlord.

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,

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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 persons 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 officer which information is, in the opinion of the Magistrate, sufficient that any house, room or premises is or are being kept or used as a brothel, previously to his issuing his warrant for arrest, to issue a warrant authorising any 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

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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.

Contracts to let houses to be used as brothels illegal.

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.

Use of house as brothel to avoid contract of letting.

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.

Procuration.

31. Any person who

(1) Procures or attempts to procure any girl or woman under twenty-one years of age, not being a common prostitute, or of known immoral character, to have unlawful carnal knowledge, either within or without the Colony, with any other person or persons; or

(2) Procures or attempts to procure any woman or girl to become, either within or without the Colony, a common prostitute; or

(3) Procures or attempts to procure any woman or girl 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 purpose 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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No. 36—1902.

Procuring defilement by threats, fraud, or administering 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 sub-section (*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 purpose 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.

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.

Procuration 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 being brought before the Resident Magistrate to be dealt with according to law.

Arrest of 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 the 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*

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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.

No. 37—1902.

Given under my hand at this
in the of the reign of

Repealed by Act No 25 of 1934

No. 37—1902.] [November 18, 1902.

ACT

To Apply a Sum of Money for the Service of the Year ending the 30th June, 1903.

[Spent.]

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No. 38—1902.] [Nov. 18, 1902.

ACT [1]

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 Collieries 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."

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] See Act 29, 1904, p. 4752 and § 2. Act 44, 1905 (p. 4971).

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No. 38—1902.

Agreement of purchase of Cape Collieries Line approved.

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.

Construction of Lines in Schedules B, C, D, E, F, H, I, J and K.

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 Line in Schedule G

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.

Repealed by Act No 25 of 1934.

Raising of Loan.

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.

Gauges of Railways.

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.

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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.

Repealed by Act. No 25 of 1934

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

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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." Short title.

Copy.]

SCHEDULE "A."

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.

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.

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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

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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.

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 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.

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If the Government wishes to exercise its right of purchasing the 70 per cent. output during either the third, fourth and/or fifth 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

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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."

Schedule B.

Line.	*Mileage.*		*Cost.*
From a Point in the Cape Collieries Line to Romansfontein	8	... ...	£30,000

SCHEDULE "C."

Schedule C.

Line.	*Mileage.*		*Cost.*
Hopefield towards Vredenburg	14	... ...	£25,000

SCHEDULE "D."

Schedule D.

Line.	*Mileage.*		*Cost.*
From a Point at or near Paarl or Klapmuts Station *via* Simondium to at or near Frenchhoek	17	... ...	£76,670

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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 ... ... Subsidy at £2,000 per mile.	57	£114,000

SCHEDULE "H."

Schedule H.

Line.	*Mileage.*	*Cost.*
De Aar *via* Britstown to Prieska	111	£427,350

(1) 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

[1] Gauge altered to standard Colonial gauge by Act 29, 1904.

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No. 39—1902.] [November 18, 1902.

ACT

To Amend the Law relating to the Control and Cure of Inebriates.

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,
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."

Definitions.

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.

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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.

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Detention of person four times convicted of drunkenness.

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.

INEBRIATES REFORMATORIES.

Regulations for State Inebriate 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.

(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.

Short title.

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."

Whole Act. Repealed by 1923 Act 21 Sec. 27(1)

No. 40—1902.] [November 18, 1902.

(1) ACT

To Make provision for the establishment of Native Reserve Locations in or near urban areas.

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.

1. In the interpretation of this Act the following terms shall have the meanings hereinafter assigned to them, that is to say:—

"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.

[1] Amended by Act 8, 1905. Urban district defined.

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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. [Repealed by Act 8, 1905.]

Certain classes of natives excepted.

4. The [1] provisions of the last preceding section shall not apply to

(1) Any Native whilst in *bonâ fide* employment as a domestic or farm or other servant and housed on his master's premises;

(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.

[1] Printed as amended by Act 8, 1905.

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The Uitvlugt Location to be deemed a Native Reserve Location.

5. The Native Location commonly known as the Uitvlugt 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.

Dwellings in Locations; condition of occupation; rent to be paid.

6. Every Native adult occpuier 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.

Non-payment of rent after demand —penalty.

7. (1) 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.

[1] Printed as amended by Act 8, 1905.

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Charges on occupation of dwellings in the Uitvlugt Location imposed by certain Regulations to be paid by adult occupier—penalty on default.

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 without reasonable excuse shall neglect (1) 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 oust any legal remedy for the recovery of the charges aforesaid.

9. [Repealed by Act 8, 1905, section 6.]

For the management, &c., Location officials may be appointed by Governor.

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.

Purposes for which Governor may make Regulations and in respect of the infringement of which penalties may be imposed.

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.

[1] Printed as amended by Act 8, 1905.

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(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 prohibiting 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.

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(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.

(17) [1] "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.

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

[1] Sub-sections 17 and 18 added by Act 8, 1905.

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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.

No liquor to be brought into location without permit—penalty—liquor for medicinal purposes excepted.

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.

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.

Possession of liquor illegal—penalty.

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.

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No. 41—1902.
Short title.

18. This Act may be cited as "The Native Reserve Locations Act, 1902."

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.....

(Resident Medical Practitioner).

Dated 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.

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:—

Repeal of repugnant Laws.

1. So much of the "Divisional Council's Act, 1889," or of any other Law as is repugnant to or inconsistent with the provisions of this Act is hereby repealed.

Sale of Outspans being Crown Land.

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

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published in the *Gazette* and in one or more newspapers published or circulating in the Division in which such Outspan is situated.

(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.

Amended by 1923 Act 38 Sec. 4

Resumption of unused Outspans, and cancellation and delimitation of Outspan Servitudes.

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 or

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No. 42—1902.

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.) Reply Act 22 of 1916 (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.

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 (1) 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."

[1] To be a charge against surplus railway revenue. Act 43, 1905 (p. 4965), § 8.

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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
	£1,995,900

No. 43—1902.] Repealed by Act 22 of 1916 [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.

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:—

PART I.

REPEAL AND INTERPRETATION.

Repeal of repugnant Laws.

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;

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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:—

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(1) To acquire, take, hire, purchase and hold and sell, lease, deliver, transfer or otherwise lawfully dispose of all property, movable or immovable.

(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 into places 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 Admirality, 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 cranage 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

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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, transhipping 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 declaration 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

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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.

() 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.

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No. 43—1902.

Existing Harbour Board regulations to remain in force pending the making of new regulations.

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 transhipping 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 liquor.

12. No owner of any wharf-dingy, boat, steam launch, or steam tug in the Port or 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 occured 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

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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.

Duties of Port Officer—
(1) On arrival of any private ship.

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.

(2) On arrival of any of His Majesty's ships.

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.

(3) After boarding such ship or vessel.

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.

(4) After coming on shore.

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.

Duty of Master of a private ship as to giving bond.

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.

Stones, ballast, &c., not to be thrown overboard without permission of the Council.

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 or master of such ship or vessel, unless with the permission of the

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Council, then the master of such ship or vessel shall, for every such offence, forfeit a sum not exceeding fifty pounds.

Master or Commander of a private ship or vessel not to change berth without permission of Port Officer.

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.

Regulations as to supplying anchors or cables to vessels.

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 or 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.] Repl by Act 22 of 1916 [Nov. 18, 1902.

(1) ACT

To Enable the Commissioner of Public Works to provide for the supply of food and liquor to railway travellers and others.

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:—

Repeal and Interpretation.

1. (1) In this Act, if not in consistent with the context:

"Liquor" shall mean any such intoxicating liqour 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, tea, breakfasts, lunches, etc., tobacco, cigars, pipes, etc.

[1] Amended by Act 8, 1903 As to sale of liquor to Natives at Railway Stations see Act 28, 1898, § 1 (p. 3957). And for restrictions as to hours of sale, see § 24, Act 25, 1891 (p. 2900).

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(2) All laws repugnant to or inconsistent with the provisions of this Act are, to the extent of such repugnancy or inconsistency, hereby repealed.

Commissioner of Public Works empowered to supply liquor and refreshments in railway cars and refreshment rooms.

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.

Annual payment to be made by the Commissioner.

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:—

(*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.

Customs dues to be paid on goods imported.

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.

Powers conferred on Commissioner for purposes of Act.

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:—

(*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.

Short Title.

6. This Act may be cited as "The Railway Refreshment Catering Act, 1902."

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No. 45—1902.] [Nov. 18, 1902.

ACT

To Alter and Amend the Local Works Loans Act, 1882.

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.

(1) ACT

To Exempt Transfer of certain Lands and Buildings from Transfer Duty, Stamp Duty, and Fees of Office.

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-

[1] See also Act 6, 1893 (p. 3149).

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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. No. 47—1902.

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 (1)

To Place certain Restrictions on Immigration and to provide for the Removal from the Colony or Prohibited Immigrants.

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.

[1] See Government Notices 1010 and 1119 of 1905, regarding certificates of domicile. Extended to all Native Territories by Proclamation 139, 1903.

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(*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 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.

Exemption of certain persons from the operation of this Act.

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.

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PART II.

No. 47—1902.

Prohibited Immigration.

Prohibition of immigration of certain persons.

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.

Aiding prohibited immigration.

5. It shall be unlawful to aid or assist any person to immigrate into this Colony in contravention of the provisions of this Act.

Master of ship landing prohibited immigrants.

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.

Regulations by Governor to prevent immigration.

7. It shall be lawful for the Governor from time to time by Proclamation to make regulatinos 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.

Penalty for illegally immigrating into Colony.

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.

Assisting in illegal immigration: penalty.

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.

Liability of Master of Ship for landing prohibited immigrants.

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;

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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 person 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."

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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.

[Spent.]

Repealed by Act No 25 of 1934

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No. 2—1903.] [July 14, 1903.

Repealed by 1928 Act 37, Sec. 3 (1) Whole Act except Sec's. 3, 5, 6, 9.

ACT

To Authorise the New Cape Central Railway, Ld., 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.

Preamble.

WHEREAS the Cape Central Railways Ld. did by authority of Act 16 of 1883 construct, maintain and work a railway from Worcester *via* Robertson to Roodewal now called Ashton and whereas the New Cape Central Railway Ld. did thereafter acquire the whole undertaking of the said Cape Central Railways Ld. 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 Ld. 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 Ld. 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

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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.

Route of Railway

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 River, Over de Kleine Palmiet River 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 Bona (or Bon) Avontuur, Hartebeest Kuil (now Roodebloem), Baakfontein, Witklip (formerly Brakfontein), Hollaagte, Leeuwen, Annex Leeuwen, Patrijsfontein, Bartelsfontein, Kleinberg, Duinzicht, Rietvallei, Droogefontein, Kleinzuurkop, Portion of Welbedacht, Remainder of Welbedacht, Lot 704, Hartenbosch, Vijf Brakkefontein (alias Voorbaai alias Zevenfontein) and Mossel Bay Municipality.

Power to make Junction with Mossel Bay-Oudtshoorn Railway.

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.

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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.

Repealed by 1925 Act 37, Sec. 36(1)

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

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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.

Transfer of lands compensated for.

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.

Repealed by 1925 Act 37, Sec. 3(1)

New streets and roads to be carried across Railway.

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.

Provision where Railway crosses any street or road.

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.

Company to construct with material equal to that used by Government.

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.

Repealed by 1925 Act 37, Sec. 3(1)

Conditions on which Railway may cross over Gouritz River Bridge.

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 interefere 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

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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.

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.

Subsidy payable.

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

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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.

How tariff to be framed.

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 effected 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.

Railway when to be opened for traffic.

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.

Application of Act No. 19 of 1861.

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. 40 of 1889.

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.

Erection of Telegraph and Telephone.

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.

Purchase by Government.

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

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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."

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No. 3—1903.] [July 14, 1903.

Repealed by act no 25 of 1934

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.

[Spent.]

No. 4—1903.] [July 28, 1903.

Repealed by act 2 of 1910 S. 4

ACT

To Provide for the taking of a Census and the Collection of certain Statistics in the year 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 therof, as follows:—

Repeals.

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.

Census to be taken on day fixed by Governor.

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.

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Governor empowered to make regulations.

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 the 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 of 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.

Appointment 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.

Appointment 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 stamping, &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, filling 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

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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.

Account to be taken by Enumerators.

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.

Examination of forms by Supervisor and transmission to Director.

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.

Penalties for refusing to fill up forms, making false returns, &c.; savings.

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.

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Penalty for refusal by Enumerator to discharge duties.

13. If any person accept the office of enumerator under this Act, and afterwards without lawful excuse refuse or wilfully neglect to perform any duty of such office, the person so offending shall be liable to a penalty not exceeding five pounds.

Penalty for divulging contents of forms.

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.

Recovery of fines.

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.

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 Census 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.

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No. 5—1903.] [August 5, 1903.

(1) ACT

To Amend the Customs Amendment and Tariff Act of 1898, and to effect certain other Alterations in the Customs Laws.

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. 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.

What customs duties to be payable.

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 goods wares and merchandise are to be admitted free.

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 merchandize described and set forth in the said class, shall be admitted into this Colony free of duty.

Rebate on goods being the growth, produce or manufacture of the United Kingdom.

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.

Similar rebate in respect of goods of other Colonies granting reciprocal privileges.

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.

[1] Extended to all Native Territories by Proclamation 222, 1903.

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No. 5 1903.

Question as to whether goods entitled to rebate to be decided by the Minister.

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 analogous 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 grain may be suspended.

9. It shall be lawful for the Governor, upon a Resolution 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 certain

11. Under such regulations as may be prescribed in that behalf the Governor may allow, either by free importation or

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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.

articles imported for H.M. Regular Forces.

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.

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.

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.

Repealed by act 9 of 1913 s. 120

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 of 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.

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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. *ad valorem*). (Note.—*Vide* Article XVII of Convention.)	0	1	6
2. Acetic acid ... ... per Imperial gallon	0	3	0
3. Animals, viz.:—			
(*a*) Cattle for slaughter ... ... each	1	10	0
(*b*) Sheep for slaughter ... ... each	0	5	0
(Note.—*Vide* Article XIII. of Convention.)			
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.—*Vide* 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.*	0	0	0¾
(*b*) Roasted, ground or mixed ... ... per lb.	0	0	2
9. Cocoa and chocolate unsweetened ... ... per lb.	0	0	1

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	£	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.—*Vide* 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. *ad valorem*)			
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. *ad valorem*).			
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
(*Vide* Article XIII. of Convention.)			

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	£	s.	d.
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. *ad valorem*).			
28. Soap, not including toilet soaps and soap powders and extracts ... ... per lb.	0	0	0½
(Note.—*Vide* Article XVIII. of Convention.)			
29. Spices and turmeric ... ... per lb.	0	0	2
30. (1) 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. *ad valorem* on all the above classes of spirits).			
(Note.—*Vide* 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.—*Vide* 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. *ad valorem*).			

[1] An Excise of 6s. a gallon is also levied on Foreign Spirits by Act 26, 1905 (p. 4856).

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	£	s.	d.
(*b*) Goorak or Goorakco, and Hookah mixture, and all imitations or substitutes ... ... per lb.	0	6	0
(*c*) Snuff ... ... „	0	4	0
(*d*) Cigarettes ... ... (and in addition ten per cent. *ad valorem*).	0	4	0
(*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.e.*, 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. *ad valorem* 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 IIIA 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 IIIB 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 ærated 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.

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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:

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(*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 shooks 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.

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95. Coir, candlewick, cotton, fibre, flock, hemp and jute: raw, waste or unmanufactured.
96. Cullodion 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 piece 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 Brittanic 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.

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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 (1)

To confer certain rights, powers and privileges upon the Green and Sea Point Municipal Council.

Preamble.

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:

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

(1) See Acts 14, 1859 (p. 722); 13, 1905 (p. 4832).

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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 vested in Council thereof.

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

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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.

But not to be alienated except under provisions of Municipal Act, 1882.

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.

Governor to have right of resumption

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 the parties concerned, or failing such agreement shall be determined by arbitration.

Rights of access reserved.

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.

Proceeds of sale of land, how to be applied.

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.

Construction of promenades, public baths, etc.

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.

Grant of foreshore.

Construction of sewers.

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

Apportionment of cost.

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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,

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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.

Powers of Superintendent of Fire Brigade in case of fire.

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

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agreement. 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

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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.

Salvage expenses

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 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.

Apportionment of expenses incurred.

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.

Report to Council on every fire by Superintendent.

22. The Superintendent shall make a report in writing to the Council on every fire he attends.

Damages and expenses incurred to be within meaning of policy of insurance.

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

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any 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

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generally do all such acts and things as may be necessary and incidental to such supply.

Alteration of position of pipes, etc., for the purpose of electric supply.

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.

Compensation to be made by Council for damage done in exercise of powers conferred.

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.

Electric supply may be cut off on failure to pay charges.

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.

Malicious injury to electric apparatus punishable.

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 abstraction, etc., of electricity punishable as theft.

33. Any person who maliciously abstracts, or causes to be wasted or diverted any electricity shall be guilty of theft and punishable accordingly.

Street defined.

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.

Right of inspection by officers of the Council.

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

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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, 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 sink-

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ing fund the Council shall annually out of its revenues pay into the sinking fund such sum as will be required for the purpose.

Date of first payment.

42. The first of such payments shall be made within two years from the date of the loan.

Investment of monies paid into sinking fund.

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.

Discharge of loan by payments out of 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.

Debentures.

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.

Disposal of surplus of sinking fund.

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.

Adjustment of interest.

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.

Annual returns showing particulars as to the state of sinking fund.

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

Provision in case of default by Council.

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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

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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.

Matters upon which regulations may be made.

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:—

(*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 bye-law 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. 25—1903.] [August 11, 1903.

ACT

To authorise the Durbanville Railway Company, Limited, to construct a railway between Durban Road and Durbanville.

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

Repealed by Act. No 25 of 1934

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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 therof, as follows:—

Authority to construct railway.

1. 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 portion thereof now owned by Mr. J. J. van As, over which the

Line of Railway defined.

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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 Rondvlei 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 the said Mr. Feinauer, thereafter again entering the land called Oakdale, the property of said Bradford, Poole and Company, proceeding over said two last-mentioned 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 the 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 Johannesfontein, 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 Commissioner of Public Works or his nominee upon the request of the Directors, as also to construct stations and/or sidings at such convenient

Extent of deviation authorised.

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Authority to construct stations and sidings.

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.

Provisions and requirements for construction.

2. The Company shall in and about the construction of the said railway conform to the following provisions and requirements:—

(*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.

Manner of crossing Divisional Council Roads.

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:—

(*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

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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.

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Colonial Government to effect the junction with main line.

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:

(*a*) The cost of effecting the said junction as aforesaid, and of all works incidental to the establishment of such junction so as to proide 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.

Power of entry on land.

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.

Free entry and occupation of crown 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

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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.

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 Johannesfontein (the property of King Brothers), and westwards by metalled road to Johannesfontein, 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-

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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.

Sections 205 and 206 of Act 40 of 1889 apply *mutatis mutandis* to this railway.

9. The provisions of the two hundred and fifth and two hundred and sixth sections of Act No. 40 of 1899 shall, *mutatis mutandis*, extend and apply to the said railway.

Method to be adopted in crossing street or road.

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.

Provision for crossing of railway by new streets or roads.

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.

Powers of directors may be exercised by an agent.

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.

Telegraphs and telephones may be constructed for railway purposes.

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.

Vesting in Company of rights reserved to Colonial Government in connection with private railway of Bradford and Poole.

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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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.

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.

Railway when to be open for traffic.

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.

Terms and conditions of through traffic.

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

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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.

Tariffs.

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.

Subsidy.

20. The Governor is hereby authorised to pay to the directors of the Company a subsidy at the 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.

Right of Government to purchase railway.

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:—

(*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 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

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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.

Interpretation Clause.

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.

Short title.

27. This Act may be cited for all purposes as "The Durbanville Railway Company Act, 1903."

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 station and the main road and to east of the Belleville township, shall be subject to

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the following conditions imposed by the Agricultural Department:—

(*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

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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.

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

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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 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.

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Reh by

No. 8—1903.] Act 22 of 1916. [August 14, 1903.

ACT

To Amend "The Railway Refreshment Catering Act, 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:—

Refreshment cars on Central South African Railway in transit over Cape Railway lines.

1. In addition to the powers and authorities conferred upon the Commissioner of Public Works by the "Railway Refreshment Catering (1) 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.

Condition.

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."

Authority limited to cars in which catering is undertaken by Government concerned, and may on conditions, be conferred on other Governments.

3. 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

[1] No. 44.

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this Colony under and by virtue of the provisions of the Act aforesaid; and on any other British South African Government similarly 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.

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."

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No. 10—1903.] Repl by Act 22 of 1916 [August 18th, 1903.

ACT

To Amend the "Railway Injuries Compensation Amendment Act, 1897."

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

To Amend the Incorporated Law Society's Act, 1883, and the Law relating to the admission of Attorneys, Notaries Public and Conveyancers.

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:

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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 articled 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 (1) 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."

[1] See § 19, Charter of Justice (p. 97).

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Repealed by Gen. No 25 of 1934

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.

Preamble.

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;

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 Kimberley Waterworks Company, Limited, of the other part, being annexure B in the Schedule hereto;

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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 concluded 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 Government defined.

Costs of this Act may be defrayed by Borough Council.

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,

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of No. 2, Suffolk Lane, Cannon Street, in the city of London, 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 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 road 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.

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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 powers 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 Threepence 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,

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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

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shall be released from these presents, and all obligations thereunder to the parties of the first part and neither party shall have any claim 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, plants, 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 the more 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.

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ANNEXURE B.

No. 12—1903.

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 herein after 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 (25th) 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 (1880) 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:

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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 water-

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ing, 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 Toit's 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

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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. (1 %) 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 Consolidated Mines Limited being obtained to the Council taking

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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

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(1880). 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

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contained and set forth in clauses 2, 3 and 4 hereof, shall only 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 aforewritten 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. MALLETT.

q.q. The Kimberley Waterworks Company, Limited.

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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.

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:—

Expropriation 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 Government.

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."

Repealed by Act No 25 of 1934

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."

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

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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:

Name of Company, authority to construct, etc., a line of railway.

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

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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 the working and maintaining the said connections, buildings, signals and other works aforesaid, shall be borne by the Company and the Government in equal proportions.

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 Sunnydale, 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

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carry away free of charge all stones, clay, or other material required for the purposes of the said railway: provided:—

(*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.

Powers of directors as to taking, etc., lands and materials, subject to conditions as to extent to be taken and method of calculating compensation.

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:—

(*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

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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.

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Application of Act 19 of 1861 to railway when completed.

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.

Governor may give Company notice to complete railway.

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.

For railway purposes telegraph and telephone may be constructed.

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."

Company to make provision for conveyance of mails.

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: how sued, and process, how served.

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.

Right of Government to purchase railway.

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

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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."

Repealed by Act 12 of 1934.

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.

[Not printed. See Act 19, 1905, providing for Construction of Railway and Municipal Guarantee. (p. 4845.)

Pages 4615—4633.

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No. 16—1903.] [September 2, 1903.

ACT

To Provide for permitting the Increase of the Number of Members of Village Management Boards.

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 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."

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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.

[Spent.]

Act. No 25 of 1934 repealed by

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.

Preamble.

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

Raising of loans temporarily upon debentures or Treasury Bills.

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.

Interest.

2. Such Debentures or Treasury Bills shall bear interest at a rate to be agreed upon by the Governor, and the Capital Sum 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 empower 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.

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No. 2—1904.

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

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Repealed by Act No 25 of 1924

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.

Preamble

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:—

Governor is indemnified in respect of certain warrants illegally issued.

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.

Short title.

2. This Act may be cited as the "Financial Indemnity Act, 1904."

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

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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.

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."

Repealed by Act No. 8 of 1934

No. 5—1904.] [April 28, 1904.

ACT

To Provide for Additional Representation in Parliament.

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 ach 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.

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No. 5—1904.

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.

Time within which additional Members of Parliament are to be returned.

5. This Act may be cited as the "Additional Parliamentary Representation Act, 1904."

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.

12 of called by Act. No 25 of 1934

No. 6—1904.] [May 10, 1904.

ACT

To apply a Sum of Money for the Service of the Year ending the 30th June, 1904.

[Spent.]

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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.

Preamble.

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.

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:—

Borrowing powers.

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."

Costs and expenses.

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.

Purposes of supply.

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

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No. 7—1904.

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 streets and entering on private lands without consent.

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

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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.

Compensation for damage.

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.

Recovery of charges, &c.

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.

Supply of electricity within Municipal limits.

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.

Stealing electricity.

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.

Interpretation.

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.

Power to enter lands or premises for ascertaining quantities of electricity consumed or to remove fittings, &c.

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.

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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.

Repealed by Act No 25 of 1934

Preamble.

WHEREAS it is expedient to amend the fifteenth section of the Kalk Bay Municipal Improvement Act by correcting a manifest error therein.

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No. 8—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:—

Amendment of 15th section of Act No. 26 of 1897.

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.

Short Title.

2. This Act may be cited as "The Kalk Bay Municipal Improvement Act Amendment Act, 1904."

No. 9—1904.] [May 31, 1904.

Repealed by Act No 25 of 1904

ACT

To Amend the "Bills of Exchange Act, 1893."

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:—

Definition of non-business day.

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.

Short Title.

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."

No. 10—1904.] Repealed by Act 14 of 1916. [May 31, 1904.

ACT

To Amend the South African College Acts, 1878-1879.

Preamble.

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.

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:—

Definition.

1. (*a*) "*Local Body*" shall for the purpose of this Act mean any divisional council, municipality, city corporation, town council or village management board.

(*b*) "*Commissioners*" shall mean the duly elected members of any such local body.

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Increase of S. A. College Council Membership.

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 nominate 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-election.

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.

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

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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:—

Formation of a Sinking Fund.

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.

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 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.

Sinking Fund provided by Section 171 of Act 27 of 1897, suspended.

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 is hereby repealed, and shall no longer have the force of law, except in so far as loans already raised are concerned including

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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.

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' Debts 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

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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.

Preamble.

WHEREAS it is desirable and expedient that the inhabitants of the Town of Aliwal North should be supplied with good water:

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;

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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:—

Management of the works for the supply of water and electricity and all right and property in materials, stock, etc., vested in the Council.

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.

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Powers of acquisition, diversion, &c., of water, and position of Waterworks.

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 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.

Powers of construction and maintenance.

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 entry upon and taking of Crown Lands and private lands; powers of purchase, hire, agreements, etc.

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, 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

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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.

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Penalties for injuring Council's property and works.

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 defiling water.

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.

Offences, how prosecuted.

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.

Provision for service reservoir.

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.

Power to levy rate for payment of interest and principal of loan and for maintenance of water and electric works.

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 waterworks 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

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within 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, &c.

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

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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-leadings 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.

Provision of sections 116 to 124 and 127 to 143 of Act 45 of 1882 to apply *mutatis mutandis*.

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.

How tax recoverable

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.

Act not to affect powers of Council to levy rates or taxes under any other law.

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.

Tariff of charges.

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.

Council to frame necessary Regulations and Bye-laws, and to have right to cut off supply upon default of payment, etc.

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-leadings and the

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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 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

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waterworks and of the works for the supply of electricity hereinafter 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.

Accounts to be kept of revenue and expenditure.

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.

Moneys borrowed and debts incurred to be subject to "Public Bodies' Debts Act, 1867."

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."

Power to construct and equip works.

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 aftermentioned, 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.

Purposes of supply.

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.

Laying of wires, etc.

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

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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 1 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 land 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.

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General Powers.

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.

Compensation for damage.

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."

Recovery of charges, etc.

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.

Penalties for injuring works, 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.

Theft of Electricity.

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.

Interpretation of word "Street."

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.

Power to enter lands or premises for ascertaining quantities of electricity consumed or to remove fittings, etc.

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.

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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.

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 Aliway North Station.

(6) All electric works and plant erected or installed by the Council, and all other works and plant of a like

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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.

Short Title.

46. This Act may be cited as "The Aliwal North Municipality Water and Electricity Supply Act, 1904."

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.

Preamble.

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.

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

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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

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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:—

Meaning of terms

1. In this Act the following terms shall have the following meanings, except where such meaning shall be inconsistent with the context.

(*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.

Repealed by Act No. 25 of 1934

Width of line.

2. Section 5 of Act No. 17 of 1898 is hereby amended, so that sub-section (*a*) thereof shall read:—

"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-

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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.

Repealed by Act No 25 of 1934.

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.,"

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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 roods, 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.

Authority of syndicate to extend the railway to Diep River.

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.

Route of railway to be constructed.

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 roods, thence across a public thoroughfare,

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thence across Lot 38 B, 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.

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."

Repealed by Act. 1902 of 1904

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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.

Repealed by Act. No 25 of 1934.

(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,

General powers of and obligations upon the syndicate

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which, by 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, and 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 bridge shall be decided upon by the Government, whose decision shall be final.

Repealed by Act No 25 of 1904.

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

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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. No. 14—1904.

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.

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.

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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

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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 Bains 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.

Boundaries and number of the wards may be altered.

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.

Each ward to elect three Councillors.

7. Three Councillors shall be elected for each of the five wards in manner hereinafter mentioned.

II.—QUALIFICATION OF VOTERS.

Qualification.

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.

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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

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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.

Disqualifications of Councillor.

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.

How office of Councillor may become vacant.

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.

IV.—MAKING OF VOTERS' ROLL.

List of voters to be made annually.

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 vote therein.

Notice of objections.

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 cause 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.

Council to determine on 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.

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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 Councillors.

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.

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Uncontested elections.

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.

Casual vacancies.

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.

Councillors' term of office.

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.

First election of Councillors after passing of this Act.

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.

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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 votes 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.

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Acts of corruption same as in elections for Parliament.

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.

No delay in voting.

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.

Voting by ballot and how carried on

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:—

(*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 counterfoil 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.

Spoilt ballot paper.

39. If a voter inadvertently spoils a ballot paper he may return to the polling officer, who will, if satisfied of such inadvertence, give him another paper, and retain the spoilt paper, and

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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.

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Duty of Returning Officer on receiving packets from Polling 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.

Which papers are to be rejected by Returning Officer.

44. The returning officer shall reject and not count any ballot papers which:

(*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.

Endorsement ballot papers.

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.

Returning Officer closes packets.

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.

Sealed packets not to be opened for six months unless by order.

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

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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 regulations *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 mistake.

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

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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.

Quorum.

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.

Meetings of Council.

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.

Special Meetings

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.

Chairman.

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.

Casting vote.

Minutes of proceedings.

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.

Inspection of minutes and other records.

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.

How documents to be executed.

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.

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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 moneys, 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,

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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.

Town Clerk and others to give security.

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.

Officers appointed by Council not to be engaged in other business.

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.

Street-keepers, constables, policemen, etc.

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 Municpality and for the other purposes.

IX.—AUDITORS.

Appointment of 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.

Disqualification for Auditor.

Death, resignation &c., of 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.

X.—AUDIT.

Half-yearly Audit and return.—What return shall show.

70. The auditors shall once every six months examine and certify to a return prepared by the Treasurer showing:—

(*a*) The amount 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,

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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 not less than every three years.

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

Repealed by ordinance No 7 of 1914

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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.

Declaration to be made by valuator.

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:—

"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.

What valuation roll shall show.

77. 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 to be stated).
(*c*) Description of the property valued.
(*d*) Name and situation of property.
(*e*) Rateable value.
(*f*) Annual value or rental.

Interim valuation may be made.

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.

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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 with the Municipality without being liable to any action on account thereof.

Valuation to be open for inspection, etc.

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 [illegible] appurtenances for providing good and sufficient lighting for the streets and

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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.

Annual estimates to be framed.

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 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'

2d. in the £ maximum rate leviable without consent of ratepayers.

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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 published.

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.

Further rating powers.

91. For the purpose of providing means for carrying into effect a more efficient sanitary service with regard to the removal

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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.

Payment of rate.

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.

Levying 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.

Framing 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.

XIII.—POWERS AND DUTIES OF THE TOWN COUNCIL.

Powers of 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

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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

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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.

Powers of Council to treat for lands, buildings, etc., required for making, widening, or improving streets, etc

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 it shall 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 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

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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

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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.

Municipal property to be vested in Council.

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.

Lighting the public places.

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 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

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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 and 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 the 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 secton, from premises the property of the Railway Department, without the consent of the General Manager of Railways being first obtained.

Buildings not to be erected over drains without notice to Council.

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

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recoverable by the Council from the person erecting such house or building.

No person to open drains, etc., without consent of 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.

Council may vote amounts to public institutions.

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 Schools, and such other institutions or objects as the Town Council may from time to time determine.

Council may vote money towards public functions.

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.

Pensions to officers and servants.

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.

XIV. LOANS.

Council may borrow on security of rates with consent of voters.

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 property, vested in the said Council, any sum or sums of money upon obtaining the consent of a majority of the enrolled voters

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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.

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(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.

Council may obtain overdraft at bank for temporary accommodation.

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.

"Public Bodies Debts Act 1867." shall apply.

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.

Loans Act.

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:—

(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

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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 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.

Council may let certain lands on lease for certain purposes.

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, for building, and for any other purpose, for a period not exceed-

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ing 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.

Quarries.

114. The Council may, by public sale or tender, lease the privilege of working any quarries belonging to the Corporation.

Power of Lessee to sublet.

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.

XVI.—CONTRACTS.

Council may carry out Municipal works departmentally or by contract.

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 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 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 the Council to contract with such other person or persons or

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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.

Councillor cannot contract.

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.

Councillors not to vote where interested pecuniarily.

XVII.—PLANS AND SUB-DIVISIONS.

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.

Plans of buildings to be submitted to Council, who may disapprove thereof.

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.

No sub-divisional transfer of land to be passed without approval of Council.

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Council to see to drainage in plans.

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.

Making streets and sidewalks.

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 so construct sidewalks 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.

XVIII.—STREETS AND THOROUGHFARES.

Making of existing streets.

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.

XIX.—LOCATIONS.

Repealed by 1923 Act 21, Sec. 27 (1)

Powers to establish and remove locations and to

123. The Council is empowered to establish locations of natives on any part of the Municipal lands, and to remove the same,

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remove existing locations.

Repealed by 1923 Act 24 sec. 27(1) in so far as it relates to natives or native locations

as also to remove, or cause to be removed, any existing 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, and 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

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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, ash-pits, 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.

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(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,

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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 and 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 for preventing the wheeling of perambulators, bicycles,

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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 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.

(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.

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(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 street or over buildings.

Repealed by 1923 Act 21, Sec. 27(1) in so far as they relate to natives or native locations

(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 watercloset 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

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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 on 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.

XXI.—MISCELLANEOUS.

Persons keeping dog or other animal a nuisance to neighbourhood liable to penalty.

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 selling certain unwholesome food 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:—

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.

Power to enter buildings, &c.

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.

Persons obstructing servants of Council liable to a penalty.

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 contravening sections of Act or any regulation liable to a penalty specially provided. Also general penalty clause where no provision.

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 be imposed to a penalty not exceeding twenty pounds, and, in

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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, &c.

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.

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"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.

"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.

Short title.

139. This Act may be cited for all purposes as the "Uitenhage Municipal Act, 1904."

SCHEDULE A.

Schedule A.

FORM OF FRONT OF BALLOT PAPER.

Counterfoil. No.		
	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.)

NOTE: *The Counterfoil is to have a number to correspond with that on the back of ballot paper.*

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.

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No. 15—1904.
Schedule B.

SCHEDULE B.

No..... £.....

MUNICIPALITY OF UITENHAGE.

DEBENTURE.

THIS IS TO CERTIFY that the Mayor, Councillors and Ratepayers 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

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

E. F.
G. H. } Councillors.

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.

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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.

Preamble.

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;

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:—

Authority to construct Railway.

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 over the said Com-

Line of Railway defined.

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monage; thence across land which is either portion of Melkhoutkraal or Government Ground or the foreshore 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 to 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.

Power of Entry upon land.

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.

Free entry and occupation of Crown 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.

Powers of Directors as to taking of lands and materials.

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

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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 to 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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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.

Lands and Arbitration Clauses Act 1882, incorporated.

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.

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.

Application of Act 19 of 1861.

15. Upon the completion of the said Railway or any portion thereof as aforesaid the Company shall enjoy all the privileges

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and be subject to all the conditions conferred by and contained in the Regulations of Railways Act, 1861, or any amendment thereof.

Provision of Act 40 of 1889 to apply to gates.

16. The provisions of Act 40 of 1889 shall apply *mutatis mutandis* to opening gates or leaving the same enclosed or unfastened whether the same be done by the owners or occupiers of land adjoining the Railway or by any other person.

Telegraphs and Telephones may be constructed and worked.

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.

Right to lease or sell Railway.

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.

Period limited for completion.

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.

Quality of material and work.

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 $4\frac{1}{2}$ 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.

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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 reserved 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.

Interpretation clause.

25. In this Act, save where such meaning 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."

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No. 17—1904.] [May 31, 1904.

ACT

To Provide for the Deficiency for the year 1903-'04.

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 raise Loans.

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.

Application of section 1 of The Finance Act, 1899.

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.

Short title.

3. This Act may be cited for all purposes as the "Deficiency Provision Act, 1904."

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.

[Spent].

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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.

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-mentionel 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 authorised.

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:—

(*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.

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(*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.

Trustees of Society.

2. The Trustees of the Society shall be interpreted to mean the presons from time to time elected as such by the subscribers to the said Society.

Consent to sale of ground: How given.

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 [1] 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.

Repealing clause.

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.

Authority for loan.

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 purposes 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.

Short title.

6. This Act may be cited for all purposes as the "East London Agricultural Society's Ground Transfer Act, 1904."

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[1] But see § 10, Act 39, 1905 (p. 4949).

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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.

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.

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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.

Position and course of the water-works.

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 Eerste

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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 side 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 Arbitrations 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 Arbitrations Clauses Act, 1882," shall apply.

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Powers to lay down pipes, &c., along public ways.

7. The said Council is hereby further empowered beyond 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, or 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.

Authority to construct lines of telegraph and telephone.

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.

Rights of access.

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 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, except on the property of the Railway Department, unless permission is first obtained from the General Manager of Railways as aforesaid.

Power to contract.

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

Penalties for injuring Council's property and works.

11. Any person who shall wilfully injure, damage, obstruct or interrrupt 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 for each offence to a fine not exceeding one hundred pounds sterling, or to be

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imprisoned with or without hard labour for any period not exceeding six calendar months, or to both such fine and imprisonment.

Penalties for defiling water.

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

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applied towards redemption of the said debt so long as any portion thereof remains unpaid and unextinguished.

Acknowledgment to be given to lenders of money as in Schedule.

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.

Accounts to be kept of revenue and expenditure.

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.

Power to levy rate for payment of interest and principal of loan and for maintenance of works.

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.

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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.

21. The provisions of Sections 127 to 143, both inclusive of the "Municipal Act, 1882," shall apply to such annual rate.

Act not to affect powers of Council to levy rates or taxes under any other law.

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.

Tariff of charges.

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.

Council to frame necessary regulations and bye-laws, and to have right to cut off supply upon default of payment, &c.

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

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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."

Council to have right of entry for inspection and repairs, and to cut off supply of water for repairs.

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.

Right to cut off supply upon default of payment for water, etc.

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.

Cost of house connection and repairs borne by consumer.

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.

Costs, etc., of obtaining Act may be paid out of moneys borrowed.

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.

Interpretation clause.

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.

Short title.

30. This Act may be cited as "The Stellenbosch Municipality Water Supply Act, 1904."

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No. 20—1904.

Schedule.

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.
I. J.

A. B. Chairman of the Council.

C. D. }
E. F. } Councillors.

No. 21, 1904.] [May 31, 1904.

ACT

To Establish the "Rhodes University College."

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 and 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.

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Property vested in Council.

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.

General functions of 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."

Composition 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

Amended by 1924 Act 19 sec. 1.

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Amended by 1934 Act 19 sec. 1.

for the said Council, such failure shall not effect 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.

Amended by 1934 Act 19 sec. 4.

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 communication 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

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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.

Appointment of chairman and vice-chairman.

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.

Election of Treasurer.

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.

Appointment of a Registrar or Secretary.

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.

Vacancies in Council, how caused and filled.

12. Upon the death or resignation of any member of the Council or whenever any member shall *ipso facto* vacate his seat

Amended by 1924 Act 19 Sec. 5.

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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, 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, etc.

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

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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.

Appointment of Senate and its powers.

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.

Chairman of Senate.

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.

Senate may frame rules.

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.

Minutes, accounts, financial statement and annual report.

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*.

Legal representation.

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.

Authorization by Governor.

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 authorise the doing of the same at any time thereafter.

Short title.

23. This Act may be cited for all purposes as "The Rhodes University College Act, 1904."

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No. 22—1904.] [May 31, 1904.

ACT

To Establish an Institute of Government Land Surveyors in the Colony of the Cape of Good Hope.

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:

Establishment of Institute.

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.

Further objects and powers.

3. The Institute is also established with the objects hereinafter stated and shall have power, subject to the approval of the Governor:

(*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.

Members of the Institute.

4. Every Government Land Surveyor who has already signified his intention of becoming a member of the Institute or

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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 at 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.

Omission to give notice.

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.

Business of annual general meeting.

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 special 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.

Quorom.

18. At a General Meeting, eleven members of the Institute present shall be a quorum.

Adjournment if no quorum present

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.

Chairman of meetings.

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.

How questions decided.

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.

Poll.

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

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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.

Adjournment of meetings.

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.

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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-Chairman.

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 vacancy.

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 notwithstanding 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 Auditos 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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(*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.

Council may inquire into conduct of Members.

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.

Proceedings on alleged malpractice

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.

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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.

[Spent].

Repealed by Act No 25 of 1904

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No. 24—1904.] [May 31, 1904.

ACT

To apply a Sum of Money for the Service of the Year ending the 30th June, 1905.

[Spent.]

No. 25—1904.] [May 31, 1904.

ACT

To Amend the Local Works Loan Act, 1882.

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:—

Repayment of loans by school authorities to be paid to separate account.

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."

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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." No. 25—1904. "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.

Rel. revised by Act. No 25 of 1934.

ACT

No. 26—1904.] [31 May, 1904.

To Authorise the raising of a Loan of £1,004,000 for the purpose of certain New and Additional Railway Works.

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 (1) 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.

[1] See Act 32, 1905 (p. 4923).

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No. 26—1904.
Schedule.

SCHEDULE.

Doubling portions of line	£191,000
Additional Crossings Loops	20,000
Additional Accommodation for Employés	200,000
Additional Water Supply	100,000
Additional Accommodation at Stations, Sidings, Platforms, 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.

[Repealed by Act 34, 1905.]

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No. 28—1904.] Repl by act 9 of 1916 [May 31, 1904.

ACT

To Amend the Law relating to Patents for Inventions, Registration of Designs and Trade Marks.

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:—

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.

Attorney-General may appoint Deputy.

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.

Cases in which forfeiture of Patent by non-payment of fees may be relieved.

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.

Exhibitions at industrial or international exhibitions not to prejudice inventions.

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 right of the inventor or his legal representative to apply for and

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No. 28—1904.

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.

(1) ACT

To provide for the Completion of certain Lines of Railway, and for other purposes.

Repealed by Act. No 23 of 1954

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.

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[1] See Act 14, 1905 (p. 4971).

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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.

Construction and equipment by Transvaal Government of line in Schedule C.

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.

Cost of raising Loans, as in Schedule D.

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.

Loan to be raised.

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.

Application of £5,000 from C.M.R. Equipment Fund to P.W. Stores.

7. This Act may be cited for all purposes as the "Railways Completion and other Purposes Act, 1904."

Short Title.

SCHEDULE A.

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 — George (33m. 40c.)	...	353,231	200,000
			541,724

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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.
Aliwalwal 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—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.

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:—

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No. 30—1904.

Governor empowered to appoint Commission to inquire into and report on Awards by War Losses Commission and Claims for Compensation.

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 Coommissioners 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

(*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 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.

Notices to be published.

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 Commissioner of the division in which such persons may respectively reside, and the Colonial Secretary shall also cause notice to be

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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.

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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.

Witness 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.)

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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.

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:—

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

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:

Released by Act No 25 of 1934

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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.

Preamble.

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.

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:—

Commission to report on claims to certain land at Port Nolloth.

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.

Governor may grant title

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.

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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 claimed 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 inclued 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.

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 substituted.

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."

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3. Sections twelve and thirteen of the said Act are hereby repealed. Sections 12 and 13 of Act 28—1883 repealed.

4. Section forty-two of the said Act is hereby repealed, and the following section substituted therefor:— Section 42 of Act 28 — 1883 repealed, and section substituted.

"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:— Certain penalties increased.

(*a*) For contravening section seventy-three, twenty-five pounds, first offence; fifty pounds, subsequent offences.

(*b*) For contravening section seventy-four, fifty pounds.

(*c*) 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. Section 13 of Act No. 25, 1891, not to apply to Wholesale 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. Club Licences.

(1) The grant of a Club licence shall not constitute the Club premises "licensed premises," for the purposes of the Liquor Laws.

(2) The objections to the renewal of any Club licence shall be limited to the following, viz.:—

(*a*) That the Club has ceased to exist or that the number of members is less than twenty-five.

(*b*) That it is kept or habitually used for an unlawful purpose or mainly for the supply of intoxicating liquor.

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(*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 *bonâ 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 liqueurs 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

Cape superior courts are enabled to sit in more than 3 divisions by Act 10 of 1917.

To Further amend the Law for the better Administration of Justice.

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.

Single Judge to constitute quorum: Divisional Courts established.

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 (1) quorum, and shall be

[1] See § 2, Act 9, 1905 (p. 4817). Appeals from R.M. Court may be heard by one Judge.

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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.~~ Repealed by Act 25/1934

(2) An [1] 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.

Charter of Justice amended.

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.

Jurors.

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.

× Rep. by Act 31 of 1917.

Crown Liabilities.

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

× Rep. by Act 22/1916 in so far as it refers to Railways and Harbours.

Repealed by Act. No 28 of 1934

[1] See § 3, Act 9, 1905.

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motion upon the Minister concerned, unless such Minister shall consent to an earlier date.

Treason Courts abolished. 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.

Offences against usages of warfare to be dealt with under ordinary law.

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 laws of the Colony.

The Native Territories Penal Code amended as regards appeal.

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

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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.

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 (1) Duty Act, 1884," and the "Excise Beer Duty (2) 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."

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[1] See pages 2185 and 2294*a*. See also Act 26, 1905. Extended to all Native territories by Proclamation 171, 1904.

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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 (1) 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 proces 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:

[1] Does not include for purposes of Excise spirits from any Colony in the Customs Union, manufactured from produce of such Colony. See Act 26, 1905 (p. 4856).

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"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 acetous 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 situate:

"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:

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"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

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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.

Returns to be made of stocks in hand.

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.

Retailers to pay duty on stock.

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.

Returns to be made at and removals from distilleries.

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.

Return to be made by agricultural distiller.

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.

Spirits sold to consumers.

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.

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Allowance for waste on spirits retained on premises of a wine farmer.

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.

Returns of spirits received to be made by licensed traders.

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.

Records to be kept by wholesale dealer and retailer.

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.

Wholesale dealers' returns.

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.

When duty is to be paid on spirits sold to consumers.

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.

Retailers to pay at the end of the month.

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.

Rules for ascertaining quantity of spirits by weight.

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.

Repealed by act 52 of 1937 sec 16(2)

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Treasurer may frame regulations governing collection of duty.

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.

Penalties for contravention.

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.

Remission of duty for spirits lost or destroyed.

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.

Repealed by Act No 37 of 1937 Sch. 16 (2)

Strength of spirits to be ascertained by Sykes's hydrometer.

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.

Excise traders to provide scales, weights and measures.

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.

Locks and fastenings.

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.

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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 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 makers.

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.

Powers 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 examine 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.

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Receiving spirits on which the duty has not been charged.

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.

Assaulting and opposing officers.

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.

Spirits or goods forfeited may be seized.

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.

(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.

Misconduct of and collusion with officers.

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.

(*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 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 spirits duty due by the transferer has been paid.

Prohibition against excessive fortification of wine and adulteration 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.

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Duties of principal Excise Officer.

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.

Exemption from excise of exported spirits.

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.

Treasurer may frame regulations governing quantity of spirits exempted from duty.

39. The Treasurer shall frame regulations under this Act to provide for:

(*a*) The quantity of spirits to be used fre 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.

Government empowered to make advances.

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 aganst 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.

Loan may be raised.

41. For the purposes of creating a reserve to meet any Advances provided in the preceding section hereof, it shall be lawful for the Government to raise by Loan in such manner as he may see fit, the sum of One Hundred Thousand pounds sterling.

Sections 42-83 Repealed by Act. No 25 of 1934

PART II.—INCOME (1) TAX.

Definition of terms.

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

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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 incorporate, 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.

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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 or 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*, *fidei 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.

Officers under Act.

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.

(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

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refund as he shall deem just and in such manner as may be prescribed.

(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.

Company's representative.

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:

(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 absent Shareholders.

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

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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.

Remedies.

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.

Income tax.

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.

(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.

Income tax, by whom payable.

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.

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(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 subsections 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.

Representative taxpayers.

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 tax-payer from claiming that each agency or trust shall be treated separately for

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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.

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Owners or charterers of ships.

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.

If no agent or agent fails to make returns.

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.

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.

Insurance and other Companies.

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

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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

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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.

Cases in which no deductions are made.

64. No deduction shall in any case be made in respect of any of the following matters:—

(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 returns 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 assesesment 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 par-

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ticulars, 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.

Production of papers.

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

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may 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 Commissioner.

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 taxpayer.

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 assessment.

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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(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. No. 36—1904.

Appeals.

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 in which it relates.

Stated cases on question of law.

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.

Obligation may be suspended by appeal.

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 Commis-

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sioner 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 monies 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 chargeable under this Act, the Commissioner shall refund the proper amount in each case to the taxpayer or person entitled to receive

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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.

Penalty clause.

81. If any person

(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 return 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.

Penalty of obstruction and false answers.

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.

Evidence.

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 the Commissioner purporting to be a copy of or extract from any assessment book shall be conclusive evidence of the

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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.

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.
	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

Repealed by Act 52 of 1937 See 16 (2)

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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.
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

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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	9·218	70	9·409	80	9·604	90	9·800
2	9·222	2	9·413	2	9·608	2	9·804
4	9·226	4	9·417	4	9·612	4	9·808
6	9·229	6	9·420	6	9·615	6	9·812
8	9·233	8	9·424	8	9·619	8	9·816
61	9·237	71	9·428	81	9·623	91	9·820
2	9·241	2	9·432	2	9·627	2	9·824
4	9·245	4	9·436	4	9·631	4	9·828
6	9·248	6	9·440	6	9·635	6	9·832
8	9·252	8	9·444	8	9·639	8	9·836
62	9·256	72	9·448	82	9·643	92	9·840
2	9·260	2	9·452	2	9·647	2	9·844
4	9·264	4	9·456	4	9·651	4	9·848
6	9·267	6	9·459	6	9·655	6	9·852
8	9·271	8	9·463	8	9·659	8	9·856
63	9·275	73	9·467	83	9·663	93	9·860
2	9·279	2	9·471	2	9·667	2	9·864
4	9·283	4	9·475	4	9·671	4	9·868
6	9·286	6	9·479	6	9·674	6	9·872
8	9·290	8	9·483	8	9·678	8	9·876
64	9·294	74	9·487	84	9·682	94	9·880
2	9·298	2	9·491	2	9·686	2	9·884
4	9·302	4	9·495	4	9·690	4	9·888
6	9·305	6	9·498	6	9·694	6	9·892
8	9·309	8	9·502	8	9·698	8	9·896
65	9·313	75	9·506	85	9·702	95	9·900
2	9·317	2	9·510	2	9·706	2	9·904
4	9·321	4	9·514	4	9·710	4	9·908
6	9·324	6	9·517	6	9·714	6	9·913
8	9·328	8	9·521	8	9·718	8	9·917
66	9·332	76	9·525	86	9·722	96	9·921
2	9·336	2	9·529	2	9·726	2	9·925
4	9·340	4	9·533	4	9·730	4	9·929
6	9·344	6	9·537	6	9·733	6	9·934
8	9·348	8	9·541	8	9·737	8	9·938
67	9·352	77	9·545	87	9·741	97	9·942
2	9·356	2	9·549	2	9·745	2	9·946
4	9·360	4	9·553	4	9·749	4	9·950
6	9·363	6	9·557	6	9·753	6	9·955
8	9·367	8	9·561	8	9·757	8	9·959
68	9·371	78	9·565	88	9·761	98	9·963
2	9·375	2	9·569	2	9·765	2	9·967
4	9·379	4	9·573	4	9·769	4	9·972
6	9·382	6	9·576	6	9·773	6	9·976
8	9·386	8	9·580	8	9·777	8	9·981
69	9·390	79	9·584	89	9·781	99	9·985
2	9·394	2	9·588	2	9·785	2	9·989
4	9·398	4	9·592	4	9·789	4	9·994
6	9·401	6	9·596	6	9·792	6	9·998
8	9·405	8	9·600	8	9·796	8	10·003
						100	10·007

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SECOND SCHEDULE.

No. 36—1904.
Second Schedule.

ALLOWANCE FOR NATURAL WASTE ON SPIRITS RETAINED IN THE POSSESSION OF A WINE FARMER.

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.] [September 22, 1904.

(1) ACT

To Prevent the Introduction of Chinese into the Cape Colony.

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:—

Interpretation.

1. For the purposes of this Act the following words shall have the meanings respectively assigned to them, to wit:—

"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.

Repealed, Act No 1 of 1933

To whom Act to apply.

2. The provisions of this Act shall not extend to—

(*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

[1] Extended to all the Native territories by Proclamation 310, 1904.

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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 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 registered.

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.

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No. 37—1904.

Minors attaining eighteen years to report likewise and to be granted certificates, and to be liable to same penalties.

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.

In certain summary proceedings Magistrates to grant certificates where satisfied as to age.

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.

Chinamen appearing to be over eighteen on failure to produce certificate may be summarily dealt with by Magistrate.

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.

Renewal of certain certificates; provisions for loss.

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.

Powers of Magistrate on report of loss of 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

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the District or Town without such Certificate shall be dealt with in manner provided in the twelfth Section of this Act.

Powers of Magistrate where suspected evasions of Act.
Search warrant.

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.

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.

Duties where temporarily present in such other district.

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 Chinaman 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 provisions 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

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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.

Penalty for assisting, etc., contravention of Act.

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 letting shop, etc., to Chinaman.

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.

Duties of Masters on arrival of ship with Chinamen on board.

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.

Liability of master, etc., of ship, and owner, etc., of vehicle knowing contravention of Act thereby.

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.

Ship or vehicle may be detained or attached where penalties not paid or security not given.

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.

Provision to restrain unlawful entry. Railway tickets to be of no avail without production of certificate.

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.

Jurisdiction conferred on Resident Magistrate.

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

× Repl by Act 32 of 1917.

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of the borders thereof, and shall forward to the Minister in charge a copy of the record of any case so tried by him.

Question whether a person a Chinaman to be in discretion of Court.

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.

Governor may make regulations.

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.

And appoint officials.

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.

And prescribe penalties.

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.

Regulations to be published in Gazette and laid before Parliament.

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.

Returns of certificate to be laid before Parliament.

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.

No certificate of naturalization to be issued to any Chinaman after passing of Act.

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 naturalised 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.

Deportation on second conviction.

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~~ may, on the recommendation of the Minister, be deported from this Colony to China after the expiration of the sentence passed upon him.

amended by act 37 of 1927 sec 16

Franchise exclusion.

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.

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No. 37—1904.

36. This Act may be cited as "The Chinese Exclusion Act, 1904." Short title.

FIRST SCHEDULE.

First 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 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.

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Repealed by act 1911

No. 1—1905.] [March 31, 1905.

ACT

To Further Amend the Post Office Act, 1882.

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.

Repealed by Act No 25 of 1934.

No. 2—1905.] [April, 21, 1905.

ACT

To Amend the Law regarding the Parliamentary Franchise in this 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, 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.

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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.

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 [1], and sub-sections (b) and (c) of section one and section two of Act No. 30 [1] 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.

[1] Pages 2814 and 3281.

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4. Section two of (1) Act No. 23 of 1892, shall *mutatis mutandis* apply to the provisions of section three hereof. Section 2 of Act No. 23 of 1892 to apply to section 3 of this Act.

5. This Act shall be cited as the "Transfer Facilitation Extension Act, 1905." Short Title.

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 £ .

(1) Page 3031.

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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.

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,

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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.

Gaol returns.

4. All [1] 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.

Jurisdiction of Judges of Supreme Court.

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.

Commutation of sentences against women.

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.

Endorsement on warrant.

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.

Discipline of institution.

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.

Saving Clause

9. Nothing in this Act shall be taken to derogate from or diminish the prerogative of pardon vested in the Crown.

Short Title.

10. This Act may be cited as the "Juvenile and Woman's Imprisonment Act, 1905."

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[1] See §§ 56, 57, Ord. 40 (p. 46.)

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Repealed by Act 9 of 1913 1st Sch

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.

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.

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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. No. 5—1905. 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.

7. This Act may be cited for all purposes as the "Customs Amendment Act, 1905." Short Title.

No. 6—1905.] [May 12, 1905.

ACT (1)

To Amend the Railway Regulations Acts.

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 Offences and Penalties.

(*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;

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,

(1) Extended to Native territories by Proclamation 379, 1905.

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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

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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.

Regulations prohibiting the throwing of stones, etc., out of trains.

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.

Penalties.

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.

(*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.

Short Title.

9. This Act may be cited as the "Railway Regulations Act, 1905," and shall be read as one with the "Railway Regulations Act, 1861."

No. 7—1905.] [May 12, 1905.

ACT

Repealed by 1973 Act 26, sec. 14 Whole Act.

To Amend the Law relating to the Theft of Stock and Produce.

Preamble.

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

Repeal of Sec. 21, Act 35 of 1893.

1. The twenty-first section of the Stock and Produce Thefts Repression Consolidation Act, No. 35 of 1893, is hereby repealed.

Imposition of fine of value of stock or produce stolen, in certain cases.

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,

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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.

3. Section twenty-four of the said Act 35 of 1893, is hereby repealed.

Imprisonment in default of payment of fine.

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."

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No. 8—1905.] [May 12, 1905.

ACT

Repealed by 1923 Act 31, Sec. 27(6) Whole Act.

To Amend the Native Reserve Locations Act, No. 40 of 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:

Meaning of terms "Urban District" for purposes of the "Native Reserve Locations Act, 1902," and this Act.

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. 30 of 1899, without the previous consent of Parliament.

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.

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.

Section 4 of the "Native Locations Act, 1902," amended.

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

(1) Any Native whilst in *bona fide* employment as a domestic or farm or other servant and housed on his master's premises;

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(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. Power of removal of unauthorised persons.

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.

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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.

Additional sub-sections inserted in section 11 of the said Act.

7. The following additional sub-sections shall be read as inserted in the eleventh section 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."

Effect and Short Title of Act.

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."

No. 9—1905.] [May 16, 1905.

ACT

To Further Amend the Law for the Better Administration of Justice.

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 thereof, as follows:

Repeal of repugnant Laws.

1. All laws inconsistent with or repugnant to the provisions of this Act are, to the extent of such inconsistency or repugnancy, hereby repealed.

Divisional Court constituted a quorum for hearing appeals from R.M.'s Courts: Procedure.

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.

In appeals from Divisional Courts Judge of Court appealed from disqualified from sitting.

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.

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No. 9—1905.

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.

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 Educational 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.

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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.

Preamble.

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:

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:

Enacting Clause.

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:—

Interpretation 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:—

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.

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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

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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.

Public safety secured and power to frame additional Bye-laws, &c.

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.

Power to acquire land and enter into contracts, &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.

Alterations of position of pipes, lines or wires subject to compensation.

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.

Provision for 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.

Power to cut off electric current in certain cases.

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

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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

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Act Amendment Act, 1902, the Electric Lighting and Power Act, 1895, or any of them. No. 11—1905.

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*.

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

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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;

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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

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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 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 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

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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.

Powers of Council to take material for the works.

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.

Method of settling compensation to be paid by the Council.

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.

Account of how compensation expended to be rendered.

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.

Authority to construct lines of telegraph and telephone.

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.

Right of access to the works for purposes of maintenance and the like.

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.

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Council empowered to enter into contracts for execution of works.

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.

Penalties for injuring the Waterworks.

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-leadings, and the supply of water to the Railway or other Government Departments shall be regulated; and payment for all private water-leadings, 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 leadings; 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,

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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.

Power to raise a loan up to £13,000.

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.

Annual rate to be imposed to pay interest on loan and for Sinking Fund.

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.

Water rate to be levied on the amount of assessment on the Municipal Roll.

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

Special valuation to be made where there is no assessment.

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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

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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.

Cost of house connection and repairs borne by consumer.

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.

Provisions of Act 45, 1882, not to be affected.

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.

Costs and charges to be paid out of sums borrowed.

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.

Meaning of terms.

24. The word "Municipality" in this Act means the Municipality of Bedford, and the word "Council" the Municipal Council of Bedford.

Short Title.

25. This Act may be cited as "The Bedford Water Supply Act, 1905."

No. 13—1905.] [May 26, 1905.

ACT (1)

Repealed by Act. No 25 of 1934

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.

Preamble.

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;

(1) See Act 44, 1905, § 5 (p. 4972.)

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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, 1889, is re-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,

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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.

Levy of Special Rate authorised.

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.

Assessment under Municipal Act.

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.

Separate accounts to be kept.

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.

Surpluses may be appropriated to general purposes.

Short Title.

6. This Act may be cited as "The Green and Sea Point Municipal Council Railway Guarantee Act, 1905."

No. 14—1905.] [May 26, 1905.

ACT

To Further amend the "Glen Grey Act, 1894."

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 and new provision as to Table of Succession contained in Section 24 of Act 25 of 1894, inserted.

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.:—

Provided that if the deceased registered holder shall leave any widow recognised as such by law or Native custom,

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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.

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Case where no son's son, nor widow of deceased registered holder of an allotment, living or widow only living.

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.

Repeal of certain Sections of Act 25 of 1894.

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.

Non-liability to Execution of land granted under 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.

New Clause in lieu of Clause V. of Schedule A to 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:

V. That the land hereby granted shall not be liable to execution for debt.

Amendment of Clause XIII of Schedule A to Act No. 25 of 1894.

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:—

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.

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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.] Act 32 of 1917 [June 23, 1905.

Repl by

ACT

To Facilitate the Recovery of Certain Small Debts.

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 exceeding £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, rent 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

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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.

Time for entering appearance.

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.

Failure to enter 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.

If personal service, judgment.

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 service not personal, provisional 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.

Re-opening of case.

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.

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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..... .....

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SECOND SCHEDULE.

No. 15—1905.
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.

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.

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No. 16—1905.

Penalty for selling wild flowers without 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.

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.

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No. 18—1905.] [May 26, 1905.

ACT

To Amend the Law Relating to Merchant Shipping.

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 :—

Application to Colony of certain provisions of the English Merchant Shipping Act, 1894.

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*.

Licences payable into Treasury.

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.

Person charged with contraventions prosecuted before a Resident Magistrate.

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.

Short Title.

4. This Act may be cited as the "Merchant Shipping Act, 1905."

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.

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No. 18—1905.

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

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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.

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No. 18—1905.

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.

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(*c*) *Enticing to Desert and Harbouring 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.

Repealed by Act. No 25 of 1934

ACT [1]

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.

Preamble.

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;

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

[1] See Act 44, 1905, § 6.

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No. 19—1905.

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.

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 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

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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."

Separate accounts to be kept.

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.

Surplus may be appropriated.

Short Title.

5. This Act may be cited for all purposes as "The Somerset West Strand Railway Municipal Guarantee Act, 1905."

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.

Released by Act. No. 25 of 1934.

Preamble.

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

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No. 20—1905.

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 Townsmen 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 Townsmen 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.

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:

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No. 21—1905.

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 :—

Governor may grant him certain lands, subject to conditions.

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 :—

> 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.

Short Title.

2. This Act may be cited as "The Hayward Land Grant Act, 1905."

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.

Repealed by Act 42 of 1937

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 :—

Natives occupying land in Native Location, to assist in eradicating Burrweed, &c.

1. Notwithstanding anything to the contrary contained in any Law it shall be lawful for any Headman charged, under the provisions (1) 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

(1) See § 235, Act 40, 1899 (p. 2769), and Act 18, 1898 (p. 3904).

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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.] Rep. by Act 32 of 1916 [May 30th, 1905.

ACT

To Amend the Law relating to the Rehabilitation of Insolvents.

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 :—

Rehabilitation of fraudulent insolvents. 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.

Repealed by Act 25 of 1913 Sec. 1.

ACT

To Prevent the supply of Tobacco to Youths.

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 tobacco, 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

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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. No. 24—1905.

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 teachers.

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.

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:— Interpretation clause.

"Council" shall mean the Town Council of Beaconsfield.

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"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 supplying electricity.

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.

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Public lighting and power to erect lamp-posts and other appliances.

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.

Power to lay main and branch wires, &c.

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 frame tariff of charges.

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.

Public safety secured and power to frame additional bye-laws, &c.

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

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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,

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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.

Arbitration Clauses Act to apply.

13. For the purposes of any arbitration under the provisions of this Act, the "Lands and Arbitration Clauses Act, 1882," is hereby incorporated.

Works to be subject to the approval of Government.

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.

Existing rights protected.

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.

Exemption from operation of certain clauses.

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.

Land appropriated for railway purposes.

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

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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 [1]

To Impose an Excise Duty on Foreign Spirits, and to continue Part II. of the "Additional Taxation Act, 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:—

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.

See Act 31 of 1913

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.

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[1] Extended to all Native Territories by Proclamation 179, 1905.

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Penalty clause.

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.

Duty recoverable in Magistrate's Court.

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.

Governor empowered to dispense with keeping Stock books or Returns.

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.

Duties of Controller of Excise.

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.

Extension of period during which Income Tax payable.

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.

Repealed by Act. No 25 of 1934

Short title.

9. This Act may be cited as the "Additional Taxation Act, 1905."

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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.

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.

Provisions to apply at the coming into force of this Act.

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.

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(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.

Land sold under Section 51 of Act 9 of 1864.

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.

Boundaries of Borough.

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).

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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.

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Disqualification of Councillors.

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.

Further disqualifications

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.

No Councillor to accept salary, &c.

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.

Proceedings of Councillors to be valid though defect existed in mode of election.

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.

In cases of disqualification of Councillors.

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

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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.

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Enrolment of Voter in a single district

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.

Persons disqualified as Voters.

21. The following persons shall not be qualified to vote at any elections held under the provisions of this Act :—

(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.

List of Voters to be made annually.

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 :

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.

Notification that lists are ready for inspection.

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.

Court to hear objections.

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

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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 invalidate 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 required 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

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all intents and purposes the day appointed for such revision, and all further proceedings shall be had and taken accordingly.

In case list not prepared in time.

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.

The first election of Councillors.

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.

Whole number of Councillors assigned to be elected.

32. At the said first election of Councillors in the said Borough, the whole number of Councillors required under this Act shall be elected.

Annual election of Councillors.

33. In the said Borough an annual election of Councillors shall be held on the first Wednesday in August in every year.

One-third of Councillors elected yearly.

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.

In cases extraordinary vacancies.

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.

Exceptions.

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.

Ward elections.

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.

Returning Officer.

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 not to be a candidate.

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.

Notice calling for nominations.

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

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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.

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Presiding Officer.

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.

In case candidate desire to retire from contest.

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.

Candidate's agents.

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.

Inquiries as to right to vote.

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 :—

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.

Penalty for false answers.

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.

Bribery at elections.

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

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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 required to vote without delay 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 ballot 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

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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."

Tendered ballot papers.

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."

Sealing up of ballot boxes, &c.

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:—

(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 counterfoils 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.

Declaration of Poll.

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

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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 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.

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Immaterial mistakes not to affect validity of election.

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.

Retirement of Councillors.

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.

Any person holding office may resign.

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.

When offices shall become vacant.

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 :—

(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.

How to determine date at which officers must retire.

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.

Interim between retirement and election of new Councillors.

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.

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Mayor, &c., vacating office may be re elected.

68. Any person vacating office as Mayor, or Councillor, 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, or Chairman, or Councillor.

MAYOR AND DEPUTY MAYOR.

Appointment of Mayor.

69. At the first meeting of the Council held after every annual election of Councillors, the Councillors present shall elect 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 happenned, 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 *ex-officio* Justice of the Peace.

71. The Mayor of the Borough shall during his tenure of office be a Justice of the Peace for the District of King William's Town: provided that he may at any time be removed from being 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 meeting of first Council.

72. The first meeting of the Council constituted under this Act shall be held on the first Wednesday after the first election of Councillors.

PROCEEDINGS OF COUNCIL.

Ordinary Meetings.

73. The Council shall hold ordinary meetings not less than once in each month for the transaction of business, on such days

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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.

Special Meetings.

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.

Notice of adjourned and 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.

Meetings may be adjourned.

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 to be open to public.

77. All meetings of the Council shall be open to the public.

Chairman of meetings.

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.

Quorum.

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.

Casting vote of Chairman.

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.

Minutes

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

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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 inspection.

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 Council 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.

Council to approve acts of Committee.

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

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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.

Mayor *ex-officio* a member of all Committees.

90. The Mayor, or in his absence the Deputy Mayor shall be *ex-officio* a member of all Committees.

Councillor not to vote where interested pecuniarily.

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.

Resolutions not to be revoked except upon notice.

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.

Auditors.

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.

Candidates must be proposed by a Burgess.

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.

If only two nominated they are elected.

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 more than two nominated poll to be taken.

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.

Who not eligible as Auditors.

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.

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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

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and compare the same with the books and documents relating thereto in the possession of the Council.

How accounts to be finally settled.

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.

Governor may appoint person to examine accounts.

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.

Powers given to such examiners of 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.

Further duties of Auditors.

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

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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

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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.

Contracts with companies in which Councillors have interest

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.

OFFICES.

Town Clerk.

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.

Deputy 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

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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 sale of the goods and chattels of such officer, and if no

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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.

Liabilities of sureties for officers.

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.

Incorporation of Public Bodies Debts Act of 1867.

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.

Rules and Regulations.

Existing regulations to continue till changed.

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.

Power to make and alter regulations.

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

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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

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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,

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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 incommode 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

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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 ;

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(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 ;

Repealed by 1923 Act 21, Sec. 27 (1). in so far as they relate to natives or native locations

(41) 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 ;

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(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.

Sub-sections 54, 59 and 60 do not apply to Natives or Asiatics registered owners or occupiers of landed property valued at £150.

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.

Power to impose Penalties in Bye-laws.

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.

Punishment if Penalties not paid.

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.

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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 Wlliam'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 o e or more local newspapers, and by circular call upon occupiers and owners to lodge in writing with the Town Clerk any objec-

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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.

Council to appoint Committee to settle Valuation Roll.

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 thereafter 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.

Notice of final valuation to be given to persons interested.

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.

Interim valuation.

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

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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

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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.

Application of moneys received from rates.

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.

Notice of rates payable.

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.

When 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.

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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.

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Evidence in suits for recovery of rates.

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.

When owner in default, demand against occupier.

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 occupier refuses to disclose name of owner.

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 property rated may be seized and leased.

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.

For what term.

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 convenants and conditions as the Council may determine.

Notice before the seizure.

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

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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 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 accruing 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 prescriptive possession 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.

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LOANS.

Borrowing power for works.

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.

Plans and specifications of works to be prepared.

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.

Notice to be given of intention to borrow.

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.

When proposal to borrow must be submitted to ratepayers.

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.

Proceedings on demand for such submission.

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.

Scrutineers

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.

How result of poll to be ascertained.

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

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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

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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.

As to disposing of, enclosing, &c., such lands.

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.

Notice of application for such dealing with lands to be given.

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

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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

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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.

Board of Management of police.

177. The Borough Special Police shall be under the control and management of the Council.

Powers of Board and of Constables and Street-keeper.

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.

Defray of cost of police.

179. The cost of maintaining the Borough Special Police shall be paid out of the funds belonging to the Borough.

POWERS AND DUTIES OF THE COUNCIL.

Council's duty as to maintenance of water supply.

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.

Power to construct waterworks.

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,

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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-leadings and the supply to industrial establishments shall be regulated, and the payment of all private water-leadings 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-leadings.

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-leadings 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

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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.

Repairs to streets, &c. and making of new streets.

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.

Lighting of streets, &c.

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.

Drainage of Borough.

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

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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,

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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.

Assize of weights and food.

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.

Contributions to public functions, &c.

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.

Pensions and allowances to officers and families.

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.

Construction of public baths, washhouses, &c.

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.

Sale of public baths, washhouses, &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

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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 until a copy of such notice shall have been served on

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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.

Lease of land with consent of Governor.

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.

Power to inspect and purify private premises.

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.

Altering position of pipes.

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

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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

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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.

Powers of police.

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.

Indemnity clause.

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.

Charges to be made by Council for use of brigade and water.

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.

Who to pay charges.

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

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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 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 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 salved 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

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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.

Lands and Arbitration Clauses Act, 1882 to apply.

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.

Charges incurred by Council to be paid out of Municipal Funds.

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.

Short Title.

220. This Act may be cited for all purposes as "The King William's Town Borough Act, 1905."

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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No. 28—1905.] [June 3, 1905.

Repealed by Act 19 of 1913 sec 1.

ACT

To Settle questions that have arisen with regard to Carnarvon Land Grants.

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 $\frac{19}{20}$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 $\frac{19}{20}$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 $\frac{1}{20}$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 endorsed upon the deed of grant

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or transfer deed by which the erf was conveyed to the seller and which such seller is hereby authorised to retain. No. 28—1905.

4. This Act may be cited for all purposes as the "Carnarvon Lands Act, 1905." Short Title.

No. 29—1905.] [June 3, 1905.

Repealed by Act 41 of 1911

ACT [1]

To Check the Dissemination of Insect Pests and Plant Diseases from Nurseries of Plants and Trees.

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.

[1] Extended to Transkei, Tembuland, Griqualand East, Port St. John's and Pondoland by Proclamation in Gazette of 31st October, 1905. No. 378.

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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 a remedial treatment. An examination under

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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.

Powers of Inspector.

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.

Compensation.

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.

Regulations as regards imported stock.

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 infected trees, plants, or fruit from any other area within the Colony.

Entry upon land.

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.

General regulations.

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.

Inspection of Importations.

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 infected trees, plants or fruit destroyed, on giving a certificate of the infection; any person contravening the provisions of this section shall be liable

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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 be read as one with Ordinance No. 2

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.

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

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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:—

Interpretation.

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.

Power to impound water from the Bongolo River.

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

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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

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therefor and at the Council's expense; and the Council shall in addition bear the cost of such supervision.

Compensation to lower riparian owners.

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.

Construction of a weir to measure water.

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.

Legal rights of owners not to be affected.

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

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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

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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.

Borrowing powers conferred.

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.

Council may raise loan under Act 24 of 1897.

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.

Sinking fund provided.

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.

Public Bodies Debts Act, 1867, to apply.

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."

Power to frame bye-laws and regulations.

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, waterworks, 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

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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.

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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.

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No. 31—1905.] [June 3, 1905.

ACT

To Apply a Sum of Money for the Service of the Year ending the 30th June, 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 £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

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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.

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 :—

Utilization of unappropriated balances.

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.

Short Title.

2. This Act may be cited as the "New and Additional Railway Work Amendment Act, 1905."

No. 33—1905.] [June 8, 1905.

ACT

To Confer and Impose upon Resident Magistrates and Assistant Resident Magistrates certain additional Powers, Functions and Duties.

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 thereof, as follows :—

Powers conferred on certain Assistant Resident Magistrates in administration of Law relating to wills, intestacy, marriages and insolvencies.

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 :

(*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.

Powers conferred on R.M.'s and certain A. R.M.'s in administration of Transfer Duty Laws, &c.

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 Divisional Council rates.

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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.

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.

Assistants in exempted shops to have half-holiday.

(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.

Every shopkeeper 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-

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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.

Notification of selection of day.

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.

Shop to be closed on elected half-holiday and employment of assistants prohibited.

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.

Alteration of day.

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.

Register to be kept by local authority.

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.

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Holidays excepted 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 exempt.

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."

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No. 35 of 1905.] [June 8, 1905.

ACT (1)

To Provide for the Establishment of School Boards and for the better Management of Education throughout the Colony of the Cape of Good Hope.

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 :—

Repeal of Laws. 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.

Saving clause as regards institutions receiving grants under Act 24 of 1874, Act 15 of 1878, and Act 9 of 1881. 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.

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.

[1] Extended to Native Territories by Proclamation 397, 1905.

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PART II.

School Districts.

Governor may proclaim School Districts.

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 Minister regarding formation of School Districts.

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.

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Notice specifying number of Members.

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.

Composition of Board.

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.

Election of elective members.

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.

Qualification of members of School Committees and School Boards.

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.

Disqualifications.

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.

Regulations for election of members.

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.

Expenses of elections.

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.

Failure to elect.

16. If from any cause there be a failure to elect the requisite number of members of a School Board the Governor may nom-

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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-assemblage 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.

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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.

See Section 3 Ord No 16/19

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

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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.

Existing poor schools.

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.

Property of poor schools.

38. The provisions of sections Thirty-five, Forty-six and Forty-seven shall apply *mutatis mutandis* to Poor Schools.

Financial control by School Board.

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.

Powers of oldCommittee.

40. Up to the time when any existing Committee hands over the control of its school or schools to the School Board as herein-

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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.

Repealed by

Decision of parents as to School Committees.

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, provided that they are not inconsistent

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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.

Procedure for appointment of Teachers.

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 dismissal 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.

Schools for children of other than European extraction.

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.

Boards' borrowing powers.

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

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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.

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Duty of Board to inquire into cases of children not attending any school.

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.

Land to be set aside for school purposes in new Townships and Municipalities.

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.

Books of Board.

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.

Members of Board or Managing Committee to receive no payment for their services.

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.

Guarantees.

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.

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See Ordinance No 16 of 1913 p 57

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PART VI.

Power and Duties of Boards in Regard to School Attendance.

Compulsory school attendance.

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 notified to Superintendent-General, who, in consultation with Board, may frame regulations.

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 proclamation of regulations 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.

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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.

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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.

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Exempted persons to have no vote.

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.

Provision for funds where no fiscal divisions exist.

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.

Grants by local authorities.

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.

PART VIII.

PENALTIES.

Jurisdiction of Magistrates.

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.

Prosecution.

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.

Penalties.

79. Any person found guilty of an offence under this Act shall be liable to a penalty not exceeding forty shillings for each offence.

Application of 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.

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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.

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.

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3. This Act may be cited for all purposes as the "Additional Appropriation 1904-1905 Act, 1905." No. 36—1905. Short Title.

SCHEDULE.

Additional Appropriation, 1904-1905.	Establishments.	Services exclusive of Establishments.	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 Agriculture	7,239	1,944	9,183	9,183
Grand Total ...	10,016	221,202	231,218	231,218

No. 37—1905.] [June 8, 1905.

Repealed by Act. No 25 of 1934.

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.

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.

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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.

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.

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(*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

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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 erfholder 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

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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.

Commonage.

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.

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(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

Repealed by Act 13/1918 Sect. 62.

To Provide for the Issue of Certificates of Registered Title.

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 :—

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, under which the applicant holds, and provided he

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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.

Lodging of Diagram.

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.

Endorsement on existing Title Deeds.

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.

Consent of holder of mortgage bond necessary.

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.

Portion of land not to be mortgaged until Certificate obtained.

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.

Certificate subject to regulations and payment of a fee.

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.

Application of Sections 3 and 7 to Deeds Registry Act, 1891.

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 19, 20 and 23 of 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.

Transfer, sale, etc., of land vested in a Corporation.

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

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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.

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No. 40—1905.] [June 8, 1905.

Repealed by Act 25 of 1914 See 42

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.

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 :—

Repeal of Act 35 of 1886.

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.

Workman's rights to compensation to be governed by this Act.

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.

Jurisdiction of Magistrates.

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.

Definitions.

4. In this Act the following definitions and provisions shall apply :—

"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

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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.

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Compensation for injury.

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.

Workman to give information of injury received.

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.

Magistrate to hold inquiry.

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.

Law relating to inquests applied.

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.

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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.

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(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.

Evidence.

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.

Examination by and evidence of District Surgeon.

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.

Final judgment.

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.

Limit of Order.

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.

Appeal to Superior Court.

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

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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,

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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.

Death from injury Rights of dependents wholly dependent on deceased.

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.

Rights of persons partially 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.

Deceased's legal representative to sue.

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.

Sum payable free from attachment for debt.

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.

Case of members of Benefit Societies, etc.

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

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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 employer's contribution to Society is in excess of sum payable as compensation, proceedings 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.

Application 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 expenses.

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 an action in

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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.

Insolvency of employer.

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.

Employer to declare whether he is insured against injury to workmen.

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.

Liability of persons other than employers.

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.

Contracting to relinquish right to compensation.

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.

Threats and compulsion.

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.

Penalty for gross carelessness causing injury.

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

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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.

Repealed by 1911 act 30 of 1911 Sec 1.

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.

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SECOND SCHEDULE.

No. 40—1905.
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.

Repealed by Act. No 5 of 1934

ACT

To Constitute Additional Fiscal Divisions.

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.

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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.

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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. No. 41—1905. 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.

Repealed by act 17 of 1912 sec 1.

ACT

To Amend the Law relating to Dividing Fences.

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 Acts 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.

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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.

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.

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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.

Repealed by Act 18 of 1911 Sec 19

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.

X Rep. by act 22 of 1916.

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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."

Particulars of Material.	£ s. d.	£ s. d.	*Value.* £ s. d.
Surplus Material after completion of Works authorised by :—			
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."

Telegraph Works.	£	£ 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	
		20,237 0 0

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SCHEDULE "B"—(continued). No. 43—1905.

		£	s.	d.
5.	*Deficit on Sub-Section "Erection and Equipment of Private Wires," Schedule C., Act* 36, 1899	7	0	0
	Telephone and Private Wire Construction.			
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.	*New Exchanges*	500	0	0
24.	*Private Wires*	1,660	0	0
25.	*Crane for lifting Cable Drums*	366	0	0
26.	*Reserve of Material*	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

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No. 43—1905.
Schedule "C."

SCHEDULE "C."

I. *General Post Office.*

	Amount.	*Estimated requirements, 1905-06.*
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		
	Naauwpoort 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.	Upington 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

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SCHEDULE "C"—(continued). No. 43—1905.

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

SCHEDULE "D." Schedule "D."

General Post Office.

	Telegraphs.	*Amount.*
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 2¾ 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

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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.

		Amount.	*Estimated requirements, 1905-06.*
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.

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

Repealed by Act 10 of 1934.

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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.

Railway from Pampoenpoort to Carnarvon to be a developing Railway.

2. No passenger shall be carried on the portion of the said line lying between Pampoen 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.

Line from Mafeking to Ottoshoop in Transvaal.

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.

Sea Point Railway.

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 :—

(*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.

Repealed by act. 25 1934

(*b*) To reconstruct, equip, maintain and work the line of railway when so taken over, provided that the cost of

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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

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the Municipal (1) 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.

Repealed by Act. No 25 of 1934

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.

Repealed by Act. 25 of 1934

(1) See Act 19, 1905.

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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.

Repealed by Act No. 25 of 1912

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,

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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.

Loan to be raised.

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.

Repealed by Act No 25 of 1934

Work not to be commenced until funds available.

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.

Short Title.

16. This Act may be cited for all purposes as "The Railways Acquisition and Construction Act, 1905."

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

d. 4/0

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	1¾	£1,878

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No. 45—1905.] [June 8, 1905.

ACT

To Amend the Act No. 31 of 1898, commonly called "The Precious Minerals Act, 1898."

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.] Repl. by act 9 of 1916 [October 31, 1905.

ACT

To Provide for Copyright in Certain Works of Art.

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

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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.

Copyright in works of art and its duration.

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.

(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.

Right to represent scene or object not prejudiced.

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.

Registration of proprietors of copyright.

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,

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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 *primâ 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 infringement.

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-

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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.

Other offences and penalties.

7. No person shall do or cause to be done any of the following acts, that is to say :—

(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.

Public exhibition of painting, etc., painted on commission against wishes of subject prohibited.

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

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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 any 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."

Repealed by Act No. 9 of 1934

No. 47—1905.] [June 8, 1905.

ACT

To Provide for the Registration of certain Persons as Parliamentary Voters.

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

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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:—

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.

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.

Short Title.

2. This Act may be cited as the "Ex-Burghers Registration Act, 1905."

No. 48—1905.] [June 8, 1905

Repealed by Act. No 25 of 1934

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.

Preamble.

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.

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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 railway.

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 Kokstad, in extent about 20 acres, and terminating on the Kokstad Municipal Commonage, provided that the Company shall

Proviso.

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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.

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.

Power to take Crown Lands for construction and maintenance of line.

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.

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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.

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Transfer of Lands.

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.

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 embankments, or to provide otherwise for the due protection of the public safety thereat.

Powers may be exercised by an agent.

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.

Subsidy to be paid by Government.

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.

Time for construction of railway. Deposit of £5,000 as guarantee.

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-

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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 substructures 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.

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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 purposes 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 46¼ 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 sufficiently fenced such portions of the said Railway as may be required by the Commissioner.

Running powers over line by Government.

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.

Junction with Government Railways.

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.

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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.

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Railway when 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.

Application of Act No. 40 of 1889.

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.

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Erection of Telegraph and Telephone.

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 Government.

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:

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(*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.

Application of Act No. 29 of 1898.

30. For the purpose of any land taken or any arbitration under this Act the provisions of the "Arbitration Act, 1898," are hereby incorporated.

Actions in corporate name.

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.

Short title.

32. This Act may be cited for all purposes as the "St. Johns-Kokstad Railway Act, 1905."

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Schedule A.

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 ... ... (*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.)	60	0	0
Survey and Supervision. Miles	250	0	0
Temporary Works and Contingencies. Miles ...	150	0	0

Schedule B.

B.

LIST OF STATIONS, ETC.

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.

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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. No. 48—1905.

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 1¼ 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:

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.

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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.

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No. 49—1905.] [June 8, 1905.

Repealed by Act. No 25 of 1934

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.

Preamble. 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.

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 Railway. 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

Route of 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

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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

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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.

Power to take Crown Lands for Construction and Maintenance of Line.

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.

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 grants of such properties which may be

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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.

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-

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ments or to provide otherwise for the due protection of the public safety thereat.

Powers may be exercised by an agent.

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.

Subsidy to be paid by Government.

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.

Time for construction of railway; Deposit of £2,000 as guarantee.

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.

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 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.

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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 substructures 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 46¼ 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-

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ciently fenced such portions of the said Railway as may be required by the Commissioner.

Running powers over line by Government.

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.

Junction with Government railways.

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.

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

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(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

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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.

Application of Act No. 40 of 1889.

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.

Erection of Telegraph and Telephone.

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, etc.

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 Government.

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-

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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

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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. No. 49 1905.

(*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.

Application of Act No. 29 of 1898.

30. For the purpose of any land taken or any arbitration under this Act the provisions of the "Arbitration Act, 1898," are hereby incorporated.

Actions in corporate name.

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.

Short title.

32. This Act may be cited for all purposes as the "St. John's —Umtata Railway Act, 1905."

SCHEDULE.

A.

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

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(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 5½ 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: 1¼ 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.

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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 menwith 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.

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.

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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.] [June 8, 1905.

ACT

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.

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;

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No. 50—1905.

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.

Repealed by Act 18 of 1911 see 19.

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.

Secs. 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

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No. 50- 1905.

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

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II. *Port Elizabeth Harbour Board.*—Continued. No. 50—1905

	Surpluses.	Other Works or Deficits.
Act 17, 1900.		
Electric Lighting and Power Plant	£267 4 9	
Hydraulic Plant Extension ...	909 4 1	
Widening Baakens River Bridge	1,562 0 5	
Act 20, 1900.		
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
Act 33 of 1902.		
Additional Rolling Stock, Landing 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

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III. *East London Harbour Board.*—Continued.

	Surpluses.	Other Works or Deficits.
Act 27 of 1896.		
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
Act 34 of 1898.		
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
Act 20 of 1900.		
Produce Warehouse on Upper Terminal near No. 3 Quarry	472 6 8	
Act 33 of 1902.		
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

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