

*Exp. 16th March
16/1/95.*

STATUTES

OF THE

CAPE OF GOOD HOPE,

PASSED BY THE

SEVENTH PARLIAMENT,

DURING THE

SESSIONS 1884—1888,

WITH

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[PRINTED BY AUTHORITY.]

CAPE TOWN:

W. A. RICHARDS & SONS, GOVERNMENT PRINTERS, CASTLE STREET.
1889.

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ACTS OF THE CAPE PARLIAMENT.

[Temporary]
No. 1—1884].

[Promulgated 30th May, 1884.

ACT

To Enable the Governor to amend the Proclamation No. 83 of 1884, dated the 27th March, 1884.

No. 1—1884.

WHEREAS the proclamation of His Excellency the Governor of the 27th March, 1884, issued in terms of the Constitution Ordinance, named and published Andries Stephanus le Roux as one of the members of the House of Assembly duly returned for the electoral division of Victoria West, and it hath now been proved that the said individual should have been described and returned as Abraham Stephanus le Roex; now to correct said error: 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:—

Preamble.

1. The aforesaid Proclamation, No. 83 of 1884, dated the 27th March, 1884, in so far as regards the name of Andries Stephanus le Roux, is hereby cancelled.

Proclamation No. 83 of 1884 partly cancelled.

2. The Governor is hereby authorised and empowered to issue a new or amended Proclamation containing the name of Abraham Stephanus le Roex as one of the members duly returned to the House of Assembly for the electoral division of Victoria West, to serve as such during the present Parliament, anything in the 56th section of the Constitution Ordinance or of any other law to the contrary notwithstanding.

New proclamation may be issued, containing name of Abraham Stephanus le Roex as a member of House of Assembly for Victoria West.

3. This Act may be cited for all purposes as the "Victoria West Election Act, 1884."

Short title.

No. 2—1884.]

[Promulgated 20th June, 1884.

ACT

[Temporary]

To Provide for a Special Valuation of Houses in the Division of Cradock, for purposes of the House Duty Act, 1878.

WHEREAS the valuation roll and register of houses for the division of Cradock were accidentally destroyed by fire on the 26th October, 1883, and it has become necessary to provide for a fresh valuation of houses in that division, for the purposes of the "House Duty Act, 1878," and for the collection of the duty upon such houses for the present year: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of

Preamble.

No. 2—1884.

the Legislative Council and House of Assembly thereof, as follows:—

Governor to appoint Valuators.

1. It shall be lawful for the Governor to appoint some fit and proper person or persons to value the houses in the said division of Cradock, for the purposes of the "House Duty Act, 1878;" and such person or persons shall thereupon proceed to value the said houses and frame an assessment roll, and do and perform all and singular the matters and things required to be done and performed by any valuator duly appointed under and by virtue of the provisions of the said Act.

Duty to be paid as if House Duty Act in force for the first time.

2. The said valuation of the houses in the said division shall be made, and the duty on such houses for the present year shall become payable and shall be collected, in all respects as if the said House Duty Act had come into operation for the first time in the said division upon the passing of this Act.

Valuation to continue till next general valuation.

3. The special valuation herein provided for shall continue in force for the purposes of the said House Duty Act until the first general valuation of houses under the provisions of the said Act throughout the colony which shall be made after the next general valuation to be made in the year 1885 shall have been completed.

Short Title.

4. This Act may be cited as the "Cradock Special House Valuation Act, 1884."

No. 3—1884].

[Promulgated 30th June, 1884.

ACT

For applying a further Sum not exceeding Sixty-three Thousand Six Hundred and Eighteen Pounds Sterling for the Service of the Year ending the 30th June, 1884.

Preamble.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending on the 30th June, 1884, in addition to the sums provided by the Act No. 1 and No. 29 of 1883: 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 £63,618.

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, 1884, with a sum of sixty-three thousand six hundred and eighteen pounds sterling, in addition to the several sums provided for by the said Acts No. 1 and No. 29 of 1883.

For purposes in Schedule.

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, 1883-'84, Act, 1884."

Spent.

SCHEDULE.

No. 3--1884.

Additional Appropriation, 1883-'84.	Estab-lishments	Services exclusive of Estab-lishments	Total.	Required to be provided for.
1. Ministerial Department of Colonial Secretary	17	34,964	34,981	34,981
2. Ministerial Department of Treasurer of the Colony	450	44,170	44,620	270
3. Ministerial Department of Attorney-General .. ..	..	1,300	1,300	1,300
4. Ministerial Department of Commissioner of Crown Lands and Public Works .. ..	..	17,440	17,440	17,440
5. Ministerial Department of Secretary for Native Affairs ..	511	9,116	9,627	9,627
Grand Total ..	978	106,990	107,968	63,618

No. 4—1884.]

[Promulgated 11th July, 1884.

ACT

To Dispense with Annual Burgher and Levy Lists.

Repealed by Act 13/7/12 § 122(3)

WHEREAS it is expedient in order to diminish the expense of providing the lists required by the "Burgher Force and Levies Act, 1878," to be furnished annually to make provision for having such lists furnished from time to time as may be deemed necessary: 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:—

Preamble.

1. So much of the "Burgher Force and Levies Act, 1878," as may be repugnant to or inconsistent with the provisions of this Act is hereby repealed. Inconsistent portions of "Burgher Act, 1878," repealed.

2. The burgher and levy lists, respectively, last framed under the provisions of the "Burgher Force and Levies Act, 1878," shall be and remain the lists for the purposes of the said Act, until other lists shall have been framed under the provisions of this Act. Lists already framed to continue.

3. Instead of furnishing to the civil commissioner of his division the list of burghers and levies in the first month of each year as is provided by the fourteenth section of the said Act, every field-cornet shall furnish the list by the said section required at such time as the Governor may direct; and such lists shall embrace the period since the last preceding list shall have been furnished. Field-cornets to furnish new lists when required by Governor.

4. This Act may be cited as "The Burgher and Levy Lists Act, 1884." Short Title.

No. 5—1884.]

[Promulgated 18th July, 1884.
ACTTo Consolidate and Amend the Law relating to the Payment
of Transfer Duty.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the payment of transfer duty: 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:—

Laws repealed.

1. The laws mentioned in the first schedule to this Act, to the extent to which the same are therein expressed to be repealed, shall be and the same are hereby repealed, except as to the recovery of any duty, interest, or penalty due or incurred before the taking effect of this Act.

PAYMENT OF TRANSFER DUTY.

Transfer duty imposed upon sale or other alienation of property.

2. Except as in this Act is excepted, a duty (hereinafter called Transfer Duty) of four pounds per centum upon the purchase price or value of any freehold property or property held from Government upon quitrent or other leasehold tenure sold or otherwise alienated or transferred after the taking effect of this Act, shall be payable and paid

- (1) By the purchaser of any such property.
- (2) By every person becoming entitled to any such property by way of exchange, donation, legacy, testamentary or other inheritance, or in any manner otherwise than through the medium or by means of purchase and sale.
- (3) By every person into whose name any such property registered in the Deeds Registry of this Colony in the name of any other person shall be registered or transferred.

Mode of calculation of duty on property entailed or held for life only.

All persons acquiring the right to the limited enjoyment of property burthened with the entail of *fidei-commissum*, and all persons acquiring a life usufruct only in any property, shall (save as in this Act excepted) be chargeable with and liable to pay the duty applicable to the species of property in question, upon the value of their estates or interests in such property, to be calculated with reference to the value of the property and the duration or extent of their interest therein, and such duty shall be recoverable, whether such persons shall or shall not seek to have their said estates or interests registered in their names in the Deeds Registry office.

Cost and charges excluded from being reckoned as part of purchase price.

3. As often as by the contract of sale of any immovable property, liable to the payment of transfer duty, the purchaser of such property shall become liable to pay, over and above the sum payable to the seller, all or any of the following charges or expenses arising out of or connected with the said sale, that is to say:

1. The cost of any survey of the said property which shall have been made prior to, and for the purposes of, the said sale,

7/0
ed. 11/13 § 1

- and of any survey of such property which may be made after the sale, and the cost of all diagrams and sub-divisions, and of the plan of the property exhibited at the time of sale ;
2. The charge made by the auctioneer for the conditions of the said sale ;
 3. The commission, if any, paid by the purchaser to any auctioneer, broker, or agent, by or through whom the sale of the property may have been effected, not exceeding two pounds and ten shillings per centum upon the amount of the purchase money ;
 4. The auction duty payable upon the said sale ;
 5. The transfer duty payable thereon ;
 6. The cost of all deeds necessary for effecting transfer of such property, and of the mortgage deed, if any, and of all necessary stamps ;
 7. The charges of conveyancers, and agents incurred in effecting the transfer of the said property ;
 8. The quitrent, if any, payable to Government upon the property sold ;
 9. The quitrent, if any, which shall be payable upon the property sold to any committee, consistory, or any other body, for religious, educational, or charitable purposes, not being rent already due and in arrear at the time of such sale ;

Then such charges or expenses shall not, nor shall any of them, be deemed or taken to form part of the purchase money of such property, so as to be liable to the payment of transfer duty : Provided that as often as the purchaser shall agree or undertake to pay any such quitrent as is in the ninth sub-division of this section mentioned, which shall, at the time of the sale to such purchaser be already due and in arrear, the amount of such arrear rent shall in the solemn declarations to be made by the seller and the purchaser, respectively, be added to the sum paid or to be paid to the seller in stating the amount of purchase money upon which transfer duty is to be paid.

Arrear rent to be added to purchase price.

4. In case the purchaser of any such property shall have undertaken, agreed, or in any manner become liable for, or in respect of, or in connection with, the purchase by him of the said property, to pay to any person whomsoever any sum of money over and above the sum paid or to be paid to the seller, such sum not being one or more of the items of charges or expenses in the last preceding section mentioned, then such sum must be added to the sum paid or to be paid to the seller in stating, in the solemn declarations to be made by the seller and purchaser respectively, the amount of purchase money upon which transfer duty is to be paid.

Other sums payable by purchaser in addition to purchase price to be added to amount of purchase money.

5. The transfer duty upon or in respect of every sale, exchange, or donation of any such property, shall be payable within six months from the day of the date of the sale, exchange, or donation,

When duty is payable.

No. 5—1884.

as the case may be, and from and after the expiration of such six months, and until payment or deposit of the amount of such duty, interest thereupon at the rate of twelve pounds per centum per annum shall be payable and paid.

Date when payable
in cases of deferred
possession.

6. As often as any contract of sale of any immovable property shall be entered into, by which contract it is stipulated that possession of such property shall not be given or that the said sale shall not take effect until some future date, the date at which such contract was entered into, and not such future date, shall be the date from which the space or term of six months mentioned in the last preceding section shall be reckoned.

When duty payable
in cases of conditional sale.

7. As often as any sale of immovable property shall be a conditional sale, then the said space or term of six months shall begin to be reckoned from the day on which such contract of sale was first entered into: Provided that in case any such contract of sale shall become dissolved by reason of the happening of any dissolving condition after the payment of transfer duty, then upon proof given of such dissolution such duty shall be returned.

Liability to duty
in cases of joint
ownership.

8. Whenever any such property as aforesaid shall be registered in the name of more persons than one, as joint owners, all the said persons shall be deemed and taken, for the purpose of payment of duty upon or in respect of any sale or alienation by any of them to any other or others of them, to have equal shares and interest in the said property, unless the particular share or interest of each shall be declared and set forth in the title deed or other instrument recorded in the deeds registry office.

RECEIPTS FOR DUTY AND DECLARATIONS.

To whom duty
payable.

9. All duties and interest payable under the provisions of this Act shall be paid to the civil commissioner of the division in which the property to be transferred is situate, who shall give a receipt for the same; and no transfer of any such property shall be made unless such receipt shall have been produced to, and deposited with, the registrar of deeds.

Solemn declaration
of sale.

10. No civil commissioner shall grant a receipt (except as in this Act is excepted and except a receipt for money deposited) for the amount of any such duty as aforesaid, payable upon or in respect of any sale and purchase of any such property as aforesaid, until the seller shall have taken and subscribed the form of solemn declaration marked A, and until the purchaser shall have taken and subscribed the form of solemn declaration marked B, in the second schedule.

Solemn declaration
of sale by agent or
broker.

11. As often as it shall appear to the civil commissioner that any agent, auctioneer, broker, or other person acting for or on behalf of any such seller or purchaser of any such property as aforesaid, has himself, in his said capacity, made and entered into the contract of sale or purchase, then it shall be lawful for such civil commissioner to demand and receive the solemn declaration of such agent, auctioneer, broker, or other person as aforesaid,

either in lieu of, or in addition to, that of his principal, according as such civil commissioner shall, under the circumstances of the case, deem fit; and the solemn declaration to be taken as aforesaid shall, as nearly as may be, be in the form C in the second schedule.

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12. If, in any case, it shall be made to appear that the seller or the purchaser of any such property has died, or departed from the colony, without having taken and subscribed the necessary solemn declaration, the civil commissioner may either dispense with such solemn declaration altogether, or receive, in lieu thereof, the solemn declaration of such other person as may, under the circumstances of the case, be in a position to testify to the particular matters to be set forth in such declaration.

Solemn declaration in case of death or absence from Colony of seller or purchaser.

VALUATIONS FOR PAYMENT OF TRANSFER DUTY.

13. For the purposes of ascertaining the value of property changing proprietors otherwise than through the medium, or by means of sale and purchase, and chargeable with duty under the provisions of this Act, it shall be the duty of the civil commissioner of the division in which the property shall be situated, at his discretion, either to claim duty upon the amount for which such property is valued for divisional council purposes, or to appoint some competent and disinterested person to ascertain, upon solemn declaration, the just and fair value of such property; and the reasonable expenses of such valuation shall be payable by the person chargeable with the payment of the duty; and the amount of such divisional council valuation or the amount at which such valuator shall value the said property, as the case may be, shall be the amount upon which duty shall be chargeable: Provided that nothing herein contained shall be held or taken to prevent any person who shall conceive himself aggrieved from bringing in review before any court having jurisdiction, the valuation upon which duty has been claimed.

Valuation for purposes of computing duty.

See 1909 Act 33 Sec. 81.

14. When in any case of sale and purchase of such property as aforesaid (not being a sale or purchase by public auction made *bona fide* and without collusion), it shall appear to the civil commissioner who is to receive the duty that the price or purchase money of the same is considerably less than its just and fair value, and in case the said civil commissioner and the purchaser shall not agree to accept the divisional council valuation of such property as representing the fair value thereof, it shall be competent for the said civil commissioner to cause a valuation of the said property to be made in manner and form as in the last preceding section mentioned: and in case the value, ascertained as aforesaid, shall exceed the amount of the said price or purchase money by one-third of the amount of such price or purchase money, then the amount of such valuation shall, for the purposes of this Act, be deemed and taken to be the price or purchase money of such property; and duty thereupon, together with the reasonable expenses of such valuation, shall be paid by the purchaser, but in case such value shall not

Valuation in case in which purchase price appears to be less than true value

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exceed the said price or purchase money to the extent of one-third thereof, then duty shall be received upon such price or purchase money, and the expense of the valuation shall be borne by Government: Provided that nothing herein contained shall be held or taken to prevent any purchaser who shall conceive himself aggrieved from bringing such valuation in review before any court having jurisdiction.

Valuation of consideration other than money.

15. If, in any case, some additional valuable consideration, other than money, shall be given or promised, or agreed to be given by the purchaser to the seller or to any other person, for or in respect of or in connection with the alienation of any immovable property, then the seller and the purchaser shall be respectively at liberty to put, by way of solemn declaration, a value in money upon such additional consideration, and such value shall be added to the sum of money paid, or to be paid, and transfer duty shall be paid upon the conjoint amount; and in case the said seller and purchaser shall not put the same value upon such additional consideration, then duty shall be paid upon the higher of the two values so put: Provided that the provisions of the two last preceding sections respectively of this Act shall apply to the value or values so put, in case it or they shall appear to the civil commissioner who is to receive the transfer duty to be considerably less than the just and fair value of such additional consideration, or in case the said seller and purchaser shall not, each of them, put a value thereupon.

Valuation not competent after duty paid.

16. No valuation of any property, for the purpose of the payment of transfer duty, shall be capable of being made at any time after any sum of money shall have been received, except money received by way of deposit for securing the payment of any amount of transfer duty to be afterwards fixed and ascertained, as being the transfer duty payable upon such property, and after a final receipt shall have been granted for such duty.

EXEMPTIONS FROM TRANSFER DUTY.

Remission of duty forbidden.

17. No transfer duty shall be remitted upon any sales whatever, except as specially in this Act provided, and except upon sales in regard to which the transfer duty, if paid, would be paid directly from and out of the colonial revenue.

Return of duty when sale declared void.

18. As often as any contract of sale, upon which transfer duty shall be payable, shall be set aside, or cancelled, or declared or made void by the judgment of any competent court, the transfer duty upon such sale, if unpaid, shall not be payable: and if paid, shall be returned.

Exemptions from obligation to pay duty.

19. Exemptions from the obligation to pay transfer duty under the provisions of this Act shall be allowed in the cases and to the extent hereinafter set forth, that is to say:—

1. When any person appearing upon the records of the deeds registry to be a joint owner of any property shall purchase

- that property, he shall not be charged with duty upon that proportion of the purchase money which represents his individual share or interest.
2. Any person being a descendant of any deceased person, and who would be the heir, or one of the heirs, *ab intestato*, of such deceased person, who shall, being entitled as an heir or legatee in the estate, purchase or take over the immovable property in the estate, or any part thereof, shall not be chargeable with duty upon so much of the purchase money or value of such property as represents his share in the property so purchased or taken over, considered as, or as if, an heir *ab intestato*; and the husband of any such heir or legatee, or the tutor, curator, or trustee of any such heir or legatee, purchasing for and in the name of such heir or legatee, shall be deemed and taken to be such heir for the purpose of this exemption.
 3. Any heir or legatee of any deceased person, being such a person as has been above described under No. 2, who shall require to have any of the immovable property inherited by him from the deceased, or by the deceased legated or pre-legated to him, removed from the name of the deceased into his own name, shall not be chargeable with duty upon the amount of his share in the property so to be transferred, in case or supposing that the deceased died intestate.
 4. No surviving spouse who had been married to his or her deceased spouse in community of property, shall be chargeable with any transfer duty upon any purchase, or other mode of taking over, from and out of the joint estate of the deceased and such surviving spouse, of the immovable property of the said estate, or of any part of such immovable property, or upon any immovable property or share in such property inherited by such surviving spouse from his or her deceased spouse as the heir or one of the heirs of such spouse—or upon any immovable property legated or pre-legated by the deceased spouse to such surviving spouse; nor shall any such duty become payable upon any property inherited from, or legated or pre-legated by such deceased spouse, by reason that the survivor has been charged by the will or other testamentary disposition of such deceased spouse with the payment of portions to children, or others, or with the payment of some amount of money into the joint estate.
 5. Every purchase or other contract concluded by any surviving spouse with any heir or legatee of the deceased spouse, whereby such surviving spouse shall acquire from such heir or legatee his or her share or portion of any of the immovable property of, or which had been of, the joint estate, shall be exempt from duty, in like manner as if such purchase or contract had been concluded by such surviving spouse with the administrators of the joint estate, so long as such

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- heir or legatee shall not have received transfer from or out of the joint estate of the property so sold, or otherwise disposed of, to such surviving spouse, but no longer.
6. When any surviving spouse shall have been instituted as sole and universal heir of the first dying spouse subject to the obligation of making provision at some future time for the children of the marriage out of the estate of such first dying spouse, such children shall respectively be entitled, should occasion arise, to claim the exemptions provided in sub-sections No. 2 and No. 3 of this section, precisely as if they had been, jointly with the surviving spouse, instituted heirs of the first dying spouse.
 7. The husband of any woman to whom he shall be married in community of property may have any property standing in the deeds registry office in her name removed into his own name without the payment of transfer duty.
 8. As often as the owner of any immovable property, being a husband or intended husband, or being a wife or an intended wife, or being the parent of a husband or wife, or of an intended husband or wife, shall agree or determine to vest such property in trustees, for the purpose of thereby making a provision for the support of the marriage, or for the wife or intended wife, or for the children of the marriage, transfer of such property may be made to such trustees without the payment of transfer duty: Provided that this exemption shall only extend to cases in which no consideration in money or property shall be given or promised to the owner of the property proposed to be vested in trustees, upon the trusts aforesaid, or upon trusts of the like nature.
 9. In every case in which any one person shall, by the records in the deeds registry office, appear to be merely a trustee for any other person, whether the latter shall be a minor or a major, or under coverture or not, the property so held in trust may be removed from the name of the trustee to that of such other person being entitled to have it so removed, without the payment of transfer duty.
 10. In every case of voluntary or compulsory partition between joint owners of immovable property, all changes in the records of the deeds registry required for the due registration of the separate shares, to be held by each in severalty, shall be made without payment of transfer duty in case the person claiming exemption from such payment shall make and deposit with the officer authorised to receive transfer duty, or with the registrar of deeds, a solemn declaration as nearly as is material in the form D in the Second Schedule, that he has not given, nor is to give, any money or other valuable consideration to his late co-proprietors, or any of them, for or in regard to the share assigned to him, and which he desires to have registered in his name:

Provided that if for the equalising of partition, or for any other reason, such person shall have given or agreed to give to his late co-proprietors, or any of them, any money or other valuable consideration for the said share so assigned to him, he shall, by solemn declaration as aforesaid, state the amount or value given or to be given by him, and transfer duty shall be payable upon such value or amount: Provided that the provisions of the fourteenth section of this Act shall apply to the value of any consideration other than money given, or to be given, in case it shall appear to the civil commissioner who is to receive the transfer duty that such value is considerably less than the just and fair value of such consideration.

11. Any person, being a descendant or a surviving spouse of any person who shall, by will or otherwise, have burthened any immovable property with the entail of *fidei commissum* or other similar restriction, in regard to such descendant or surviving spouse, so that the latter shall be entitled only to a life or other limited interest in such property, may have his title to such limited interest recorded in the deeds registry office, without the payment of transfer duty.
12. Any person claiming free property in remainder after the expiration or extinction of any previous *fidei commissum*, or other similar limited interest, burthening such property, may, in case such person be a descendant within the fourth degree of the person imposing such *fidei commissum* or other similar burthen, have the said property registered as his own in the deeds registry office without the payment of transfer duty.
13. As often as any immovable property shall by the will of a deceased spouse be so limited and settled that it is, upon the death of the surviving spouse who is by such will entitled to a life interest therein, to go and belong to some child or other descendant of the deceased spouse, who would under or according to No. 3 of these sub-sections, or by any other law be entitled, in case such surviving spouse were dead, to obtain transfer of such property free of duty, then, in case such survivor shall during life see fit to waive and give up his or her life interest, in favour of the child or other descendant in remainder, such child or other descendant shall be entitled to take during the life of such survivor transfer of such property free of transfer duty.
14. As often as the trustee of any insolvent estate, in the exercise of the powers by law possessed by him as such trustee, shall refuse to fulfil any contract for the sale of fixed property made by the insolvent before sequestration, no transfer duty upon such sale shall be payable by the purchaser from such insolvent, and such duty if paid before the sequestration shall be returned; and in case of the sub-

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sequent sale of such property out of the insolvent estate the declaration of the seller may be altered so as to set forth the fact of such previous sale and of such cancellation thereof.

15. As often as the trustee of any insolvent estate shall elect to abandon any agreement which shall have been entered into by the insolvent for the purchase or exchange of any immovable property, no transfer duty shall be payable upon such sale: Provided that such duty, if it has been paid by the insolvent, shall not be returned; and provided that the solemn declaration to be made by the vendor, in case he shall make any second or subsequent sale, shall be as nearly as is material in the form marked E in the Second Schedule.

16. As often as any insolvent shall, by agreement with his creditors, be permitted to retain or take over any of the immovable property which belonged to such insolvent at the date of the order of sequestration and still remaining enregistered in the name of such insolvent, no transfer duty shall be payable upon such transaction.

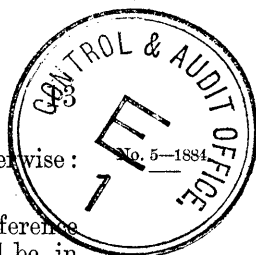
17. It shall be lawful for the Governor, upon proof made to his satisfaction, that any person, acting *bona fide*, has made a mistake in regard to the enregistration of any transfer, to permit such transfers as may be necessary for the correction, in the deeds registry, of the said mistake to be passed free of transfer duty.

18. If in any case any person who having become surety for the payment by the purchaser of the purchase money of any property shall have paid such purchase money, and by reason of insolvency, absence from the colony or other cause, such surety shall be unable to recover the money so paid, and shall be willing or desirous of taking transfer of the property into his own name, the Governor may, if he shall see fit, upon proof by solemn declaration of the facts, authorise the passing of transfer of the property direct from the vendor to such surety upon payment of single duty, whether paid by the purchaser or by the surety as if the sale had been made *ab initio* to such surety: Provided that nothing herein contained shall affect the respective rights and remedies of such vendor and such purchaser in regard to such first or original sale.

Remission of duty
when sale rescinded.

20. As often as any contract of sale upon which transfer duty shall be payable, shall be cancelled and rescinded by mutual consent of the vendor and the purchaser, before transfer made, without any part of the purchase money having been paid, or any valuable consideration given or promised by or on behalf of the purchaser, for the purpose of obtaining the consent of the vendor to such cancellation, the transfer duty upon such sale shall be remitted, in case such sale shall have been so cancelled and

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rescinded within six months from the day of sale, but not otherwise :
Provided

- (1) That the vendor and the purchaser shall make, in reference to such cancellation, solemn declarations, which shall be, in substance, in the forms marked F and G in the Second Schedule :
- (2) That the Governor may, in case any vendor or purchaser shall from any cause be unable to make such declaration, dispense with the declaration of such vendor or purchaser, and may should he see fit require or accept the declaration of any agent or person acquainted with the circumstances.

*Repealed by
1917 Act: 42.*

21. As often as any contract of sale upon which transfer duty shall be payable, shall be by mutual consent of the vendor and purchaser cancelled and rescinded before transfer made, then, in case any part of the purchase price shall have been paid, or any valuable consideration shall have been given or promised by either party to the other, for or in respect of such cancellation, transfer duty shall be payable only upon the sum so paid or the value of any consideration other than money so given, such value to be ascertained in manner in the thirteenth section of this Act provided ; and the vendor may, on a second sale of the said property, amend the declaration to be made by him by setting forth the circumstances of such previous sale and of the cancellation thereof.

Partial remission when sale rescinded after part consideration has passed.

22. Whenever any person requiring to have any transfer or change of name effected in the deeds registry office of this colony, shall claim to be exempted from the payment of transfer duty under and by virtue of any of the exemptions mentioned and contained in this Act, it shall be the duty of the registrar of deeds to require due proof by solemn declaration if need be of all facts and circumstances by reason or on account of which such exemption is demanded, and he may also require the production of any deeds or instruments connected with the case and tending to show whether or not such exemption ought by law to be allowed.

Inquiry by Registrar of Deeds when exemption sought.

23. As often as any question shall arise between the registrar of deeds and any person claiming to be entitled to any such exemption as aforesaid, regarding the right to such exemption, or the extent of that right, or, generally, any matter concerning the amount upon which any such person should justly and legally be chargeable with transfer duty, it shall and may be lawful for any judge of the supreme court sitting in chambers, to hear the said registrar of deeds and the said person (or any person or persons representing each respectively) as to the matter in question, and to examine the proofs, if any, which shall have been offered in support of the claim to exemption, and to call for such further proofs as may be necessary, and, in a summary manner, to make, if he shall so think fit, such order in the premises as shall to justice appertain: Provided that such judge may direct any such question to be brought, by way of motion, before any court having jurisdic-

Hearing by a Judge of dispute between Registrar of Deeds and claimant for exemption.

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tion, in order that the same may be heard and determined by such court.

AS TO SALES TO AGENTS FOR ALLEGED PRINCIPALS.

Person bidding as an agent to disclose name of principal.

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

Proceeding where bidder refuses to disclose name of principal.

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

Proceeding where principal repudiates purchase.

26. If, in any case, any bidder should declare, as aforesaid, the name of some person as his principal, who shall be taken down as the purchaser, and who shall afterwards refuse to accept the property purchased in his name, then, unless the bidder shall produce a sufficient authority, in writing, from such alleged principal, authorising such bidder to make such purchase for such principal, the bidder shall himself (without prejudice to other questions between the parties) be liable to pay transfer duty: Provided that such bidder, paying transfer duty, shall be entitled to recover the same from his principal, in case he shall succeed in proving that such principal did, in fact, give him authority to make the purchase in dispute.

Provisions of §26 to apply *mutatis mutandis* to purchases by agents at sales not being public sales.

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

Auctioneer forbidden to sell to undisclosed principal.

28. No auctioneer, broker, or agent shall take down or receive in regard to any purchase, the name of any purchaser as purchasing

in the manner commonly called and written "q. q." or receive, in any other form, the name of any person as purchasing for an unnamed principal; and any auctioneer, broker, or agent contravening this section of this Act shall incur and be liable to any penalty not exceeding fifty pounds.

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

Calculation of duty when property is taken over by agent bidder.

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

Private sales to undisclosed principals.

MISCELLANEOUS.

31. As often as any dispute or question shall arise between a supposed seller and a supposed purchaser, the supposed seller alleging that a sale of immovable property by the one of them to the other of them was actually completed, and the supposed purchaser on the other hand denying the fact that such a sale took place, it shall be lawful for the Governor, at any time within six months next after such supposed sale, upon the application of such supposed seller, and upon proof made to his satisfaction that no collusion exists between the supposed seller and the supposed buyer, to authorise such supposed seller, in case of a future sale of the same property to a different person, to alter the ordinary form of solemn declaration to be made in reference to such future sale by stating in such declaration that he never sold the said property to any person except the person named in such declaration as the purchaser, if not to one A B, who, however, disputed and denied the fact of such sale, whereupon the said sale was given up and abandoned by the person making such declaration, and the Governor's authority obtained for altering the form of the said declaration so as to make it conformable to the fact.

Proceeding when fact of sale disputed.

Repealed by
1917 Act 42.

32. As often as it shall be made to appear to the Governor by any person who shall have sold any property, upon which sale transfer duty shall be payable, that the purchaser of such property cannot be discovered within the colony, or has left the colony with-

Re-sale when vendor fails to enforce contract of purchase.

No. 5—1884.

out taking transfer, and without paying any part of the purchase money, and that such vendor is unable to obtain, or enforce, the fulfilment of the contract, it shall be lawful for the Governor to permit the vendor aforesaid, in case he shall sell the said property again, to make the necessary alteration in the form of the solemn declaration to be made by him in reference to such second sale: Provided that nothing herein contained shall alter or affect the law in reference to the respective rights or remedies of such vendor and such purchaser, in regard to such first or original sale.

Form of declaration on re-sale.

33. In the case of a second or subsequent sale of any property previously sold, the solemn declaration to be made by the vendor, in regard to such second or subsequent sale, may, subject to the provisions of this Act, be altered in the manner indicated in the form marked J in the Second Schedule.

Payment of first transfer duty on second sale.

34. In any case in which transfer duty shall have become payable upon any contract of sale, and such contract shall not have been completed, it shall be lawful for the vendor, if he shall make a subsequent sale of the said property to another purchaser, to pay the amount of any such duty for which the first purchaser may have become liable by law, if such first purchaser shall have neglected or refused to pay the same; and such vendor shall be entitled to recover the sum so paid from the first purchaser as so much money paid for his use; provided that the solemn declaration to be made by the vendor, in regard to such first sale, shall be in the ordinary form of a vendor's declaration, and no declaration shall be necessary from the first purchaser.

Declarations in sales completed before passing of this Act.

35. In case any sale and purchase or other transaction upon which transfer duty is chargeable shall have been perfected before the passing of this Act, and the solemn declaration required by the law existing at the time of the completion of such sale and purchase or other transaction shall have been made, no further declarations under the provisions of this Act shall be necessary, but in all cases, where no such declarations shall have yet been made, the declarations to be made and subscribed shall be those directed by this Act, and none other.

Before whom declarations are to be made.

36. The several declarations mentioned in or required by this Act shall be made before such persons respectively as are or shall be by law entitled to administer oaths, and any person who shall wilfully and corruptly make and subscribe any such declaration, knowing the same to be untrue in any material particular, shall be deemed to be guilty of the crime of contravening this section of this Act, and shall upon conviction thereof, suffer such punishment as shall be by law provided for the crime of perjury.

Short tit

37. This Act may be cited as the "Transfer Duty Consolidation and Amendment Act, 1884."

FIRST SCHEDULE.

No. 5—1884.

LAWS REPEALED.

Number and Year.	Title.	Extent of Repeal.
1. Ord. No. 18 of 1844.	Ordinance for regulating the payment of Transfer Duty in this Colony.	So much as has not already been repealed.
2. Act 15 of 1855.	Act to amend the Ordinance No. 18 of 1844, for regulating the payment of Transfer Duty in this Colony.	So much as has not already been repealed.
3. Act 7 of 1858.	Act for amending the Law relative to the payment of Transfer Duty.	The whole.
4. Act 8 of 1861.	The Transfer Duty Amendment Act, 1861.	The whole.
5. Act 11 of 1863.	Act to amend the Law relative to the payment of penalties for neglect to pay Transfer Duty.	So much as has not already been repealed.
6. Act 7 of 1864.	The Transfer Duty Amendment Act, 1864.	The whole.
7. Act 4 of 1872.	The Transfer Duty Amendment Act, 1872.	The whole.
8. Act 3 of 1876.	Act to transfer to certain other Officers certain duties performed by the Treasurer-General and other Officers, under the Ordinances relating to Auctioneers and Transfer Duty.	So much as refers to the functions of certain Officers in connection with transfer duty.
9. Act 3 of 1877.	The Transfer Duty Amendment Act, 1877.	The whole.

Laws repealed.

SECOND SCHEDULE.

FORM A.

I, A B, do solemnly and sincerely declare that the sum of £—— is the full and entire purchase money for which I have sold to C D the following property, that is to say: [Here describe the property.] And I declare that I sold the same to the said C D on the —— day of ——, 18—, and

Declaration of seller.

D

No. 5—1884.

not before; and that there is not any agreement, condition, or understanding between me and the said C D, whereby he has paid or is to pay to me or to any other person whomsoever, for, or in respect of, or in connection with the purchase by him of the said property, any sum of money over and above the said sum of £——, save and except certain charges or payments which fall under or come within one or more of the heads or items of charges or payments following:

1. The cost of any survey of the said property which shall have been made prior to, and for the purposes of, the said sale, and of any survey of such property which may be made after the sale, and the cost of all diagrams and sub-divisions, and of the plan of the property exhibited at the time of sale;
2. The charge made by the auctioneer for the conditions of the said sale;
3. The commission, if any, paid by the purchaser to any auctioneer, broker, or agent, by or through whom the sale of the property may have been effected, not exceeding two pounds and ten shillings per centum upon the amount of the purchase money;
4. The auction duty payable upon the said sale;
5. The transfer duty payable thereon;
6. The cost of all deeds necessary for effecting transfer of such property, and of the mortgage deed, if any, and of all necessary stamps;
7. The charges of conveyancers and agents, incurred in effecting the transfer of the said property;
8. The quitrent, if any, payable to Government upon the property sold;
9. The quitrent, if any, which shall be payable upon the property sold to any committee, consistory, or any other body, for religious, educational, or charitable purposes, not being rent already due and in arrear at the time of such sale;

And I further declare that I have not received, and that I am not to receive, nor has any other person received, nor is any other person to receive, for my use or benefit, or at my instance or request, any valuable consideration besides the said sum of £——, save and except in so far as any of the charges above specified, and to be paid by the said C D, might be held or taken to be payable for me or on my behalf. And I further declare that the said C D is the only person who has ever purchased the said property from me, and that I never sold the same to any other person.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) A B.

Declared before me this —— day of ——, 18—.

FORM B.

Declaration of purchaser.

I, C D, do solemnly and sincerely declare that the sum of £—— is the full and entire purchase money given, or to be given, by me to A B for the property following, bought by me from him, that is to say: [Here describe the property]. And I declare that I bought the same from the said A B, on the —— day of ——, 18—, and not before, and that I have not, nor has any person to my knowledge, on my account, given, nor is there by me or on my behalf, to be given, any other valuable consideration for, or in respect of, or in connection with the alienation to me of the said property, save and except certain charges or payments which fall under, or come within, some one or more of the heads or items of charges or payments following: [Here set forth in order from No. 1 to No. 9, both inclusive, the heads or items of charges or payments as in form A]. And I make this solemn declaration conscientiously believing the same to be true.

(Signed) C D,

Declared before me this —— day of ——, 18—,

TRANSFER DUTY ACT.

19

FORM C.

No. 5—1884.

DECLARATION OF SALE BY AN AGENT.

Declaration of sale
by Agent.

I,
do solemnly and sincerely declare, that I have acted as the Agent (Auctioneer
or Broker, as the case may be)
in making the Sale (or Purchase) of certain
sold by
to
and that I know, of my own knowledge, the amount of the Purchase
Money thereof: And I do further declare that the said sale was made on
the
and not before; and that the sum of
to be paid by the said
to the said
is, to the best of my knowledge and belief, the full and entire Purchase
Money to be given and received by the said Persons, respectively, in regard
to the Alienation of the said Property by the one of them to the other of
them; and that, to the best of my knowledge and belief, no further or
other valuable consideration has been given or is to be given, by or on
behalf of the said
to or on behalf of the said
for or in respect of the said Property, save and except certain charges or
payments (insert as in form A.);—And I make this solemn declaration,
conscientiously believing the same to be true.

Declared at _____, this _____
day of _____ 18____
Before me

Justice of the Peace.

FORM D.

DECLARATION

ON PARTITION OF LANDED PROPERTY.

[Section _____, Act No _____, _____.]

We, the Undersigned
Joint Proprietors of the Quit-rent Farm or Land called _____ in extent _____
_____ morgen and _____ square roods, situated in the Division of _____, Declaration of
Field-cornetcy of _____ Registered Folio _____ do severally solemnly and partition by Joint
sincerely declare that we have mutually agreed with each other to the Proprietors.
following Partition of the said Land so as to give to each party a defined
portion as his separate and exclusive Property;—namely,

And we declare that we have not, nor has any person to our knowledge, on
our account given, or received, nor is there by us, or on our behalf, to be
given or received, by the one, to or from the other of us, any money or
other valuable consideration for or in respect of the partition and mutual
transfer of the aforesaid land.

And we make this solemn declaration conscientiously believing the same to
be true.

Declared at _____
this _____ day _____
of _____ 18____
Before me,
Justice of the Peace.

D 2

No. 5—1884.

Declaration of re-sale of property sold to insolvent and abandoned by Trustee.

FORM E.

I, A B, do solemnly and sincerely declare that the sum of £—— is the full and entire purchase money for which I have sold to C D the following property, that is to say: [here describe the property.] And I declare that I sold the same to the said C D, on the——day of——, 18—, and not before, and that there is not any agreement, condition, or understanding between me and the said C D, whereby he has paid or is to pay to me or to any other person whomsoever, for or in respect of, or in connection with the purchase by him of the said property, any sum of money over and above the said sum of £——, save and except certain charges or payments which fall under or come within one or more of the heads or items of charges or payments following: [here set forth in order, from No. 1 to No. 9, both inclusive, the heads or items of charges or payments as in form A.] And I further declare that I have not received, and that I am not to receive, nor has any other person received, nor is any other person to receive, for my use or benefit, or at my instance or request, any valuable consideration besides the said sum of £——, save and except in so far as any of the charges above specified, and to be paid by the said C D, might be held or taken to be payable for me or on my behalf. And I further declare that the only person, other than the said C D, to whom I ever sold the said property, or who at any time purchased the said property from me, was E F, to whom I sold the same on the——day of——, 18—, for the sum of £——. And I further declare that since the said sale to the said E F, he has become insolvent, and that the trustee of his insolvent estate has elected to abandon the said sale. And I make this solemn declaration conscientiously believing the same to be true.

(Signed) A B.

Declared before me this——day of——18—.

FORM F.

Declaration by seller of cancellation of sale.

I, A B, do solemnly and sincerely declare that I sold to C D, on the——day of——, 18—, the property following, namely: [Here describe the property], for the sum of £——; and I declare that I have never received any sum of money, or other valuable consideration, on account of the said purchase.* And I further declare that I have consented and agreed with the said C D to cancel, by mutual consent, the said sale, which sale was, on the——day of——, 18—, cancelled accordingly. And I further declare that I have not received, nor am I to receive, from the said C D, or any other person, any money or other valuable consideration, for or in reference to my consent to the cancellation of the said sale. And I make this solemn declaration, conscientiously believing the same to be true.

(Signed) A B.

Declared before me this——day of——, 18—.

* Should any interest have been received upon the purchase money, add the words, "except certain interest upon the said sum."

FORM G.

Declaration by purchaser of cancellation of sale.

I, C D, do solemnly and sincerely declare that I bought from A B, on the——day of——, 18—, the property following, namely: [here describe the property], for the sum of £——; and I declare that I have never given to the said A B any sum of money or other valuable consideration, on account of the said purchase.* And I further declare that I have applied to the said A B to consent to cancel the said sale, which sale hath accordingly been cancelled by mutual consent. And I further declare that I have not given, nor am I to give, nor has any person, on my behalf, to my knowledge, given, nor is any person to my knowledge to give, any

money or other valuable consideration for or in reference to the cancellation of the said sale. And I make this solemn declaration, conscientiously believing the same to be true.

No. 5—1884.

(Signed) C D.

Declared before me this _____ day of _____, 18—.

* Should any interest have been paid upon the purchase money, add the words, "except certain interest upon the said sum."

FORM H.

I, A B, do solemnly and sincerely declare that I sold to C D, as the agent, or alleged agent, of E F, on the _____ day of _____, 18—, and not before, the property following, namely: [here describe the property], for the sum of £——. And I declare that the said E F has declined to accept the property, and that the said C D has signified his willingness to take the same to and for his own individual account, for the said sum of £——, neither more nor less. And I further declare that there is not any agreement, condition, or understanding between me and the said C D, whereby he has paid or is to pay to me or to any other person whomsoever, for or in respect of, or in connection with the purchase by him of the said property, any sum of money over and above the said sum of £——, save and except certain charges or payments which fall under or come within one or more of the heads or items of charges or payments following: [here set forth in order, from No. 1 to No. 9, both inclusive, the heads or items of charges or payments as in form A.] And I further declare that I have not received, and that I am not to receive, nor has any other person received, nor is any other person to receive, for my use or benefit, or at my instance or request, any valuable consideration besides the said sum of £——, save and except in so far as any of the charges above specified, and to be paid by the said C D, might be held or taken to be payable for me or in my behalf. And I further declare that the said C D, as the agent or alleged agent of the said E F, is the only person who has ever purchased the said property, and that I never sold the same to any other person than, in manner aforesaid, to the said C D, who with my consent and by virtue of the Act in that behalf provided, takes over the property aforesaid as his own. And I make this solemn declaration, conscientiously believing the same to be true.

Declaration of sale to agent of purchaser who refuses to ratify purchase.

(Signed) A B.

Declared before me, this _____ day of _____, 18—.

FORM I.

I, C D, do solemnly and sincerely declare that I did, in the name of E F, purchase from A B, on the _____ day of _____, 18—, and not before, the property following, namely: [here describe the property], for the sum of £——; and I declare that the said E F has declined to accept the said property, and that the said A B has consented and agreed that I shall take over the said property as the purchaser thereof, for the sum of £——. And I further declare that I have not, nor has any person to my knowledge, on my account given, nor is there by me, or on my behalf, to be given, any other valuable consideration of any kind whatever, for or in respect of the alienation to me of the said property, save and except certain charges or payments which fall under, or come within, some one or more of the heads or items of charges or payments following: [here set forth in order from No. 1 to No. 9, both inclusive, the heads or items of charges or payments as in form A.] And I make this solemn declaration, conscientiously believing the same to be true.

Declaration of agent who takes over property bought for his principal.

(Signed) C. D.

Declared before me, this _____ day of _____, 18—.

No. 6—1884.

FORM J.

Declaration of seller of property re-sold after cancellation of first sale by mutual consent, order of Court, or other cause.

I, A B, do solemnly and sincerely declare that the sum of £—— is the full and entire purchase money for which I have sold to C D the following property, that is to say: [here describe the property]. And I declare that I sold the same to the said C D, on the —— day of ——, 18—, and not before; and that there is not any agreement, condition, or understanding between me and the said C D, whereby he has paid or is to pay to me or to any other person whomsoever, for or in respect of, or in connection with the purchase by him of the said property, any sum of money over and above the said sum of £——, save and except certain charges or payments which fall under or come within one or more of the heads or items of charges or payments following: [Here set forth in order, from No. 1 to No. 9, both inclusive, the heads or items of charges or payments as in form A.] And I further declare that I have not received, and that I am not to receive, nor has any other person received, nor is any other person to receive, for my use or benefit, or at my instance or request, any valuable consideration besides the said sum of £——, save and except in so far as any of the charges above specified, and to be paid by the said C D, might be held or taken to be payable for me or in my behalf. And I do further declare that the only person other than the said C D to whom I ever sold the said property, or who at any time purchased the said property from me, was E F, to whom I sold the same on the —— day of ——, 18—. And I further declare that the said sale to the said E F has been cancelled by mutual consent, and that the transfer duty thereupon has been remitted.

(Or, “and I further declare that the said sale has been set aside by a judgment of the Supreme Court bearing date the —— day of ——, 18—, pronounced in a suit wherein —— was the plaintiff, and —— was the defendant;”

(Or, “and I further declare that the said E F has, to the best of my knowledge and belief, left the colony, ‘or cannot be discovered within it’ (as the case may be), and that he has not paid me any part of the purchase money agreed to be paid, and that I have received from the Governor the permission herewith annexed to make this special declaration.”)

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) A B.

Declared before me this —— day of ——, 18—.

In cases falling under the twenty-first section of this Act the above form must be altered so as to set forth the amount of the money or the value of the consideration upon which transfer duty is by such section made payable, and to state that such transfer duty has been paid.

No. 6—1884.]

[Promulgated 18th July, 1884.

ACT

To make Further Provision for the Imprisonment in this Colony of Criminals sentenced in Adjacent Territories.

Preamble.

WHEREAS it is desirable to make further provision for authorising the imprisonment, with or without hard labour, of criminals sentenced to undergo such imprisonment by any competent Court in the territory of St. John's River, or in any other territory in South Africa to which this Act may be declared applicable: 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. Every person who has been or may hereafter be sentenced by any competent Court within the territory of St. John's River, or within any other territory in South Africa to which the Governor may, in exercise of the powers hereby conferred upon him, declare the provisions of this Act to extend or apply, to imprisonment with or without hard labour, may be sent into, imprisoned, and detained in the Colony of the Cape of Good Hope until the expiration of such sentence, and shall be treated in every respect as if the said sentence had been pronounced by some competent Court within the said Colony.

No. 7—1884.
Governor authorised to imprison within the Colony criminals sentenced in St. John's River or other territory.

2. A certificate signed by the Colonial Secretary, setting forth that from documents deposited in his office it appears that the person or persons named in such certificate has or have been sentenced as in this Act is mentioned, and for the term named in such certificate, shall, in all courts and places whatsoever, be deemed and taken to be conclusive evidence, at all times during the continuance of such term, that such person or persons is or are duly imprisoned and kept to hard labour, or otherwise, as the case may be, under and by virtue of the provisions of this Act.

Certificate of Colonial Secretary to be evidence of sentence.

3. This Act may be cited as "The Prisoners' Detention Act, 1884."

Short Title.

No. 7—1884.]

[Promulgated 18th July, 1884.

ACT

To Amend the Law relating to Boards of Management.

WHEREAS no provision has been made by law with regard to the liquidation of the liabilities and the fulfilment of the obligations or the disposal of the assets of Boards of Management, established under the provisions of the "Villages Management Act, 1881," which by virtue of the twenty-sixth section of the said Act may have ceased or may cease to exist; and whereas it is expedient that due provision should be made by law with reference to the said matters: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. In every municipality by or upon the establishment of which any Board of Management has ceased or shall hereafter by virtue of the twenty-sixth section of the said Act cease to exist, the commissioners or the municipal council of such municipality shall be subject to all and singular the liabilities and obligations to which such Board was or shall be subject at the time of the establishment of such municipality, and shall be entitled to all the moneys or other assets or property or things whatsoever, and to all the books, accounts, or other documents which belonged or shall belong to such Board or to which such Board was or

Municipalities to succeed to all assets and liabilities of Boards of Management.

No. 8—1884.

shall be in any way entitled upon the taking effect of the said section of the said Act.

When Village Management Act repealed, Board of Management to pay assets to the Divisional Council.

2. Whenever any Proclamation declaring a community to be subject to the provisions of the "Villages Management Act, 1881," shall be repealed, and the Board of Management of such community shall for that reason cease to exist, all moneys or other assets or property or things whatsoever, and all books, accounts, or other documents belonging to the said Board shall be vested in the Divisional Council of the division wherein the said community is situated, and such Divisional Council shall liquidate all valid claims which may be brought against the said Board out of the moneys or other assets of the Board, and should such moneys or other assets prove to be deficient in amount, the Divisional Council may levy a rate on the landed property situate within the limits of the said community sufficient to make good such deficiency, such rate to be levied and collected in all respects as if it were a rate levied by such Council for its own purposes.

Claims—mode of settlement by levy of rate.

Powers of Board in connection with Native Locations.

3. Whenever a Board of Management under the provisions of "The Villages Management Act, 1881," has been or shall be established in any Native Location or community to which the provisions of Act No. 10 of 1870 applied, and there are or shall be any funds received or receivable under the first section of the last-mentioned Act still remaining to be administered, the said Board of Management shall be entitled to all such funds, and shall be invested with and subject to all and singular the rights, liabilities and obligations attaching to such funds, and shall be entitled to all books, accounts, and other documents relating to such funds.

Disposal of funds.

Who to preside at meetings in absence of Resident Magistrate.

4. In the event of no Resident Magistrate or Justice of the Peace being present at any such meeting as is mentioned in the fifth section of "The Villages Management Act, 1881," any registered voter enrolled upon the list of registered voters referred to in the said section may be elected by a majority of the registered voters present at such meeting to preside thereat, and the person so presiding shall have and may exercise all the powers and shall discharge all the duties which any Resident Magistrate or Justice of the Peace would have and exercise and would be bound to discharge if present.

Short Title.

5. This Act may be cited as the "Villages Management Act Amendment Act, 1884."

No. 8—1884.]

ACT

[*

To Check the Spread of the Disease known as Leprosy.

WHEREAS the disease of Leprosy is prevalent in this Colony and has lately been spreading and continues to spread; and it is desirable to check the extension of such disease and, if

* Not promulgated when this edition was passing through the press,

menes
y ac
Preamble. 14
44

possible, to exterminate it: 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:

No. 8—1884.

1. Whenever it shall be certified to the Governor, by the district surgeon of any district, or by any other duly qualified medical practitioner, and by a field-cornet or justice of the peace, that any person is suffering from the disease known as leprosy, and that the fact of such person being at large is likely to spread such disease, the Governor may, by warrant under the hand of the Colonial Secretary or Under Colonial Secretary, order that such person shall be removed to such asylum or hospital as he shall appoint, to be there detained during the Governor's pleasure, and kept apart from contact with all other inmates of such asylum or hospital who are not afflicted with the same disease: Provided, always, that every such person, while so detained, shall have the liberty and privilege of seeing his friends and legal advisers at all reasonable times under such regulations in force for the time being, as the Governor may provide in that behalf.

How persons suffering from leprosy to be dealt with.

2. Every asylum or hospital in which males shall be detained under the provisions of this Act shall be separated entirely from any asylum or hospital in which females shall be detained.

Males to be kept apart from females.

3. When any person shall be detained under the provisions of this Act the maintenance of such person shall, until further provision be made therefor, be defrayed out of the colonial revenues: Provided, always, that all sums so paid may be recovered from the estate, if any, of 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 situate, or in which the person or persons so liable shall reside.

Provision for maintenance of persons detained under this Act.

4. Notwithstanding the provisions of the last preceding section, it shall be lawful for the superintendent or keeper of any such hospital or asylum, in all cases in which a person detained under the provisions of this Act shall be possessed of sufficient means to defray the expense of his maintenance in any such hospital or asylum, to make a special agreement with such person for his maintenance while so detained.

Special agreement may be made with detained person for maintenance.

5. All district surgeons and medical officers shall give any information which may be required in regard to the disease referred to in this Act by the local authority appointed under the "Public Health Act, 1883," or by any resident magistrate, and shall be bound to attend to or inspect any case, or report on any matter relative to this Act, and every such surgeon or medical officer shall be entitled to charge and receive from such local authority or otherwise such reasonable fee as the Governor shall by any regulation in that behalf provide for each certificate required together with some reasonable amount for travelling expenses as such regulation shall prescribe.

District surgeons and other medical officers to inspect cases and make reports at reasonable fees.

E

No. 9--1884.

Governor may
make regulations.

Short Title.

6. The Governor may, from time to time, make, alter, and amend such regulations as he may deem to be advisable for the better and more effectually carrying out the provisions of this Act.

7. This Act may be cited as the "Leprosy Repression Act, 1884."

No. 9—1884.]

[Promulgated 9th July, 1884.

ACT

To apply a Sum of Money for the Service of the Year ending the 30th day of June, 1885.

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 Revenue
charged with
£2,086,656.

1. The public revenue of the colony is hereby charged towards the service of the year ending the 30th day of June, 1885, with a sum of two millions and eighty-six thousand six hundred and fifty-six 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 Colonial Estimates of the Expenditure for the year ending the 30th June, 1885, with the notes to such Estimates submitted to and approved by Parliament.

Not to be applied
except as granted.

3. The said aids and supplies shall not be issued or applied to any use, intent, or purpose, other than the particular service to which the said amounts have been granted respectively by this Act, and the aforesaid schedule and estimates.

Short Title.

4. This Act may be cited for all purposes as the "Appropriation Act, 1884."

SCHEDULE.

Summary of Recapitulation of Estimates.	Establish- ments.	Services ex- clusive of Establish- ments.	Total.	Required to be provided for.
Ministerial Department of	£	£	£	£
1. Colonial Secretary ..	616,729	471,772	1,088,501	982,476
2. Treasurer of the Colony ..	46,346	1,249,406	1,295,752	9,234
3. Attorney-General ..	39,735	15,650	55,385	41,830
4. Commissioner of Crown Lands and Public Works	106,542	919,575	1,026,117	1,004,427
5. Secretary for Native Affairs	59,892	6,126	66,018	48,689
Grand Totals ..	869,244	2,662,529	3,531,773	2,086,656

No. 10—1884.]

[Promulgated 11th July, 1884.]

ACT

To Provide for the more Effectual Working of the Public Health Act of 1883.

WHEREAS it is desirable to provide for the more effectual working of the Public Health Act of 1883 within certain portions of Griqualand West, and to provide for the due levying of rates for the purposes of that Act on claim property in mines and otherwise: 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:—

Preamble.

1. The Governor may constitute a Board to consist of five persons, of whom the Civil Commissioner of Kimberley shall be one, for the purpose of carrying out the provisions of the "Public Health Act of 1883" within such area as he may define within the Division of Kimberley, the Municipality of Beaconsfield, and the respective Mines and Mining Areas of Kimberley, De Beer's, Du Toit's Pan and Bultfontein. Such Board shall be deemed a "Local Authority" for the purposes of the "Public Health Act of 1883" and of this Act.

Governor to constitute a Board of five persons.
C.C. of Kimberley to be one

2. Of the remaining four persons to be appointed by the Governor, one shall be selected from the members of the Borough Council of Kimberley, one from the members of the Town Council of Beaconsfield, and two from the members of the mining boards or committees of management as the case may be of the said mines.

Selection of remaining four.

3. Three of the members of the Board constituted under this Act shall form a quorum for the dispatch of business, and in case any member shall absent himself without leave from three consecutive meetings of the Board, or from the division of Kimberley for one month, his seat shall become vacant, and another member may thereupon be appointed by the Governor in his place.

Three to form a Quorum.

4. Subject to the provisions hereinafter in this Act contained the said "Local Authority" shall, for the purposes of the said Public Health Act, have power to levy and recover rates upon all property liable to assessment, within the borough of Kimberley and municipality of Beaconsfield, and upon all claims and other property within the respective mining areas included within the area under its jurisdiction.

Local authority to levy rates.

5. The value of the rateable property upon which such Local Authority may levy rates shall be the value according to the latest assessment made for the purpose of the said borough of Kimberley and municipality of Beaconsfield, and for the purpose of the respective mining boards or committees of management as the case may be. The said Borough Council of Kimberley, the Town Council of Beaconsfield, and the several mining boards and committees of management aforesaid, shall respectively furnish to the

How value of rateable property to be ascertained.

- No. 11—1884. “Local Authority” copies of their valuation or assessment rolls within ten days after delivery of a notice in writing calling for copies.
- In case valuation roll be not furnished. **6.** In case of default in furnishing any copy of such valuation or assessment roll, the “Local Authority” may either apply to a competent court to compel the body in default to furnish such copy, or proceed to frame such roll, and for that purpose the “Local Authority” is hereby invested with all the powers and authority of the body so in default.
- Collection of rates already imposed. **7.** The Divisional Council of the Division of Kimberley shall complete the collection of the rate amounting to three farthings in the £ already imposed by such council upon property liable to assessment other than property within the mining areas for the purposes of the said “Public Health Act,” and shall from time to time pay over the proceeds of such rate to the said “Local Authority;” but no further rate for such purposes shall be levied, until the said “Local Authority” have levied and collected a rate of not less than three farthings in the £ on the claim and other property within the mining areas aforesaid.
- Payment over to “Local Authority.” **8.** The “Local Authority” created by this Act shall take over and discharge all debts which may have been contracted by the “Local Authority” already existing, for the purpose of carrying out the provisions of the said “Public Health Act;” and shall be invested with all property belonging to such last mentioned “Local Authority.”
- New “Local Authority” to discharge debts of old one. **9.** During the prevalence of any epidemic all householders, district surgeons, medical officers and medical practitioners shall report any case or cases of sickness which may come under their notice, and the symptoms of which to their knowledge are similar to the symptoms of the prevailing epidemic, to the Board of Health, or any Board appointed under the provisions of this Act; the said cases to be reported within twelve hours under a penalty not exceeding twenty pounds for each default.
- During epidemic all cases of sickness to be reported to Board of Health. **10.** The Governor may, when he shall deem fit, abolish the “Board of Health” heretofore constituted for the district of Kimberley, or the Board to be constituted under the provisions of this Act.
- Power to Governor to abolish Board of Health. **11.** This Act may be cited as the “Public Health Extension Act, 1884.”
- Short Title.

No. 11—1884.]

[Promulgated 22nd July, 1884.]

ACT

To Levy and Collect a Duty on Beer brewed within this Colony.

WHEREAS it is expedient to levy and collect a duty on beer brewed in the colony: 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:—

No. 11—1884.

1. This Act may be cited as the “Excise Beer Duty Act, 1884.”

Short Title.

2. In this Act each of the following terms shall have the meaning assigned to it by this section, unless it is otherwise expressly provided, or there is something in the subject or context inconsistent therewith.

Interpretation of terms.

“Person” includes a body of persons, whether corporate or otherwise :

“Beer” includes ale, porter, spruce beer and black beer, and any other description of beer, and shall be taken to mean any liquor made from infusion or decoction of malt, grain, or saccharine matter which contains spirit, and to which any bitter flavour has been communicated by the addition of hops, herbs, or other ingredients capable of being used as a bitter; and any fermented liquor which shall contain not less than three per centum of proof spirit, although the same shall not be included under the foregoing definition, or cannot be regarded as sweets, or made wines, shall, for the purposes of the revenue, be deemed beer, and be subject to all regulations applicable to beer :

“Brewer” means a brewer of beer for sale :

“Sugar” means any saccharine substance, extract, or syrup, and includes any material capable of being used in brewing except malt or corn :

“Sweets” means any home-made wine produced from the juice of fruit and in which spirit is produced by fermentation :

“Chief Inspector” means the Chief Inspector of Excise :

“Civil Commissioner” means the Civil Commissioner for the division in which the premises of a brewer are situate :

“Officer” means officer of Excise :

“Proper Officer” means the officer of the division or place in which the premises of a brewer are situate, and includes a person acting as such officer, and also any officer superior in matters of Excise to such officer :

“Prescribed” and “approved” mean respectively prescribed or approved by the Governor by regulations or otherwise, or by the Chief Inspector :

“This Act” includes any regulations made under the provisions hereinafter contained.

BREWERS AND EXCISE DUTY ON BEER.

3. (1). No person shall brew beer for sale without a licence in the prescribed form : and in respect of every such licence there shall be paid by means of stamps the following sums :—

Brewer's licence.

For a licence paid before the thirtieth June in any year, to expire on the thirty-first day of December. One pound.

No. 11—1884.

For such a licence if paid after the thirtieth day of

June Ten shillings.

Penalty and forfeiture for brewing without licence.

(2). If any person shall brew beer for sale without having in force such licence, he shall incur the penalty by this Act provided, and all worts, beer, vessels, utensils, and materials for brewing in his possession shall be absolutely forfeited.

Duty on beer.

4. On and after such date as may be fixed by the Governor in that behalf, there shall be levied, collected and paid, in respect of beer brewed in the colony, a duty calculated according to the specific gravity of the worts thereof at the rate mentioned in the first Schedule to this Act.

Equivalent of "bushel of malt" in corn or sugar, and definition of expression.

5. Forty-two pounds weight of malt or corn of any description, or twenty-eight pounds weight of sugar, shall be deemed the equivalent of a bushel of malt; and the expression "bushel of malt" shall include either of its equivalents, or any quantities of malt, corn, and sugar, or any two of those materials, as by relation to such equivalents shall be equal to a bushel of malt.

Regulations as to charge of duty and allowance for waste.

6. (1) Every brewer shall be deemed to have brewed thirty-six gallons of worts of the gravity of one thousand and fifty-seven degrees for every two bushels of malt entered or used by him in brewing.

(2) If the amount of worts deemed to have been brewed by relation to materials, exceeds in quantity and gravity by more than four per centum the worts produced from such materials, the duty shall be charged in respect to the excess over and above the four per centum.

(3) In respect of such loss and waste as arises in brewing of beer including sour beer a deduction shall be made from the quantity of wort produced at the rate of ten per cent.

(4) Where the materials used in brewing are proved to the satisfaction of the Chief Inspector to be of such a description or nature that some deduction from the quantity chargeable by relation to the materials should be made, such a deduction shall be made from that quantity as shall in the opinion of the Chief Inspector afford just relief to the brewer.

Payment of duty.

7. The duty on beer shall become due immediately on the same being charged by the officer, but the Governor shall have the power to allow the charge to be made up on the last day of each month, and in case the last day shall be a Sunday then on the previous Saturday, in respect of all the brewings during that month, and in that case the aggregate of the amounts of worts deemed to be brewed by relation to materials, and the aggregate of the amounts of worts produced, shall be treated as worts deemed to be brewed or produced in one brewing.

Power to distrain for duties in arrear.

8. (1) If any duty be in danger, or if payable by a brewer remains unpaid for a period of fifteen days after the

expiry of any month, the Resident Magistrate or Chief Inspector may, by warrant signed by him, empower any person to distrain all beer, malt, or other materials for brewing, vessels and utensils belonging to the brewer, or in any premises in possession of the brewer or of any person on his behalf or in trust for him, and to sell the same by public auction, giving six days' previous notice of the sale, and all such beer, malt, or other materials for brewing, together with the vessels and utensils in any premises in the use or possession of the brewer or of any person in his behalf, or in trust for him, whether the same be the property of the brewer or not, are hereby made chargeable with such duty.

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- (2) The proceeds of sale shall be applied in or towards payment of the costs and expenses of the distress and sale, and in or towards payment of the duties due from the brewer, and the surplus, if any, shall be paid to the brewer.
- (3) In the event of any beer, malt, or other materials being so distrained, the brewer may at any time before the day appointed for the sale, release the whole or any part thereof, on paying to the Civil Commissioner, Chief Inspector, or other duly authorised officer, in or towards payment of the duty, the true value of the beer, malt, or other materials.

9. When any materials upon which a charge of duty has been made, or any worts or beer shall be destroyed by accidental fire, or other unavoidable cause, while the same are on the entered premises of a brewer, the Chief Inspector shall, on proof of such to his satisfaction, authorise the remission or re-payment of the duty charged or paid.

Loss by fire, &c.

AS TO BREWERS.

10. Every person who brews beer for sale, whether by wholesale or retail, or for any purpose of trade, shall be deemed to be a brewer within the meaning of this Act, whether the said person be licensed to deal in or retail beer or not.

Who deemed brewers of beer.

11. Every brewer shall keep such books as the Governor may prescribe, setting forth from day to day the nature and quantity of materials used by him in brewing, and an officer duly appointed in that behalf may at all times demand an inspection of any such books, make extracts therefrom, and examine and take account of any materials and worts upon the premises of such brewer, or in any warehouse or store connected therewith.

Books to be kept by brewers: what to contain and how to be examined.

12. All materials for the manufacture of any beer shall be received into and delivered from any building or place used by any brewer for the purposes of his business as such brewer, in accordance with such rules and regulations as the Governor may prescribe,

Materials to be received and used in accordance with regulations.

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Marking of premises and vessels.

13. All premises used by any brewer for the purposes of his business, and all utensils or vessels used by him for or in connection with such business, shall be marked, numbered, or otherwise distinguished in such manner as the Governor may by any regulation in that behalf prescribe.

Prescribed form of entry of premises, &c.

14. (1) Every brewer shall, before he begins to brew, make entry in the prescribed form, of all premises, rooms, places, and vessels intended to be used by him for his business, specifying the purpose for which each room, place, and vessel is to be used, and the mark by which it is distinguished: Provided that every brewer intending to use sugar in the brewing or making of beer shall keep and store such sugar in a warehouse, storehouse, room or place which shall be entered and used for that purpose, and no other, and any sugar which shall be found in any part of the brewery premises not entered for the purpose of keeping and storing sugar, except such sugar as shall be in the course of removal for mashing or dissolving, under the prescribed notice, shall be absolutely forfeited, and the brewer shall be liable to the penalty by this Act provided.

(2) The brewer shall sign the entry and deliver it to the proper officer.

Operations to be carried on in accordance with regulations.

15. The period of time allowed for the various operations of brewing, and for removing any material or wort from the several vessels used in such operations, shall be in accordance with such rules and regulations as the Governor may prescribe.

Provisions for case of excess in gravity of worts.

16. If the original gravity of any worts contained in the collecting or fermenting vessels shall at any time be found to exceed by five degrees the gravity as entered in the book by the brewer, or as ascertained by the officer, such worts shall be deemed to be the produce of a fresh brewing, and be charged with duty accordingly.

Officers may take samples.

17. (1) An officer may take such samples as he may deem necessary of any worts or beer, or materials for brewing, in the possession of any brewer.

(2) The brewer may, if he wishes, before any such sample is taken, stir up and mix together all such worts, beer, or materials from which the sample is taken.

Mode of ascertaining gravity of wort.

18. (1) An approved saccharometer and tables shall be used to ascertain the quantity by relation to gravity of all worts: and, in calculating the gravity, a degree of gravity shall be taken as equal to one-thousandth part of the gravity of distilled water at sixty degrees Fahrenheit.

(2) The quantity and gravity so ascertained shall be deemed to be the true quantity and gravity of such worts.

(3) When fermentation has commenced in any worts so that the original gravity cannot be ascertained by the saccha-

rometer, such gravity may be determined in the following manner:—

No. 11—1884.

- (a) A sample is to be taken from any part of such worts, and a definite quantity thereof by measure at the temperature of sixty degrees Fahrenheit shall be distilled.
- (b) The distillate and residue shall each be made up with distilled water to the original measure of the quantity before distillation, and the gravity of each shall be ascertained.
- (c) The number of degrees by which the gravity of the distillate is less than the gravity of distilled water shall be deemed the spirit indication of the distillate.
- (d) The degrees of original gravity standing opposite to such indication in the table in the second Schedule to this Act added to the specific gravity of the residue shall be deemed to be the original gravity of the worts.

19. If any brewer shall conceal any worts or beer, so as to prevent any officer from taking an account thereof, or shall mix any sugar or other material with any worts or beer so as to increase the quantity or gravity thereof after an account of such worts or beer has been taken by an officer and the duty has been charged thereon, he shall, for every such offence, be liable to the penalty by this Act provided, and the worts or beer in respect of which the offence is committed, together with the vessels containing the same, shall be absolutely forfeited.

Concealing worts or beer, or adding sugar thereto after duty charged.

20. Every brewer shall

- (1) Provide and maintain sufficient and just scales and weights and other necessary and reasonable appliances to enable the officers to take account of, or check by weight, gauge, or measure, all materials and liquids used or produced in brewing, and shall
- (2) Render all necessary assistance to the officers in the taking of such accounts, and shall
- (3) If required by the officer, provide sufficient lights, ladders, and other conveniences.

Brewer to provide scales, weights, ladders, &c.

21. (1) An officer may at any time, either by day or night, enter any part of the entered premises of a brewer, to take an account of the materials used or to be used in brewing, and of the worts and beer produced.
- (2) If an officer after having demanded admission into the entered premises of a brewer, declares his name and business at any entrance or window thereof, is not immediately admitted, the officer, and any person acting in his aid, may at any time, either by day or night, break open any door or window of the premises, or break

Power of entry and examination by officers.

No. 11—1884.

Power to enter and search for concealed pipes, &c.

through any wall thereof for the purpose of obtaining admission.

- 22.** (1) If any officer has reason to suspect that any private or concealed pipe, or conveyance, or vessel, is kept or made use of by a brewer, he may, either by day or night, break open any part of the premises of such brewer and forcibly enter therein, and may break up the ground in or adjoining such premises, or any wall thereof, to search for such private or concealed pipe, or conveyance, or vessel.
- (2) If such officer shall find any such pipe or conveyance, he may enter any house in the possession of any other person into which such pipe or conveyance may lead, and may break up any part of such house or premises to search for the vessel communicating with such pipe.
- (3) Every such pipe, conveyance, or vessel and all beer, worts, or materials for brewing found therein, shall be absolutely forfeited, and the brewer shall be liable to the penalty by this Act provided.
- (4) If any damage is done in the search, and such search is unsuccessful, the damage shall be made good by the Treasury.
- (5) If any dealer in or retailer of beer shall keep or make use of any molasses, sugar, honey, syrup, composition or extract of sugar, or any preparation whatever, as a substitute for malt, or shall mix or put into any beer any such molasses, sugar, honey, syrup, composition or extract of sugar, or any preparation whatever, unless in accordance with prescribed regulations, he shall be liable to the penalty by this Act provided, and all such molasses, sugar, honey, syrup, composition or extract of sugar, or any preparation whatever, shall be absolutely forfeited.
- (6) It shall be lawful for any officer to enter upon the premises of any dealer in or retailer of beer, to search for, discover and seize any molasses, sugar, honey, syrup, composition or extract of sugar, or any preparation whatever, which may be used as a substitute for malt or in the preparation of beer.

Substitutes for malt.

RULES AND REGULATIONS.

Rules and regulations may be made by Governor.

23. The Governor may make rules and regulations for all or any of the following purposes:—

- (1) For the guidance and conduct of officers and persons employed in carrying this Act into effect.
- (2) For ascertaining the amount of duty payable, and securing and enforcing payment thereof.
- (3) For prescribing all things necessary to be done for effectually carrying the provisions of this Act into effect.

PENALTIES.

No. 11—1884.

Penalties.

24. Any person who shall

- (1) By himself or by any person in his employ obstruct, hinder, or molest any officer or person in the execution or performance of any duty, which such officer or person is, by this Act or by any regulations made under this Act, required to perform, or aid in performing: or
- (2) Contravene any of the provisions of this Act, or of any regulations made under this Act:

Shall upon conviction be liable to a penalty not exceeding one hundred pounds, in respect of each act or offence (in addition to any penalty or forfeiture by this Act otherwise provided), and in default of payment to imprisonment, with or without hard labour, for any period not exceeding twelve months, unless such penalty be sooner paid.

- (3) All penalties under this Act may be recovered in the name of the Chief Inspector or other duly authorised officer in the Court of the Resident Magistrate of the district in which the offence was committed.

DRAWBACK ON BEER EXPORTED.

25. There shall be allowed and paid in respect of beer which shall be exported from the colony as merchandise, or shipped for use as ship's stores, a drawback, calculated according to the gravity and rate of duty specified in the schedule, subject to such regulations as shall be prescribed.

Drawback on beer exported.

FIRST SCHEDULE.

Duty payable in respect of beer brewed in the Colony, according to the provisions of the fourth section of the "Excise Beer Duty Act, 1884," that is to say: Upon every thirty-six gallons of worts of a specific gravity of one thousand and fifty-seven degrees, the duty of twelve shillings; and so in proportion for any difference in quantity or gravity.

1st Schedule.

SECOND SCHEDULE.

TABLE A.

2nd Schedule.

TABLE TO BE USED IN DETERMINING THE ORIGINAL SPECIFIC GRAVITY OF WORTS OR WASH.

Degrees of Spirit Indication.	Degrees of original specific gravity.	Degrees of Spirit Indication.	Degrees of original specific gravity.	Degrees of Spirit Indication.	Degrees of original specific gravity.	Degrees of Spirit Indication.	Degrees of original specific gravity.
·1	·3	4·1	15·5	8·1	34·3	12·1	54·9
·2	·6	4·2	16·0	8·2	34·8	12·2	55·4
·3	·9	4·3	16·4	8·3	35·4	12·3	55·9
·4	1·2	4·4	16·8	8·4	35·9	12·4	56·4
·5	1·5	4·5	17·3	8·5	36·5	12·5	56·9
·6	1·8	4·6	17·7	8·6	37·0	12·6	57·4
·7	2·1	4·7	18·2	8·7	37·5	12·7	57·9
·8	2·4	4·8	18·6	8·8	38·0	12·8	58·4
·9	2·7	4·9	19·1	8·9	38·6	12·9	58·9
1·0	3·0	5·0	19·5	9·0	39·1	13·0	59·4
1·1	3·3	5·1	19·9	9·1	39·7	13·1	60·0
1·2	3·7	5·2	20·4	9·2	40·2	13·2	60·5
1·3	4·1	5·3	20·9	9·3	40·7	13·3	61·1
1·4	4·4	5·4	21·3	9·4	41·2	13·4	61·6
1·5	4·8	5·5	21·8	9·5	41·7	13·5	62·2
1·6	5·1	5·6	22·2	9·6	42·2	13·6	62·7
1·7	5·5	5·7	22·7	9·7	42·7	13·7	63·3
1·8	5·9	5·8	23·1	9·8	43·2	13·8	63·8
1·9	6·2	5·9	23·6	9·9	43·7	13·9	64·3
2·0	6·6	6·0	24·1	10·0	44·2	14·0	64·8
2·1	7·0	6·1	24·6	10·1	44·7	14·1	65·4
2·2	7·4	6·2	25·0	10·2	45·1	14·2	65·9
2·3	7·8	6·3	25·5	10·3	45·6	14·3	66·5
2·4	8·2	6·4	26·0	10·4	46·0	14·4	67·1
2·5	8·6	6·5	26·4	10·5	46·5	14·5	67·6
2·6	9·0	6·6	26·9	10·6	47·0	14·6	68·2
2·7	9·4	6·7	27·4	10·7	47·5	14·7	68·7
2·8	9·8	6·8	27·8	10·8	48·0	14·8	69·3
2·9	10·2	6·9	28·3	10·9	48·5	14·9	69·9
3·0	10·7	7·0	28·8	11·0	49·0	15·0	70·5
3·1	11·1	7·1	29·2	11·1	49·6	15·1	71·1
3·2	11·5	7·2	29·7	11·2	50·1	15·2	71·7
3·3	12·0	7·3	30·2	11·3	50·6	15·3	72·3
3·4	12·4	7·4	30·7	11·4	51·2	15·4	72·9
3·5	12·9	7·5	31·2	11·5	51·7	15·5	73·5
3·6	13·3	7·6	31·7	11·6	52·2	15·6	74·1
3·7	13·8	7·7	32·2	11·7	52·7	15·7	74·7
3·8	14·2	7·8	32·7	11·8	53·3	15·8	75·3
3·9	14·7	7·9	33·2	11·9	53·8	15·9	75·9
4·0	15·1	8·0	33·7	12·0	54·3	16·0	76·5

No. 12—1884.]

[Promulgated 25th July, 1884.

Repealed by 1889 ACT 17.

To Authorise the Establishment of a Toll on the Bridge crossing the Orange River at Hope Town.

WHEREAS under and by virtue of a certain Government Notice Number 245 of 1882, tolls have been levied on persons, vehicles and animals passing over the bridge over the Orange River at Hope Town; and it is doubtful whether such notice could be lawfully issued without the sanction and authority of the Legislature of this Colony: And whereas it is desirable to remove such doubt and to authorise the collection of tolls at the said bridge: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

1. Anything in Act Number 10 of 1864 and in any other Act or Ordinance inconsistent with or repugnant to the provisions of this Act is hereby repealed, so far as in consistency or repugnancy exists, but not further or otherwise.

2. It shall be lawful for the Governor by Proclamation in the *Government Gazette* to establish a toll at the bridge crossing the Orange River at Hope Town, and to fix the rates which shall be payable on or in respect of all persons, animals or vehicles passing over the said bridge, excepting such persons, animals or vehicles as are by law exempt from the payment of tolls.

3. Until such rates shall be fixed or altered by such Proclamation as in the last preceding section mentioned, the rates in the tariff to the said Government Notice Number 245 of 1882 shall be the rates to be levied at the said bridge.

4. The rates which have hitherto been levied under the said Government Notice shall be deemed and taken to have been lawfully taken and levied as if the same had been taken and levied under the authority of this Act.

5. This Act may be cited as the "Hope Town Bridge Toll Act, 1883."

Repealed by 1889 Act 1.

No. 13—1884.]

[Promulgated 15th July, 1884.

ACT

For Altering the Duties of Customs in the Colony of the Cape of Good Hope.

WHEREAS it is expedient to alter the duties of Customs upon articles imported into this Colony and liable to such duties: Be it enacted by the Governor of the Colony of the Cape

No. 13—1884.

of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

What customs duties to be payable.

1. In lieu and instead of the duties of Customs now leviable upon articles imported into this Colony under any Act heretofore in force, there shall be raised, levied, collected, and paid to Her Majesty, her heirs and successors, upon goods imported or brought into any part of the Colony of the Cape of Good Hope, the several duties of Customs, as the same are respectively inserted, described, and set forth in the schedule to this Act annexed.

What goods to be free of duty.

2. All goods described as free in the said schedule, shall be exempt from duty on the importation thereof into the Colony of the Cape of Good Hope.

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

3. Whereas contracts or agreements may have been made for the sale or delivery of any of the articles or goods upon which by this Act duties of Customs have been increased or imposed when such duties have not hitherto been leviable, or decreased, or repealed, which contracts or agreements may have been made with no reference to such increase, imposition, decrease, or repeal, and thereby several contracting parties may be materially affected: It shall be lawful for the seller in case such increase or imposition shall accrue before the clearance and delivery from the warehouse of such goods, and after payment of any new duty or the amount of any increase in the duty, to add so much money to the contract price as will be equivalent to such duty or increase of duty, and he shall be entitled to be paid and to sue for and to 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 and delivery from the warehouse at such decreased duty or free of duty, as the case may be, to deduct so much money from the contract price as will be equivalent to such decrease of duty or repealed duty, and shall not be liable to pay or to be sued for or in respect of such deduction.

Short title and dates of taking effect.

4. This Act may be cited for all purposes as "The Customs Tariff Amendment Act, 1884," and the rates of duty imposed by this Act shall commence and take effect from the dates as set forth opposite the respective articles in the annexed schedule.

SCHEDULE OF CUSTOMS DUTIES.

No. 13—1884.

ARTICLE.	RATE.			DATE TO HAVE EFFECT FROM.
	£	s.	d.	
Agricultural Implements, for every £100 value	10	0	0	Promulgation of this Act.
Ale and Beer .. the gallon	0	1	3	28th May, 1884.
Bags for Flour, Grain, Coal and Wool, for every £100 value	10	0	0	Promulgation of this Act.
Boots and Shoes, viz :				
Men's .. the dozen pairs	0	8	0	28th May, 1884.
Women's .. do.	0	6	0	Do.
Boys' and Girls' do.	0	3	0	Do.
Children's .. do.	0	2	0	Do.
Slippers and Goloshes do.	0	2	0	Do.
and for every £100 value do.	10	0	0	Do.
Butter, including Butterine or any other substance imported for mixing with or for use as Butter, .. the 100 lb.	0	12	6	28th May, 1884
Candles the lb.	0	0	3	1st July, 1884.
Carriages, Carts, Waggon, and other wheeled vehicles, in- cluding wheel-barrows, for every £100 value	20	0	0	Do.
Axles, Springs and Lamps for Carts and Carriages, for every £100 value	10	0	0	Promulgation of this Act.
Cartridges, for every £100 full value	15	0	0	Do.
and for every lb. of Gunpowder therein	0	0	6	Do.
Cement, per 400 lbs.	0	1	6	1st July, 1884.
Cheese the 100 lbs.	0	16	8	28th May, 1884.
Chicory do.	0	16	8	Do.
Cider the gallon	0	0	6	Do.
Cinnamon or Cassia .. the lb.	0	0	3	Promulgation of this Act.
Cloves the lb.	0	0	3	Do.
Coals, Coke, and Patent Fuel, the ton of 2,000 lbs.	0	1	0	1st July, 1884.
Cocoa and Chocolate the 100 lbs.	0	16	8	28th May, 1884.

No. 13—1884.

ARTICLE.	RATE.			DATE TO HAVE EFFECT FROM.
	£	s.	d.	
Coffee the 100 lbs.	0	16	8	1st July, 1884.
Confectionery: Jams, Jellies, and Manufactured Sweets, not being medicated or properly classed as Apothecaryware, but including Sweetmeats of all sorts, and other articles with which sugar is largely compounded for preserving purposes .. the 100 lbs.	0	16	8	28th May, 1884.
Corks and Bungs, for every £100 value	10	0	0	Promulgation of this Act.
Corn and Grain, viz.:				
Barley .. the 100 lbs.	0	1	0	1st July, 1884.
Maize .. do.	0	1	0	Do.
Oats .. do.	0	1	0	Do.
Rye .. do.	0	1	0	Do.
Wheat .. do.	0	1	0	Do.
Dates .. do.	0	4	2	28th May, 1884.
Dynamite, Blasting Powder, Blast- ing Compound, Gun Cotton, and Fuze .. the lb.	0	0	6	29th May, 1884.
Flour, Wheaten and Wheaten Meal, the 100 lbs. .. .	0	3	6	1st July, 1884.
Fruits, Dried: Currants, Raisins, and Figs .. the 100 lbs.	0	12	6	28th May, 1884.
Other Sorts .. do.	0	12	6	Do.
Ginger, Dry, the lb. .. .	0	0	3	Do.
Preserved Chow Chow and other similar Preserves .. the lb.	0	0	4	Promulgation of this Act.
Gunpowder do.	0	0	6	Do.
Guns or Gun Barrels .. the barrel	1	0	0	Do.
Hops .. for every £100 value	10	0	0	Do.
Iron, Bar, Bolt and Rod, for every £100 value .. .	10	0	0	Promulgation of this Act.
Iron Wire } for Fencing, for Steel Wire } every £100 value	10	0	0	Do.
Lard, the 100 lbs. .. .	0	12	6	28th May, 1884.
Mace the lb.	0	0	3	Promulgation of this Act.
Malt, for every £100 value ..	10	0	0	Do.

ARTICLE.	RATE.	DATE TO HAVE EFFECT FROM.
Marble, for every £100 value ..	£ s. d. 10 0 0	1st July, 1884.
Matches: viz.:		
Wooden, in boxes or other packages containing not more than 100 matches, the gross	0 4 0	Do.
In boxes or other packages containing more than 100 and not more than 200 matches, the gross .. (And at the same rate for larger boxes)	0 8 0	1st July, 1884.
Wax Vestas and Fusees in boxes or other packages, containing up to 50 Vestas or Fusees, the gross ..	0 4 0	Do.
In boxes or other packages containing up to 100 Vestas or Fusees, the gross .. (And at the same rate for every additional 50 Vestas or Fusees)	0 8 0	Do.
Meat, Salted or Cured, and not in cases, hermetically sealed, the 100 lbs.	0 8 4	28th May, 1884.
Metal Composition and Sheathing, for every £100 value ..	10 0 0	1st July, 1884.
Mules each	1 0 0	Promulgation of this Act.
Nutmegs the lb.	0 0 3	Do.
Nuts, all kinds, excepting Cocoa Nuts, the 100 lbs.	0 8 4	28th May, 1884.
Oils, of all descriptions, including Mineral, imported in vessels containing not less than one Imperial Pint (Chemical, Essential, Perfumed, and Castor Oils, and Fish Oils in the raw state, the produce of Africa excepted), the Imperial gallon	0 1 0	Promulgation of this Act.
Paddy, the 100 lbs.	0 2 6	1st July, 1884.
Pepper, the lb.	0 0 3	28th May, 1884.

No. 13-1884.

ARTICLE.	RATE.			DATE TO HAVE EFFECT FROM.
	£	s.	d.	
Pictures and Engravings, and Frames for same, for every £100 value	15	0	0	1st July, 1884.
Pimento, the lb.	0	0	3	28th May, 1884.
Pistols or Pistol Barrels, each ..	0	10	0	Promulgation of this Act.
Rattans, for every £100 value ..	15	0	0	1st July, 1884.
Rice, the 100 lbs.	0	4	2	Do.
Rosin, for every £100 value ..	10	0	0	Promulgation of this Act.
Salt, in Bulk or in Bags, or other packages of not less than 100 lb., the 100 lb.	0	0	3	Promulgation of this Act.
Soap, Common, Brown, Blue, Yellow, or Mottled, not perfumed, the 100 lbs.	0	4	2	28th May, 1884.
Soda, Caustic, for every £100 value	10	0	0	Promulgation of this Act.
Spirits or Strong Waters of all sorts, not sweetened, mixed, or perfumed, and not exceeding the strength of proof by Sykes' hydrometer, and so in proportion for any greater strength of proof, imported in bottles, each of not greater content than six to the Imperial gallon, per dozen bottles	1	1	0	Do.
Spirits or Strong Waters, of all sorts, not sweetened, mixed or perfumed, and not exceeding the strength of proof by Sykes' hydrometer, and so in proportion for any greater strength of proof, imported in bottles each of not greater content than twelve to the Imperial gallon, per dozen bottles	0	10	6	28th May, 1884.
Spirits or Strong Waters, in bottles of greater capacity or contents than the above, per Imperial gallon	0	10	0	28th May, 1884.

ARTICLE.	RATE.			DATE TO HAVE EFFECT FROM.
	£	s.	d.	
Spirits or Strong Waters, not in bottle, per Imperial gallon. .	0	10	0	28th May, 1884.
Spirits, sweetened or mixed, so that the degree of strength cannot be ascertained, imported in bottles, each of not greater content than six to the Imperial gallon, per dozen bottles	1	4	0	Do.
Spirits, do., do., imported in bottles, each of not greater content than twelve to the Imperial gallon, per doz. bottles	0	12	0	Do.
Spirits, do., do., not in bottle, the Imperial gallon	0	12	0	Do.
Spirits, Perfumed, the Imperial gallon	0	15	0	Do.
Sugar, Refined or Candy, the 100 lbs.	0	8	4	Promulgation of this Act.
Unrefined, do.	0	8	4	1st July, 1884.
Molasses, do.	0	8	4	Promulgation of this Act.
Staves, for every £100 value . .	10	0	0	1st July, 1884.
Tallow the 100 lbs.	0	4	2	Promulgation of this Act.
Tamarinds do.	0	8	4	28th May, 1884.
Tea per lb.	0	0	8	Promulgation of this Act.
Tin, viz. :—Plate or Sheet, for every £100 value	10	0	0	Do.
Tobacco, not Manufactured, the lb.	0	1	0	Do.
Manufactured (not Cigars or Snuff), the lb.	0	2	0	Do.
Cigars, the lb.	0	4	0	Do.
And for every £100 value	10	0	0	Do.
Cigarettes, the lb. (gross)	0	3	0	Do.
Snuff, the lb.	0	4	0	Do.
Turmeric, the lb.	0	0	3	28th May, 1884.
Turpentine, the gallon	0	1	0	Do.
Varnish,	0	3	0	Do.
Vinegar,	0	0	6	Do.

No. 13—1884

ARTICLE.	RATE.			DATE TO HAVE EFFECT FROM.
	£	s.	d.	
Wine, in bottles each of not greater content than six to the Imperial gallon, per dozen bottles	0	12	0	28th May, 1884.
In bottles each of not greater content than twelve to the Imperial gallon, per dozen bottles	0	6	0	Do.
In other bottles, or in wood, the Imperial gallon ..	0	5	0	Do.
Wood, Unmanufactured, other than Teak, the cubic foot ..	0	0	2	Promulgation of this Act.
Wood, other than Teak, planed or grooved, the cubic foot	0	0	3	1st July, 1884.
Teak, the cubic foot	0	0	4	Do.
Goods not being enumerated or described, nor otherwise charged with Duty, and not prohibited to be imported or used in the Colony of the Cape of Good Hope, for every £100 value	15	0	0	28th May, 1884.

FREE.

Animals, Living, excepting Mules.
 Anchors and Chain Cables for ships' use.
 Bottles of Common Glass, imported full of Wine, Beer, or other liquid liable to Customs Duty.
 Books, printed, not being Foreign Reprints of British Copyright Works.
 Bullion or Coin.
 Cotton in its raw state.
 Creosote.
 Diamonds or other Gems in their rough state.
 Feathers, Ostrich, undressed.
 Fish. *
 Flowers of Sulphur.
 Fruit, green—including Cocoanuts.
 Guano and other Manures.
 Hair, viz.: Angora. *
 Hides, viz.: Ox and Cow. *
 Horns, viz.: Ox and Cow. *
 Wild Animals. *

Ice.
 Ivory.*
 Machinery, viz.: Agricultural, Mining and Sawing.
 Maps and Charts.
 Photographs.
 Printed Music.
 Oil, Fish, in a raw state.
 Ore, Copper and other.*
 Paper for Printing purposes.
 Printers' and Bookbinders' Materials.
 Provisions or other Stores for H. M.'s Land and Sea Forces, when the Customs Duties shall not have been paid thereon.
 Railway Materials.
 Seeds, Bulbs or Plants (Garden).
 Sheep Dip.
 Skins, viz.: Goat.*
 Seal.*
 Sheep.*
 Wild Animals.*
 Specimens Illustrative of Natural History.
 Telegraph Materials.
 Wine imported or taken out of Bond for the use of military officers serving on full pay in this Colony, and also for the use of officers of Her Majesty's Navy serving on board any of Her Majesty's ships, subject, however, to such regulations as the Governor shall think fit to make: And, provided, that if any such wine shall be subsequently sold in this Colony, except for the use or consumption of any of Her Majesty's military or naval officers serving as aforesaid, the same shall be forfeited and be liable to seizure accordingly.
 Wool, viz., Sheep's.*
 All Articles of Military, Naval, or Volunteer Uniforms or Appointments imported by Imperial and Colonial Officers stationed in this Colony for their own use.
 Maize and other Farm Produce, the growth of St. John's River Territory.

* Being the growth and produce of Africa, and not manufactured, but in the raw state.

No. 14—1884.]

[Promulgated 25th July, 1884.

ACT

Repealed by Act 4

To Impose a Duty on Dogs.

WHEREAS it is expedient that a duty should be imposed upon dogs, and that, in places other than those within the jurisdiction of municipalities or village boards of management which may have already imposed such a duty, such duty shall be collected by means of licences granted by divisional councils: Be it, therefore, enacted by the Governor of the Cape of Good Hope,

Preamble.

No. 14—1884.

with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

Power to divisional council to impose dog tax.

1. Every divisional council in the colony shall have the right to impose a duty or tax upon dogs within its jurisdiction, which tax shall be collected by means of licences to be granted by such divisional councils, or in such other manner as such councils shall determine, subject, however, to the proviso in the next succeeding section contained.

Also to frame rules as to dog licences.

2. Divisional councils shall have the power to frame rules and regulations in regard to the form of licences for keeping dogs, the manner of taking the same out, or in regard to any other mode of collecting the duty or tax hereby authorised to be imposed: Provided, however, that all such rules and regulations shall be subject to the approval of the Governor, and such rules and regulations, if so approved of, shall be published in the Gazette, and some one or more newspapers, if any, published within the jurisdiction of the divisional council framing the same.

Application of proceeds of tax.

3. The funds collected by divisional councils as the proceeds of the said duty or tax shall be applied by them for their general purposes.

Limit of tax.

4. The amount of the duty or tax authorised to be levied under this Act shall not be more than five shillings, nor less than two shillings and sixpence for each dog: Provided always that no duty shall be payable for or in respect of any dog under the age of three months or thereabouts.

Penalty for keeping a dog unlicensed.

5. Every person keeping a dog within the jurisdiction of any divisional council which shall have imposed the duty in this Act provided for, without having paid such duty shall be subject, on conviction, to a fine not exceeding the sum of one pound sterling, or, in case of non-payment, to imprisonment with or without hard labour for any term not exceeding fourteen days, unless such fine be sooner paid.

Power of Justices of the Peace and others to demand licence or proof of its existence.

6. If any justice of the peace, field-cornet, constable, or other officer of the peace, or any proprietor or occupier of land, shall request any person travelling with a dog in his custody, charge, or possession, to produce his licence for keeping such dog, or to afford other sufficient proof that he has paid a duty for the same under the provisions of this Act, or has a licence to keep the same from some municipality or village board of management, and shall, after failure of such production, have no reason to believe that such person either has a fixed abode or is licensed to keep such dog, then and in such case it shall be the duty of such officer, proprietor, or occupier to demand from such person the particulars of his name and abode, and the place whither he is travelling, and thereupon it shall be the duty of such officer, proprietor, or occupier, with all convenient speed, to send to the divisional council of his division, a report stating such particulars as he shall have obtained, and describing the person in whose custody, charge, or possession, such

To report cases to divisional council.

dog shall have been found or seen; and upon receiving such report such council shall, if such person travelling as aforesaid shall have described himself as living in a district other than that from which such council has jurisdiction, send such report to the divisional council of such other district: Provided that if any person travelling as aforesaid, from whom such particulars as aforesaid shall have been demanded, shall refuse to give answers thereto, or shall wilfully give false answers thereto, he shall be deemed to be guilty of the offence of contravening this section of this Act, and shall, upon conviction, be liable to a fine not exceeding one pound, or in case of non-payment to imprisonment, with or without hard labour, for any period not exceeding fourteen days, unless such fine be sooner paid.

No. 15—1884.

Proceedings thereon.

7. No duty or tax shall be imposed or levied under this Act by any divisional council within any area which shall be within the jurisdiction of any municipality or village board of management which shall already have imposed a duty or tax upon dogs.

No tax under this Act where one is already imposed by a Municipality, &c.

8. In case any municipality or village board of management shall not have imposed a tax on dogs kept within the area under its jurisdiction, it shall be lawful for the divisional council to impose and levy within such area the duty or tax authorised by this Act: and thereupon no such municipality or village board of management shall have the power to impose any such tax within the same area.

Where no Municipal dog tax it may be imposed by divisional council.

9. Packs of fox or other hounds kept *bona fide* for sporting purposes may at the discretion of the divisional council of the division within which such pack is kept be exempted from the provisions of this Act.

Sporting dogs exempted.

10. This Act may be cited as the "Dog Tax Act, 1884."

Short title.

No. 15—1884.]

[Promulgated 18th July, 1884.

Repealed by 1887 Act 9. ACT

To Impose an Excise Duty upon Spirits Distilled or Manufactured within the Colony of the Cape of Good Hope.

WHEREAS it is expedient to impose a duty upon spirits, distilled or manufactured in this colony: 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, as follows:—

Preamble.

1. From and after the passing of this Act there shall be payable to the colonial revenue,—

Duties payable on Spirits.

(1) Upon every gallon of spirits, distilled or manufactured from wine, grape juice, grapes, husks of grapes, or raisins the produce of this colony, an excise duty at the rate of one shilling per gallon, if the spirits do not exceed the strength

No. 15—1884.

of proof, with a proportionate increase in case the spirit be of greater strength, and

- (2) Upon every gallon of spirits distilled or manufactured from materials other than wine, grape juice, grapes, husks of grapes, or raisins the produce of this colony, an excise duty at the rate of two shillings per gallon, if the spirits do not exceed the strength of proof, with a proportionate increase in case the spirit be of greater strength: Provided that upon every gallon of spirits which, having been distilled or manufactured within the colony, shall be in an approved warehouse, and shall be on and after the passing of this Act taken out for consumption, the above mentioned duties shall be respectively charged on every gallon of the strength of proof, and so in proportion for any greater or less degree of strength, or for any greater or less quantity.

Duty payable on existing stocks.

2. For and upon all colonial spirits of the quantity of one hundred gallons or upwards, belonging to any distiller, or dealer in, or retailer of spirits, or other person, and which upon the taking effect of this Act, shall either be in his custody or possession, or in the custody or possession of any other person in trust for him, or for his use, benefit or account in the colony, there shall be payable to the colonial revenue an excise duty at the rate of one shilling per gallon of the strength of proof with a proportionate increase in case the spirits be of greater strength.

Return of existing stocks to be made to Civil Commissioner.

3. (1) Every distiller, or dealer in, or retailer of spirits, or other person who shall have in his custody or possession any such spirits, shall, within fourteen days from the passing of this Act, make, and lodge with the civil commissioner of the division within which he carries on his business, or other officer appointed to receive the same, a return in writing, giving a true and particular account of the quantity of such spirits in his custody or possession, and such distiller, or dealer in, or retailer of spirits, or other person, shall within six months thereafter pay to the said civil commissioner, or other duly authorised officer, the amount of duty on such spirits.

Right of inspection by Excise Officers.

- (2) An officer may at all reasonable times enter upon the premises of any distiller, or dealer in, or retailer of spirits, or other person, and upon all places where spirits liable to duty under this and the next preceding section of this Act shall be kept or stored, and shall gauge and take an account of all spirits found on such premises or places: Any person contravening the provisions of this section, or who shall oppose, hinder, obstruct, or interfere with an officer in the execution of his duty under this section, shall be liable, on conviction, to a penalty not exceeding two hundred pounds.

Existing Contracts of sale.

4. Whereas contracts or agreements may have been made for the sale or delivery of some of the spirits in the last two preceding

sections mentioned on which a duty of excise is by this Act imposed, which contracts or agreements may have been made with no reference to such duty, and thereby the several contractors may be materially affected: For remedy thereof, be it enacted, that every person who shall have made or entered into such contract or agreement shall be entitled to add so much money as will be equivalent to the duty hereby granted on such spirits to the price thereof, and to be paid and to sue for and recover the same accordingly.

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5. Any penalty for any offence against this Act may be sued for and recovered in the name of the Chief Inspector, or other duly authorised person in the court of the Resident Magistrate of the district in which the offence was committed, or of any other competent court, and in default of payment thereof the person convicted may be imprisoned with or without hard labour for any term not exceeding six months, unless such penalty be sooner paid.

How penalties to be recovered.

6. This Act may be cited as the "Excise Spirit Duty Act, 1884," and shall come into operation upon the promulgation thereof.

Short title.

No. 16—1884.]

[Promulgated 25th July, 1884.

Spent

ACT

To Apply a further Sum not exceeding Thirty-three Thousand and Eighteen Pounds Sterling for the Service of the Year ending the 30th day of June, 1885.

WHEREAS it is expedient to provide further sums, in addition to those by law provided, for the service of the Government of this Colony, until the 30th June, 1885: 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. That a sum not exceeding thirty-three thousand and eighteen pounds sterling shall be charged on the revenue of the said colony, towards the service of the year ending 30th June, 1885.

Public revenue charged with £33,018.

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 Supplementary Estimates of Expenditure to be defrayed during the year ending the 30th June, 1885, submitted to and approved by Parliament.

How to be applied.

3. The said aids and supplies shall not be issued or applied to any use, intent, or purpose, other than the particular service to which the said amounts have been granted respectively by this Act and the aforesaid Schedule and Estimates.

Not to be applied except as granted.

4. This Act may be cited for all purposes as the "Supplementary Appropriation Act, 1884."

Short title.

SCHEDULE.

Summary of Recapitulation of Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
MINISTERIAL DEPARTMENT OF—				
1. Colonial Secretary	3,208	6,805	10,013	10,013
2. Treasurer of the Colony ..	6,625	18,846	25,471	..
3. Attorney-General	61	..	61	61
4. Commissioner of Crown Lands and Public Works ..	25	12,400	12,425	12,425
5. Secretary for Native Affairs ..	3,195	7,324	10,519	10,519
Grand Total	13,114	45,375	58,489	33,018

No. 17—1884.]

[Promulgated 25th July, 1884.

ACT

To authorise the Raising of a Sum of £139,800 for the Prosecution of certain Public Works.

Preamble.

WHEREAS it is desirable to prosecute and carry on certain public works already authorised, and to complete some of such works, and also to provide further funds for giving effect to the provisions of Acts at present in operation: And whereas there is a sum of £20,800 sterling, which will fall due upon the 1st day of October next, being the balance of certain debentures authorised to be issued under the Act No. 7 of 1870, known as the "Public Debt Consolidation Act," and comprehended in the schedule to such Act as "Kowie Harbour Improvement, £24,000;" and it is desirable to provide for the payment of such balance: 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:—

Power to raise £139,800.

1. It shall be lawful for the Governor to raise and take up a sum of One Hundred and Thirty-nine Thousand and Eight Hundred Pounds sterling, from time to time, as occasion may require, for the several purposes mentioned in the Schedule to this Act.

Short title.

2. This Act may be cited as "The Public Works Loan Act, 1884."

SCHEDULE.

No. 18—1884.

(1.) For the purposes of the "Irrigation Act, No. 8 of 1877," and the "Municipalities Irrigation Loans Act, No. 28 of 1879" ..	£10,000
(2.) For Irrigation purposes :	
Works at Van Wyk's Vley, in the District of Carnarvon	£5,000
Works at Stol's Hoek, in the District of Beaufort West	£4,000
	£9,000
(3.) Works and Buildings :	
Houses of Parliament	£15,000
(4.) Harbour Works :	
East London	£15,000
Port Elizabeth	£20,000
(5.) Railways :	
Graham's Town and Port Alfred Railway, Subsidy under Act No. 5 of 1881	£50,000
(6.) Kowie Harbour :	
Debentures	£20,800
	£139,800
Total ..	

Act No. 18—1884.] [Promulgated 21st July, 1884.

See 1909 Act 42.

ACT

To Consolidate and amend the Law relating to the Manufacture and Sale of Spirits.

WHEREAS it is desirable to consolidate and amend the law relating to the manufacture and sale of Spirits within the Colony : 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 :— Preamble.

PRELIMINARY.

1. This Act may be cited as the "Excise Spirits Act, 1884." Short Title.

2. In this Act each of the following terms shall have the meaning assigned to it by this section, unless it is otherwise expressly provided, or there is something in the subject or context inconsistent with such meaning :— Definitions.

"Person" includes an individual and a body of persons, whether corporate or otherwise :

"Spirits" means spirits of any description, and includes all liquors mixed with spirits, and all mixtures, compounds, or preparations made with spirits, and wood spirits :

"Colonial Spirits" means spirits liable to a duty of Excise :

"Foreign Spirits" means all spirits and strong waters liable to a duty of Customs :

No. 18—1884.
Definitions.

“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 who conducts, works, or carries on any distillery, or who distils or manufactures any spirits, by any process whatsoever, either by himself, or his agent, or servant :

“A Distillery” means and includes any place or premises where any process of distillation whatever of spirits is carried on, or where any process of rectification of spirits by redistillation, or other process is carried on, or where any spirits are manufactured, or produced from any substance whatever by any process whatever :

“Dealer” and “retailer” mean, respectively, a person who deals in, or retails spirits :

“Rectifier” means a person, other than a licensed distiller, who rectifies or compounds spirits :

“Excise trader” means any person carrying on a business subject to any of the regulations of this Act, and includes any proprietor or occupier of an Excise warehouse :

“Vinegar maker” means a person who shall make, prepare, extract, distil, rectify, purify, or sell any liquors prepared or capable of being used or applied for the purposes of making vinegar, or 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 warehouse for the deposit of spirits, and includes an approved warehouse on the premises of a 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 :

“Schedule” means the schedule to this Act :

“This Act” includes any regulations made under the provisions hereinafter contained.

LICENCES.

3. (i.) On and after the first day of August, one thousand eight hundred and eighty-four, the following duties on licences granted in the Colony shall be paid ; that is to say :

Licences

(a) On a licence to be taken out by a distiller (except as hereinafter provided)	£10 0 0
(b) On a licence to be taken out by a wine farmer who distils spirits from wine the produce of land in his own occupation, for his own consumption, or for sale as by law allowed.	£0 5 0
(c) On a licence to be taken out by a rectifier or compounder of spirits . .	£10 0 0
(d) On a licence to be taken out by every person, not being a licensed distiller, or rectifier, or compounder of spirits, who keeps or uses any still or retort	£1 0 0

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(e) On a licence to be taken out by a maker of vinegar or acetous acid for sale (except a maker of vinegar or acetous acid from wine the produce of land in his own occupation)	£1 0 0
(f) On a licence to be taken out by a still maker	£1 0 0

(2) Every such licence shall be in the prescribed form, and shall be paid by means of stamps, and shall expire on the thirty-first day of December in each year, but when any such licence shall be issued on and after the first day of July there shall be payable only one-half the yearly licence.

If any person contravenes this section by carrying on any business hereinbefore mentioned without being duly licensed, or if he fails, or refuses, to produce his licence on the demand of an officer, he shall, for each offence, incur the penalty by this Act provided, and all spirits and vessels, utensils and materials found in his possession for the purposes of such business shall be forfeited.

Distillery to be within half a mile of a town or village except on terms as to lodgings for officers, and licence to be conditional in other cases.

4. (1.) No person shall be entitled to a licence as a distiller, or be permitted to make entry of a distillery at which the daily attendance of an officer may be deemed necessary by the Chief Inspector, unless it is situate within half a mile of any town or village.

(2.) The Governor may grant a licence for, and permit entry to be made of a distillery situate at a greater distance than above specified, provided that satisfactory lodgings for the officer or officers to be placed in charge of the distillery are provided by the person making the application for such licence, and provided that the rent to be paid by the Government for such lodgings shall at no time exceed twenty pounds a year.

(3.) If a distiller to whom a licence is granted on said terms fails to provide the lodgings, or to keep them in proper repair, or interrupts or annoys any officer in the enjoyment thereof, he shall incur the penalty by this Act provided.

(4.) No licence shall be granted for distilling spirits in any building or premises which may appear to the Governor, from their situation or otherwise, with reference to surrounding buildings or places of business, to be so constructed or arranged as to endanger the collection of the revenue.

(5.) No licence to distil spirits shall be granted without a certificate from the proper officer that the person applying for such licence has complied with the prescribed regulations as to the buildings, places, vessels, and utensils to be used by such person in the manufacture or distillation of spirits.

Provided that the provisions of this section shall not apply to any wine farmer who only distils spirits from wine the produce of land in his own occupation.

WINE FARMERS WHO DISTIL SPIRITS.

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5. (1.) Every wine farmer shall enter in the prescribed book the number of gallons of spirits produced from time to time on his farm. Wine farmers to keep an account of spirits distilled.

(2.) Any officer may at all times examine and take account of any spirits upon the premises of such wine farmer, or in any room or place connected therewith.

6. (1.) No duty shall be payable on spirits distilled by a wine farmer, from wine the produce of land in his own occupation, so long as such spirits shall be retained in the possession of such wine farmer in the prescribed room or place on his farm premises: Regulations as to payment of duty on spirits distilled by a wine farmer, and trading in such spirits. Provided that in the case of all or any of the spirits so retained being sold or otherwise disposed of, the duty on such spirits shall forthwith be paid by the distiller, or person to whom such spirits shall be sold or delivered; and provided further, that spirits may be removed, subject to the prescribed security, without payment of duty, from the premises of such wine farmer to a warehouse.

(2.) On the sale or delivery of any such spirits to any purchaser, or other person, the distiller shall deliver a certificate, in the prescribed form, to such purchaser or person, and in case the duty on such spirits has not been paid by the distiller before such sale or delivery, such purchaser or person shall produce such certificate and pay the duty on the quantity of spirits specified therein, to a Civil Commissioner, or Receiver of Revenue, or an officer duly authorised in that behalf, within ten days from the date of such certificate.

(3.) A duplicate of such certificate shall be forwarded by the distiller by post, to the Chief Inspector of Excise on the day the purchase or delivery is made, or shall be delivered to an officer on his next visit to the distillery.

(4.) In case the purchaser, or person to whom such spirits are sold, or delivered, shall fail to pay the duty on such spirits, within the time hereinbefore specified, or shall fail to produce and deliver to an officer the certificate for such spirits, such officer may enter upon the premises of such purchaser or person and seize such spirits, or the same quantity of any other spirits, and the spirits so seized shall be forfeited.

(5.) In case such distiller should fail to give the true name and residence of the person to whom he sold or delivered any spirits, or should the person to whom such spirits are sold become insolvent, or otherwise fail to pay such duty, then such distiller shall, upon demand of an officer, pay the duty upon such spirits.

7. (1.) A wine farmer who distils spirits from wine the produce of land in his own occupation, and who takes such spirits from the place of distillation for the purpose of trading with them, as now by law allowed either in this Colony, or beyond the same, shall remove such spirits in accordance with the prescribed regulations, and subject to the prescribed security. Regulations as to trading with spirits off the farm premises

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(2.) The person in charge of the spirits so removed shall carry with him a permit from the proper officer for the removal of such spirits, and such person shall at all times produce such permit on the demand of a Resident Magistrate, Justice of the Peace, Excise Officer, Field-cornet, Police-constable, or any Market Master.

Spirits to be stored in a room or place on the farm premises.

8. A spirit store may be dispensed with in the case of a wine farmer who distils spirits on his own farm from wine the produce of land in his own occupation; provided that all spirits so distilled shall be kept and stored in a room or place on the farm premises, and that such room or place shall be at all times open to the inspection of an officer, who shall have power to gauge and take an account of all such spirits. And no spirits shall be removed from such room or place except in accordance with the prescribed regulations.

Allowance for waste on spirits retained on premises of a winefarmer.

9. 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 sixth Section of this Act, an allowance shall be made for natural waste and evaporation, as provided in the Third Schedule.

DISTILLERS, OTHER THAN WINE FARMERS.

Premises, utensils and vessels to be marked.

10. All premises used by a distiller, other than a wine farmer, for the purpose of his business, and all utensils and vessels used by him for, or in connection with, such business shall be marked, numbered, or otherwise distinguished in such a manner as may be prescribed.

Prescribed form of entry of premises, &c.

11. (1.) Such distiller shall, before he begins to distil, make entry in the prescribed form of all premises, rooms, places, vessels, pipes, and utensils intended to be used by him for his business, specifying the purpose for which each room, place, vessel, pipe, and utensil is to be used, and the mark by which it is distinguished, and no room, place, vessel, pipe, or utensil shall be described in the entry as intended to be used for more than one purpose.

(2.) Such distiller shall sign the entry and deliver it to the proper officer.

(3.) No entry shall be withdrawn whilst there remains in any place mentioned therein any still, or in any room, place, vessel, pipe, or utensil mentioned therein any materials preparing or fit for distillation, or any spirits liable to duty.

(4.) No such distiller shall alter, move, or add to the vessels, utensils, or pipes at his distillery, after entry has been made thereof, except in accordance with the prescribed regulations.

(5.) No such distiller shall without the consent of the Chief Inspector, remove any sugar from the room or place entered as a sugar store except for use in the manufacture of spirits on his distillery premises, under the prescribed regulations.

Any person contravening this section shall for each offence be liable to the penalty by this Act provided, and every vessel or

utensil, with its contents, and all spirit or materials for distilling spirits found in any room or place not specified in the entry of such distiller shall be forfeited.

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12. The Governor may prescribe the number of vessels and utensils to be fixed and used by such distiller, and no addition shall be made to the number of such vessels or utensils without a certificate from the Chief Inspector that the vessels or utensils required to be added are necessary, and all stills, apparatus, utensils, vessels, and pipes used by any such distiller shall be fixed, placed, secured, and worked in accordance with such regulations as may be in that behalf prescribed.

Power of Governor to fix number of vessels.

13. (1.) Every such distiller shall keep such books as may be prescribed, setting forth from day to day the nature and quantity of the materials used by him for the purpose of distilling or manufacturing spirits, and the quantity of spirits distilled or manufactured by him, and an officer duly appointed in that behalf, may at all times demand an inspection of any such books, make extracts therefrom, and examine and take an account of any materials and spirits upon the premises of such distiller, or in any store or warehouse connected therewith.

Distillers to keep books and to enter therein quantity of materials and spirits produced.

(2.) Every such distiller shall make a return in the prescribed form in the first week of each month, setting forth the quantity of each description of materials used by him in the distillation or manufacture of spirits, and the number of gallons of spirits computed at proof distilled from such materials in the month preceding such return.

14. (1.) Every such distiller shall provide, to the satisfaction of the Chief Inspector, a spirit store on his distillery premises, and cause it to be properly secured, and all spirits distilled by such distiller shall be placed and kept in such store in accordance with the prescribed regulations.

Provision and securing of spirit store.

(2.) The spirit store shall be kept locked by the officer in charge of the distillery except when he is in attendance.

15. All spirits shall be received into and removed from such distiller's store, in the presence of an officer, and all operations in such store shall be conducted in accordance with the prescribed rules and regulations.

Spirits in store.

16. (1.) The proper officer shall, from time to time, take an account in the prescribed manner of the quantity of spirits in such distiller's spirit store.

Account of stock and penalty for excess or deficiency.

(2.) If the quantity of spirits computed at proof found in any such store is greater or less than the quantity which should be therein, according to such account, the distiller shall incur a fine, not exceeding double the duty, for every gallon of spirits so in excess or deficient, and such excess shall be forfeited.

(3.) No distiller shall be liable to any penalty under this section in respect of any such excess, as aforesaid, not exceeding one-half per centum, or in respect of any such deficiency, as afore-

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said, not exceeding three per centum on the balance struck when such account was last taken, together with the quantity since brought in from the spirit receiver, nor if he satisfy the Chief Inspector that such excess or deficiency does not result from fraud : Provided that in any case all spirits found in excess, as aforesaid, shall be charged with duty.

Regulations for charging duty.

17. (1.) In respect of all feints and spirits made in any distillery the duty shall be charged on the quantity of spirits at proof after deducting the feints (if any) remaining from the previous distillation, and included in the last account taken of feints and spirits.

(2.) In calculating the duty payable on spirits an allowance shall be made for any deficiency occasioned by natural waste in the transfer of spirits from the receiver to the store, subject to the following provisions :

(a.) The allowance shall not exceed one and a half per centum on such spirits :

(b.) If the deficiency exceeds three per centum on such spirits no allowance whatever shall be made.

Removal of spirits to a distiller's or excise warehouse and for exportation or ship's stores, and regulations as to warehouses.

18. (1.) Spirits may be removed, subject to the prescribed security, from a distiller's spirit store to any warehouse, or from one warehouse to another, or for exportation, or for ship's stores without payment of duty.

(2.) The Governor may approve Excise warehouses for warehousing spirits without payment of duty. Such warehouses shall be for the general accommodation of persons desiring to warehouse spirits.

(3.) The proprietor of spirits in any warehouse may, on giving the prescribed security, remove the spirits for exportation or ship's stores without payment of duty.

(4.) All spirits shall be received into and removed from any warehouse in the presence of an officer, and all operations in any warehouse shall be conducted in accordance with the prescribed rules and regulations.

(5.) The proprietor or occupier of a warehouse shall be alone responsible to the proprietor of any spirits warehoused therein for the safe custody of such spirits, and no action shall be against any person in the employment of the Government for loss or damage occasioned to spirits whilst stored in such warehouse, or on account of any wrong or improper delivery therefrom : Provided that nothing in this sub-section contained shall apply to spirits warehoused in any Government warehouse.

(6.) The proprietor or occupier of any warehouse shall give the prescribed security.

(7.) The Governor may revoke his approval of a warehouse, and upon such revocation all spirits warehoused therein shall be removed, as may be directed, and no abatement of duty, or allowance, shall be made in respect of any such spirits, for deficiency of

quantity or strength, after notice of the revocation has been given to the proprietor or occupier of the warehouse.

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(8.) Good and effectual delivery of any spirits in any warehouse may be made for all purposes by handing to the officer in charge of such warehouse a written order signed by the owner of such spirits for the delivery thereof to the person named therein; and thereupon entry of such delivery shall be made in the prescribed books.

19. (1.) Except in the case of spirits removed to a warehouse, or for exportation, or ship's stores, in accordance with the provisions of this Act, the duty upon all spirits shall be paid upon the removal of the same from the distiller's store; and no spirits shall be removed from any warehouse, save as in this Act provided, until the duty chargeable thereon shall have been paid.

In case of deficiency in spirits in a warehouse, duty on quantity warehoused to be paid.

(2.) Duty shall be chargeable upon the full quantity of spirits shewn to be in the casks containing the same, according to the entries in the prescribed books, unless the Chief Inspector shall be satisfied that no part of any deficiency that may be found to exist in such quantity shall not have been fraudulently caused; in which latter case duty shall only be charged upon the quantity of spirits actually contained in such casks at the time of removal.

20. (1.) If at any time any deficiency beyond that which can be accounted for by natural waste, or other legitimate cause, is found in any cask of spirits warehoused, the Chief Inspector may require immediate payment of duty on the quantity of spirits originally warehoused in the cask.

Duty to be paid upon deficiencies.

(2.) If the person in whose name the spirits are warehoused refuses, or neglects within two days after written demand by an officer to pay the duty, he shall forfeit double the amount of duty so demanded.

(3.) After demand made in terms of this section for the duty on spirits warehoused, no such spirits shall be transferred or moved until the duty and forfeiture (if any) is paid.

21. No such distiller shall mash any materials, or brew, or make wort, or wash, or use a still between ten o'clock in the afternoon of Saturday and one o'clock in the forenoon of Monday.

Unlawful hours for brewing and distilling.

22. If the original gravity of any wort or wash as ascertained from any sample of wash taken from a fermenting back, or wash charger, exceed by more than five degrees the gravity thereof, as declared by the distiller, he shall incur the penalty by this Act provided.

Penalty where original gravity exceeds gravity as declared.

23. The original gravity of wort or wash shall be ascertained in accordance with the provisions of the eighteenth section of the "Excise Beer Duty Act, 1884."

Mode of ascertaining original gravity.

24. Every such distiller, proprietor, or occupier of any warehouse shall provide to the satisfaction of the Chief Inspector, office accommodation at his distillery, store, or warehouse for the officer in charge thereof.

Office accommodation to be provided.

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Power to require water to be drawn off from worm-tub.

25. (1.) An officer may require such distiller at any time, when his still is not at work, to cause the water in any worm tub in his distillery to be drawn off, and the tub and worm to be cleansed.

(2.) In such case the water shall be kept out of the worm tub until the officer has finished his examination.

GENERAL PROVISIONS APPLICABLE TO ALL DISTILLERS.

Offences with respect to warehousing

26. If a distiller, or proprietor of spirits, or proprietor or occupier of any warehouse by himself, or by any person in his employ, or with his connivance, commits any of the following offences; (that is to say)—

(a.) Opens any of the locks or doors of a warehouse, or makes or obtains access into a warehouse, except in the presence of an officer acting in his duty as such; or,

(b.) After the approval of a warehouse makes any alteration therein or addition thereto without the previous consent of the Chief Inspector; or,

(c.) Warehouses spirits in, or removes spirits from a warehouse otherwise than is provided by this Act and the regulations made in accordance therewith; or,

(d.) By any contrivance or device privately removes or conceals any spirits either before or after they are warehoused; he shall incur the penalty by this Act provided, and all spirits warehoused, removed or concealed in contravention of this section shall be forfeited.

Penalty for interference with or attempt to defeat gauging.

27. If on the premises of any distiller any attempt is made, or device used, to prevent or hinder any officer from ascertaining the gravity, quantity, or strength of the wine, wort, wash, low wines, feints, or spirits in, or running into, or from any vessel, or to deceive him in taking the dip or gauge of any vessel or utensil, or if such distiller causes any cover, fastening, cock, plug, pump, or pipe to be so made, or used that any vessel or utensil may be employed, opened, removed, filled, or emptied in the absence of an officer to avoid or defeat the security intended to be provided by this Act, the distiller shall for each offence incur the penalty by this Act provided.

Materials for the manufacture and distillation of spirits.

28. (1.) A distiller may use in the manufacture and distillation of spirits (in addition to wine produced within the Colony) any material of such nature that the gravity of the wort or wash produced therefrom can be ascertained by the prescribed saccharometer: Provided that a wine farmer who distils spirits shall only distil such spirits from wine the produce of vines grown on his farm.

(2.) No distiller shall distil spirits from materials other than wine, except from wort or wash, brewed or made in his distillery from such materials.

(3.) If a distiller has in his possession any wort, wash, low wines, feints, or fermented liquor not brewed, made, or distilled in

his own distillery, except as hereinafter provided, the same shall be forfeited, and the distiller shall incur the penalty by this Act provided.

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(4.) It shall be lawful in accordance with the prescribed regulations for a distiller to receive from any licensed brewer sour or spoilt beer for use in the manufacture or distillation of spirits. Such distiller shall deliver to the proper officer a solemn declaration, made by such brewer, or his authorised agent, or servant, in the prescribed form, certifying the quantity and original gravity of the beer, and that it is unfit for use in his business as a brewer.

29. There shall not be mixed with or added to any low wines, feints, or spirits in a distillery any substance which prevents the true strength thereof from being ascertained by Sykes's hydrometer. Low wines or spirits not to be mixed so as to increase gravity.

30. The bulk quantity of spirits contained in any vat, vessel, cask, or package warehoused in any store or warehouse may be calculated by weight or gauge as may be prescribed. Mode of calculating quantity of spirits warehoused.

31. (1.) An officer may take a sample of any wine, wort, wash, low wines, feints, or spirits from any vessel or utensil in any distillery, or in any store, or warehouse, and the gravity, or strength, of any sample so taken shall be deemed the gravity, or strength, of the whole contents of the vessel or utensil from which it is taken. Officer may take samples.

(2.) A distiller may, if he wishes, before any such sample is taken, stir up and mix together all the liquor contained in the vessel or utensil from which the sample is to be taken.

32. No spirits shall be sent out or delivered from a distiller's store, or any warehouse (except upon the permit or certificate of the proper officer, and except as in the seventh and eighth sections of this Act provided), and no spirits shall be received by a rectifier, or dealer in, or retailer of spirits, unless accompanied by a permit or certificate in accordance with the prescribed regulations: Provided that every rectifier, dealer in, and retailer of spirits shall keep an account in the prescribed form of all spirits received into his stock, and such stock account shall be open at all times to the inspection of an officer who may make extracts therefrom. Permits and certificates.

Any person who shall, in any manner use, or cause or suffer to be used, any permit or certificate so as to evade the provisions of this section, or of any regulation made in accordance therewith, shall incur the penalty by this Act provided, and all spirits found to have been so sent out, delivered, removed, or received, shall be forfeited.

33. 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: Provided that when the calculation of the quantity of spirits in a cask Rules for ascertaining quantity of spirits by weight.

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shall produce a fraction of a gallon less than half a gallon such fraction shall be rejected, and when the fraction amounts to half a gallon, or upwards, the next higher number of gallons is to be taken and entered as the true quantity; and further, that the same method of calculation shall be followed in ascertaining the quantity of spirits at proof in a cask.

Remission of duty for spirits lost or destroyed.

34. 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.

Spirits removed for fortifying wine for exportation.

35. Subject to the prescribed regulations spirits may be delivered from a distiller's store or warehouse to be used for fortifying wines produced within the Colony to be exported by sea, but the quantity of such spirits shall not exceed ten gallons of spirits computed at proof to one hundred gallons of wine: Provided that an officer shall be present when any such spirits are added to such wines for fortifying: Provided further that in case any wine so fortified shall be reimported within the Colony, the duty on such spirits shall be paid by the exporter.

Strength of spirits to be ascertained by Sykes's hydrometer.

36. 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.

37. 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.

38. (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, STILL MAKERS, AND VINEGAR MAKERS.

39. (1.) Entry in the prescribed form shall be made by a rectifier before he begins to receive, rectify, or compound spirits, and such rectifier shall rectify or compound spirits according to the prescribed regulations.

Rectifiers.

(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.

40. (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.

Still Makers.

(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.

41. (1.) Every still, or still head, or worm of a still which is found in the custody or possession of any person not being licensed to keep or use such still, still head, or worm, shall be forfeited, provided that the Chief Inspector may permit, under the prescribed regulations, the keeping and using of any still or stills, for experiments in chemistry, or by any persons carrying on trade, or otherwise, for the manufacture of any articles other than spirits.

Use of stills by unlicensed persons.

(2.) An officer may at any time enter upon the premises of any person who shall be licensed to keep or use any still, or retort, or who shall keep or use any still, or retort, and examine any such still, or retort kept by such person.

42. (1.) Every maker of vinegar or acetous acid, who shall have, possess, or use at or upon his premises for making vinegar, any still for distilling, rectifying, or purifying vinegar, or acetous acid, or any liquor, or materials prepared, or preparing for making vinegar, or acetous acid, shall have and use such still under and subject to the prescribed regulations.

Vinegar makers.

(2.) The premises of a maker of vinegar or acetous acid shall be open at all times to the inspection of an officer.

POWERS OF OFFICERS.

43. An officer may at any time, either by day or by night, enter any part of the premises of, or house or place whatsoever

Powers of officers.

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belonging to, or made use of, by a 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, incur the penalty by this Act provided.

Officers may enter upon the premises of a dealer in or retailer of spirits and examine and take account of stock of spirits.

44. (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 excess shall be forfeited, and the dealer or retailer shall incur the penalty by this Act provided.

Ladders and lights to be provided.

45. 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.

GENERAL OFFENCES.

General offences.

46. No person shall remove any wort, wash, low wines, feints, or spirits from the premises of a distiller contrary to the provisions of this Act, or knowingly buy, or receive any wort, wash, low wines, feints, or spirits so removed from the premises of a distiller.

Receiving spirits from persons not authorized to sell or deliver.

47. No person shall knowingly receive, buy, or procure any spirits from a person not having authority to sell or deliver the same.

Receiving spirits on which the duty has not been charged.

48. If any person knowingly buys, or receives, or has in his possession any spirits after they have been removed from the place where they ought to have been charged with duty, and before the duty payable thereon has been charged and paid, or secured, or 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.

49. 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.

50. (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.

51. Every person shall incur the penalty by this Act provided who, in or with reference to any matter relating to the laws of Excise : Misconduct of and collusion with officers.

- (a.) Not being authorised so to do, gives or promises to give, directly or indirectly, any reward to an officer or a person employed by the Government, in respect of the performance or non-performance, by any such officer or person, of his duty or employment; or
- (b.) Agrees with or proposes to any such officer or person to do, or permit anything in contravention or evasion of this Act, or any other Act or Acts, relating to the revenue of Excise or of his duty; or
- (c.) Being an officer or a person employed by the Government
 - (i.) Demands or receives, except from or through the Government, any reward in respect of the performance or non-performance of his duty or employment; or
 - (ii.) By any wilful act, neglect, or default does, or permits, or agrees to do, or permit anything in contravention or evasion of this Act, or any other Act or Acts, relating to the revenue of Excise.

If any such officer or person is convicted of any of such offences he shall be disqualified from serving the Government in any office or employment.

SUPPLEMENTAL.

52. 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 :— Governor may appoint officers and make rules and regulations.

(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.

No. 18—1884.
Penalties.

53. Any person who shall contravene any of the provisions of this Act, or of any regulations made under this Act, 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 a penalty not exceeding five hundred pounds sterling in respect of each act or offence (in addition to any penalty or forfeiture by this Act otherwise provided), and in default of payment to imprisonment, with or without hard labour, for any period not exceeding twelve months, unless such penalty be sooner paid.

Goods liable to
Customs duty may be
warehoused in Ex-
cise Warehouse.

54. (1.) Subject to such regulations as may be prescribed goods of any description liable to a duty of Customs may be warehoused in any Excise warehouse approved for the purpose.

(2.) All the powers, provisions, regulations, and penalties contained in or imposed by any Act relating to the Customs as to the warehousing, custody, and delivery out of warehouse of goods liable to a duty of Customs, and as to any deficiencies therein or allowances thereon, shall, when applicable, be observed, applied, enforced, and put in execution with reference to such goods warehoused in Excise warehouses, and further shall, where applicable, be observed, applied, enforced, and put in execution with reference to Colonial spirits warehoused in a Customs warehouse, so far as the same are not superseded by and are consistent with the provisions of this Act.

Repeal of Acts in
Schedule.

55. The enactments specified in the second schedule are hereby repealed, from and after the commencement of this Act, to the extent specified in the third column of that schedule.

Provided that all existing bonds and securities given under or in pursuance of any enactment hereby repealed shall have the same force and effect as if they had been given under or in pursuance of this Act, and this repeal shall not affect—

- (a.) Anything done or suffered before the commencement of this Act, under any enactment repealed by this Act; nor
- (b.) Any right or privilege acquired or duty or liability imposed or incurred under any enactment so repealed.

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 Hydro- meter.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.	Column A Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.
0	8.154	8	8.289	16	8.426	24	8.565
2	8.157	2	8.292	2	8.429	2	8.568
4	8.161	4	8.296	4	8.433	4	8.572
6	8.164	6	8.299	6	8.436	6	8.575
8	8.168	8	8.303	8	8.440	8	8.579
1	8.171	9	8.306	17	8.443	25	8.582
2	8.174	2	8.309	2	8.446	2	8.586
4	8.178	4	8.313	4	8.450	4	8.589
6	8.181	6	8.316	6	8.453	6	8.593
8	8.185	8	8.320	8	8.457	8	8.596
2	8.188	10	8.323	18	8.460	26	8.600
2	8.191	2	8.326	2	8.464	2	8.603
4	8.195	4	8.330	4	8.467	4	8.607
6	8.198	6	8.333	6	8.471	6	8.610
8	8.202	8	8.337	8	8.474	8	8.614
3	8.205	11	8.340	19	8.478	27	8.617
2	8.208	2	8.343	2	8.481	2	8.620
4	8.212	4	8.347	4	8.485	4	8.624
6	8.215	6	8.350	6	8.488	6	8.628
8	8.219	8	8.354	8	8.492	8	8.631
4	8.222	12	8.357	20	8.495	28	8.635
2	8.225	2	8.361	2	8.498	2	8.639
4	8.229	4	8.364	4	8.502	4	8.642
6	8.232	6	8.368	6	8.505	6	8.646
8	8.236	8	8.371	8	8.509	8	8.649
5	8.239	13	8.375	21	8.512	29	8.653
2	8.242	2	8.378	2	8.516	2	8.656
4	8.245	4	8.382	4	8.519	4	8.660
6	8.249	6	8.385	6	8.523	6	8.663
8	8.252	8	8.389	8	8.526	8	8.667
6	8.255	14	8.392	22	8.530	30	8.670
2	8.258	2	8.395	2	8.533	2	8.674
4	8.262	4	8.399	4	8.537	4	8.677
6	8.265	6	8.402	6	8.540	6	8.681
8	8.269	8	8.406	8	8.544	8	8.684
7	8.272	15	8.409	23	8.547	31	8.688
2	8.275	2	8.412	2	8.551	2	8.692
4	8.279	4	8.416	4	8.554	4	8.695
6	8.282	6	8.419	6	8.558	6	8.699
8	8.286	8	8.423	8	8.561	8	8.702

FIRST SCHEDULE—(Continued.)

Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.
32	8·706	42	8·885	52	9·069	62	9·256
2	8·709	2	8·889	2	9·073	2	9·260
4	8·713	4	8·892	4	9·076	4	9·264
6	8·716	6	8·896	6	9·080	6	9·267
8	8·720	8	8·899	8	9·083	8	9·271
33	8·723	43	8·903	53	9·087	63	9·275
2	8·727	2	8·907	2	9·091	2	9·279
4	8·730	4	8·911	4	9·095	4	9·283
6	8·734	6	8·914	6	9·098	6	9·286
8	8·737	8	8·918	8	9·102	8	9·290
34	8·741	44	8·922	54	9·106	64	9·294
2	8·745	2	8·926	2	9·110	2	9·298
4	8·748	4	8·929	4	9·114	4	9·302
6	8·752	6	8·933	6	9·117	6	9·305
8	8·755	8	8·936	8	9·121	8	9·309
35	8·759	45	8·940	55	9·125	65	9·313
2	8·763	2	8·944	2	9·129	2	9·317
4	8·766	4	8·947	4	9·132	4	9·321
6	8·770	6	8·951	6	9·136	6	9·324
8	8·773	8	8·954	8	9·139	8	9·328
36	8·777	46	8·958	56	9·143	66	9·332
2	8·781	2	8·962	2	9·147	2	9·336
4	8·784	4	8·965	4	9·151	4	9·340
6	8·788	6	8·969	6	9·154	6	9·344
8	8·791	8	8·972	8	9·158	8	9·348
37	8·795	47	8·976	57	9·162	67	9·352
2	8·799	2	8·980	2	9·166	2	9·356
4	8·802	4	8·984	4	9·170	4	9·360
6	8·806	6	8·987	6	9·173	6	9·363
8	8·809	8	8·991	8	9·177	8	9·367
38	8·813	48	8·995	58	9·181	68	9·371
2	8·817	2	8·999	2	9·185	2	9·375
4	8·820	4	9·002	4	9·189	4	9·379
6	8·824	6	9·006	6	9·192	6	9·382
8	8·827	8	9·009	8	9·196	8	9·386
39	8·831	49	9·013	59	9·200	69	9·390
2	8·835	2	9·017	2	9·204	2	9·394
4	8·838	4	9·021	4	9·207	4	9·398
6	8·842	6	9·024	6	9·211	6	9·401
8	8·845	8	9·028	8	9·214	8	9·405
40	8·849	50	9·032	60	9·218	70	9·409
2	8·853	2	9·036	2	9·222	2	9·413
4	8·856	4	9·039	4	9·226	4	9·417
6	8·860	6	9·043	6	9·229	6	9·420
8	8·863	8	9·046	8	9·233	8	9·424
41	8·867	51	9·050	61	9·237	71	9·428
2	8·871	2	9·054	2	9·241	2	9·432
4	8·874	4	9·058	4	9·245	4	9·436
6	8·878	6	9·061	6	9·248	6	9·440
8	8·881	8	9·065	8	9·252	8	9·444

FIRST SCHEDULE—(continued.)

No. 18--1884.

Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.	Column A. Indication on Sykes's Hydro- meter.	Column B. Weight per Gallon.
72	9·448	79	9·584	86	9·722	93	9·860
2	9·452	2	9·588	2	9·726	2	9·864
4	9·456	4	9·592	4	9·730	4	9·868
6	9·459	6	9·596	6	9·733	6	9·872
8	9·463	8	9·600	8	9·737	8	9·876
73	9·467	80	9·604	87	9·741	94	9·880
2	9·471	2	9·608	2	9·745	2	9·884
4	9·475	4	9·612	4	9·749	4	9·888
6	9·479	6	9·615	6	9·753	6	9·892
8	9·483	8	9·619	8	9·757	8	9·896
74	9·487	81	9·623	88	9·761	95	9·900
2	9·491	2	9·627	2	9·765	2	9·904
4	9·495	4	9·631	4	9·769	4	9·908
6	9·498	6	9·635	6	9·773	6	9·913
8	9·502	8	9·639	8	9·777	8	9·917
75	9·506	82	9·643	89	9·781	96	9·921
2	9·510	2	9·647	2	9·785	2	9·925
4	9·514	4	9·651	4	9·789	4	9·929
6	9·517	6	9·655	6	9·792	6	9·934
8	9·521	8	9·659	8	9·796	8	9·938
76	9·525	83	9·663	90	9·800	97	9·942
2	9·529	2	9·667	2	9·804	2	9·946
4	9·533	4	9·671	4	9·808	4	9·950
6	9·537	6	9·674	6	9·812	6	9·955
8	9·541	8	9·678	8	9·816	8	9·959
77	9·545	84	9·682	91	9·820	98	9·963
2	9·549	2	9·686	2	9·824	2	9·967
4	9·553	4	9·690	4	9·828	4	9·972
6	9·557	6	9·694	6	9·832	6	9·976
8	9·561	8	9·698	8	9·836	8	9·981
78	9·565	85	9·702	92	9·840	99	9·985
2	9·569	2	9·706	2	9·844	2	9·989
4	9·573	4	9·710	4	9·848	4	9·994
6	9·576	6	9·714	6	9·852	6	9·998
8	9·580	8	9·718	8	9·856	8	10·003
						100	10·007

70 WOOL, MOHAIR, AND CARCASSES THEFT REPRESSION ACT.

No. 19—1884.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Number and Year.	Title of Act.	Extent of Repeal.
No. 2, 1878.	Act to impose an Excise Duty upon Spirits distilled or manufactured within the Colony of the Cape of Good Hope.	The whole Act.
No. 33, 1882.	Act to amend the Act No. 2 of 1878, known as the "Excise Duty Act, 1878."	The whole Act.

THIRD 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. 19—1884.]

[Promulgated 25th July, 1884.

ACT

To Provide for the Better Repression of Thefts of Wool, Mohair, and Slaughtered Carcasses.

Preamble.

WHEREAS the provisions of the "Ostrich Feathers and Skins Theft Repression Act," being Act No. 32 of 1883, do not extend or apply to theft of wool, mohair, and the slaughtered carcasses of sheep, goats and oxen; and it is desirable that such, or similar, provisions should extend to such last mentioned thefts: 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:—

Suspected person may be apprehended without warrant.

1. If there be reasonable grounds for believing that any person is or has been in unlawful possession of any wool, mohair, slaughtered carcasses, or parts of slaughtered carcasses of sheep, goats, or

other animals, it shall be competent for any justice of the peace, field-cornet, landholder, or police constable to apprehend such person without warrant, and convey him in custody before any resident magistrate having jurisdiction, and if it be found that he is or has been in possession of any wool, mohair, slaughtered carcases or parts of carcases as aforesaid, and is not able to give a satisfactory account of such possession to such magistrate, he shall be deemed to be guilty of the crime of theft, and shall thereupon be dealt with as if he had originally been charged with such crime.

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2. If any person is reasonably suspected to be carrying and conveying away in any sack, knapsack, or other covering, any wool, mohair, carcases, or portions of carcases of slaughtered sheep, goats, or other animals, it shall be lawful for any justice of the peace, field-cornet, landholder, or police constable to stop such person and examine the contents of such sack, knapsack, or other covering, and in case such person shall, upon such examination, be found to be in possession of any of the articles aforesaid, it shall be lawful for such justice of the peace, field-cornet, landholder, or police constable to apprehend him without warrant and to convey him before any magistrate having jurisdiction, and in case he shall be unable to give a satisfactory explanation of such possession to such magistrate, he shall be deemed to be guilty of the crime of theft, and shall be thereupon dealt with as if he had been originally charged with such crime.

Sacks, &c., of persons suspected to be conveying Wool, &c., may be searched, and persons apprehended without warrant.

3. Any person who shall, under colour of this Act, wrongfully and maliciously, or without probable cause, arrest, or cause to be arrested, any person, shall be liable to pay a fine not exceeding Twenty Pounds, and to pay to the arrested person such amount, not exceeding the sum of Fifty Pounds, as and for damages, as the magistrate before whom such arrested person is brought for trial shall award, and in default of payment of the fine shall be liable to be imprisoned, with or without hard labour, for a period not exceeding three months, unless such fine shall be sooner paid: Provided that nothing in this section contained shall have the effect of depriving any aggrieved person of the right to elect to take any other remedy given him by law in lieu of the remedy by this section given.

If unable to give explanation to be deemed guilty of theft.

Penalty for wrongful arrest.

4. This Act may be cited as the "Wool, Mohair, and Carcases Theft Repression Act, 1884."

Short title.

No. 20—1884.]

[Promulgated 25th July, 1884.]

ACT

To Amend the Law relating to Stamp Duties and Fees of Office, and to provide for a Rebate of Customs Duty.

Repealed by 1916 Act-39 in so far as it relates to the payment of fees in the insolvent and branch of any trade office.
Preamble.

WHEREAS it is expedient that the Revenues of the Colony should be increased by the imposition of certain new and increased Stamp Duties and by levying certain new and increased

No. 20—1884.

Fees of Office, and to provide for a certain rebate of customs 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:—

Repeal of repugnant laws.

1. The several laws mentioned in the first schedule to this Act, 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, previously to the commencement of this Act.

Stamp Duties and Fees in Schedule 2 established.

2. All and singular the stamp duties and fees of office set forth in the second schedule hereto, shall from and after the taking effect of this Act become due and payable for and in respect of the several instruments, acts, matters and things mentioned and enumerated in the said schedule: and all and singular the several explanations, directions and provisions contained in the said schedule shall be of the same force and effect as if the same had been contained herein.

Governor may appoint person to perform duties of Distributor or civil commissioner.

3. It shall be lawful for the Governor, by notice in the Government Gazette, to direct that any of the duties required by the "Stamp Acts 1864, 1870 and 1877," to be performed by the distributor of stamps in Cape Town or by any civil commissioner elsewhere, shall be performed by some other person or persons, anything to the contrary in the said Acts notwithstanding; and from time to time to prescribe the manner in which adhesive stamps tendered for cancellation under the provisions of Act No. 3 of 1864, shall be cancelled by the officers empowered by law to cancel the same.

*repealed by
11 Dec 30 Dec 1.*

And may prescribe how stamps shall be cancelled.

*14-265-1911
545.*

Police officers may demand hawkers' licence.

4. It shall be lawful for any commissioner, inspector, sub-inspector, or sergeant of police, or for any chief constable, or other officer of police thereto specially appointed, or for any excise officer, at any reasonable time to enter upon the premises of any person carrying on any trade or business, by Tariff 15 of the Schedule to this Act required to be licensed, and to demand the production of the necessary licence, and unless such person shall on such demand produce a proper licence duly stamped and still in force, he shall be considered as a person carrying on an unlicensed trade or business, and be liable to the penalty provided by section 6 of the "Stamp Act, 1870:" Provided that in the event of the necessary licence being produced at the trial of any such case, a penalty not exceeding £1 for the non-production of such licence to the officer by whom the same may have been demanded shall be imposed.

Penalty for non-production.

5. Every person who shall grant, issue, or deliver,

- (1) Any proxy to vote at any meeting of shareholders or members of any joint stock company, association, or society,
- (2) Any receipt for the payment of money,

- (3) Any letter of allotment or letter of renunciation, or any letter having the effect of a letter of allotment,
 (4) Any scrip certificate or share, or any transfer thereof,
 (5) Any debenture issued by any company or corporation, or any transfer or cession of any debenture payable to order,
 (6) Any bank deposit receipt or renewal, or continuation thereof,

No. 20--1884.

without affixing thereto the stamp by law required, shall be liable on conviction to a penalty not exceeding two pounds.

6. Every broker's note, whether bought or sold, shall be on stamped paper, and all and singular the provisions in Tariff 6 of the Schedule of the Stamp Act, 1864, relative to the use of adhesive stamps are hereby repealed.

Broker's notes to be on stamped paper.

7. It shall be lawful for any person, granting a receipt for the payment of money, to use for the purpose of the Stamp Duty thereon required by Tariff 16 of Schedule 2 of this Act, either a Revenue or a Postage Stamp, anything in Act No. 1, 1868, to the contrary notwithstanding.

Postage stamps may be used to cover receipts.

8. This Act shall take effect from the 1st day of August, 1884, and may be cited as "The Stamp and Office Fees Act, 1884," and shall be read as one with the Stamp Act, 1864, the Stamp Act, 1870, and the Stamp Act, 1877, and the said Acts may be cited together as the "Stamp Acts, 1864, 1870, 1877 and 1884."

Commencement of Act and short title.

No. 20—1884.
Schedule I.

SCHEDULE I.

ENACTMENTS REPEALED.

Number and Year.	Title.	Extent of Repeal.
Ordinance No. 104, 1833.	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 the Colony.	Schedule A.
Ordinance No. 105, 1833.	“Ordinance for providing for the due Administration and Management of the Estates and Property of Minors, Lunatics, and Persons absent from the Colony, and for the proper care of the Persons of Minors and Lunatics.”	Schedule D.
Ordinance No. 14 of 1844.	Ordinance for the better Regulation of the Office of the Registrar of Deeds.	Schedule of Fees.
Act No. 3 of 1864.	An Act for Regulating the Duties upon Stamps and Licences.	Tariffs Nos. 12 and 18 of the Schedule; so much of Tariff No. 15 of the Schedule as has not already been repealed; the words “but the licence of every such last-mentioned Company shall bereckoned upon one-half, instead of upon the whole of its subscribed Capital” in Sub-section <i>b</i> of Section 1 of Tariff No. 17 of the Schedule.
Act No. 13 of 1870.	“The Stamp Act, 1870.”	Tariffs Nos. 2 and 16 of the Schedule,

Number and Year.	Title.	Extent of Repeal.
Act No. 15 of 1877.	“The Stamp Act, 1877.”	Section 8.
Tariffs of Fees, dated 17th June, 1830, fixed by Order of the Supreme Court.	1. Tariff of Fees to be taken in Civil Cases by the Registrar of the Supreme Court of the Cape of Good Hope. 2. Tariff of Fees to be taken by the Master of the Supreme Court.	The whole.
Tariff of Fees, dated 24th January, 1832, fixed by Order of the Supreme Court.	Tariff of Fees to be taken for Proceedings in Civil Cases in the Circuit Courts of this Colony.	The whole.
Table of Fees and Charges fixed by Rule No. 341 of the Supreme Court, dated 26th March, 1881.	Table of Fees and Charges to be allowed by the High Sheriff of the Colony in respect of executing the process of the Supreme Court, Eastern Districts Court, and Circuit Courts of the Cape of Good Hope.	The item “Registering Summons or other process, £0 1s. 0d.”
	GRIQUALAND WEST.	
Ordinance No. 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.	Tariffs Nos. 1, 2, 4 and 5 of Schedule 2; the item “Reissuing Summons or other process, £0 1s. 0d.,” in Tariff No. 3 of Schedule 2.

SCHEDULE 2.

Schedule II.

TARIFF 11. POLICIES OF INSURANCE.—ACCIDENT POLICIES.

£ s. d.

For any payment agreed to be made upon the death of any person only from accident or violence, or a composition for personal injury, or by way of indemnity against loss or damage of or to any property for which Stamp Duty is not otherwise provided; for every £100 or fraction thereof

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	£	s.	d.
2. Where the Premiums on Accident Policies shall be payable or be paid annually, the receipts for such annual payments shall be stamped as follows:—For every £1 of such premium or fraction of £1	0	0	1
3. For Single or Return Journey Tickets issued at Railway Stations, covering risks of accidents on Single or Return Journeys, five per cent. on the annual receipts from such Tickets shall be paid by the Insurance Company into the Treasury. Every Insurance Company issuing such Tickets shall be bound to render accounts to the Treasury in support of the payment of the Stamp Duty.			
1. The foregoing Tariff shall be taken to form part of Tariff No. 11 of the Schedule to the Stamp Act, 1864, and shall be considered as if the same had been inserted therein after the words and figures following, namely:— “On Fire Policies for every £100 or fraction thereof of the sum insured . . .	0	0	6”

TARIFF 15—LICENCES.

ANNUAL.

For exercising the trade of a Baker	5	0	0
For exercising the trade of a Butcher	5	0	0
For keeping a Public Billiard Table	10	0	0
For keeping a Public Bagatelle Table	3	0	0
For Hawkers—			
X To trade in one Division with or without one vehicle	3	0	0
For each additional vehicle	1	0	0
To trade generally with or without one vehicle	10	0	0
For each additional vehicle	3	0	0
For dealing by Wholesale	15	0	0
For dealing by Retail	3	0	0
For carrying on the business of an Auctioneer	10	0	0
For keeping a Bonded or Bonding Warehouse	20	0	0
For dealing in Gunpowder	5	0	0
For every Apothecary, Chemist and Druggist	5	0	0
For carrying on the business of a Broker	5	0	0
For carrying on the business of a Pawnbroker	25	0	0
For manufacturing Jams, Preserves, and Confectionery, for purposes of Trade or Sale	5	0	0
For selling Revenue Stamps	6	5	0
Every Wharf Dingy plying for hire	0	10	0

	£	s.	d.
Every other Boat, used in the Transport of goods or Materials, or plying for passengers :			
Of Ten Tons and under	1	0	0
Above Ten Tons	1	10	0
Every Steam Launch Plying for Passengers	2	0	0
Every Steam Tug, including Passenger Licence	10	0	0
Every Steam Tug fitted and used only for supplying water to shipping	10	0	0
Every Hulk used for Storing Coal	20	0	0

OTHER.

✕ For killing game (for one whole season)	0	10	0
For a special licence for the solemnization of Marriage	5	0	0
For admission to practise as an Advocate	20	0	0
For admission to practise as an Attorney	20	0	0
For admission to practise as a Notary	12	10	0
For admission to practise as a Conveyancer	12	10	0
For admission to practise as a Translator	2	10	0
For admission to practise as a Medical Practitioner	5	0	0
For admission to practise as a Land Surveyor	5	0	0
✕ For admission to practise as an Apothecary, Chemist and Druggist	2	10	0
For admission to practise as a Dentist	2	10	0

SPECIAL.

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	0	0
For the second six months	30	0	0
For every additional six months	35	0	0

1. The above-mentioned licences shall either be written upon paper duly stamped, or shall have adhesive stamps of the proper value affixed to them before being issued. If adhesive stamps be used, they must be cancelled by writing thereon the initials of the officer issuing the licence, and the date on which he shall write the same, or in such other way as the Governor may from time to time direct.

2. All such of the above licences as are annual shall, no matter at what period of the year they may be taken out, expire on the thirty-first of December then next. When any such annual licence shall be issued upon or after the first of July, there shall be payable only one-half of the appointed sum. If taken out at any time before the first of July, there shall be no deduction.

3. It shall be lawful for any resident magistrate, justice of the peace, field-cornet, assistant field-cornet, excise officer, or chief constable, to demand from any person travelling in this colony as a hawker or trader, the production of his licence; and unless such person shall, on such demand, produce a licence duly stamped, and

No. 20—1884.

still in force, it shall be lawful for the person demanding the same to carry and convey the hawker or trader, with his goods, to the nearest resident magistrate, and such magistrate shall have jurisdiction to try the offender, although no act of trading may be proved to have been done within the district of such magistrate.

4. No hawker or pedlar shall obtain a licence until he shall produce to the officer authorised to issue such licence a certificate signed by some officer of police or by the chief constable, or by a justice of the peace for the division or district in which the said licence is applied for, that the applicant has resided within the said division or district for one month, and that he is, to the best of his knowledge and belief, a person of good character, and intends in good faith to carry on the trade of a hawker.

5. So much of this tariff as relates to annual licences shall commence on the first day of January, 1885, and not sooner, anything contained in the concluding section of this Act to the contrary notwithstanding.

6. No licences shall be necessary for selling postage stamps.

7. Every wholesale licence shall authorise all dealings authorised by the retail shop licence as well as all dealings by wholesale.

Rebate of duty on
sugar.

8. Under such regulations as may be prescribed by the Governor in that behalf a rebate of customs duty may be allowed to the wholesale consumers of sugar for the manufacture of jams, preserves, and confectionery: Provided that no premises on which the brewing of beer or distillation of spirits is carried on shall be licensed for the manufacturing of jams, preserves and confectionery.

9. The foregoing Tariff shall be and the same is hereby substituted in lieu of Tariff No. 15 of the Schedule to the Stamp Act, 1864.

TARIFF 16—MISCELLANEOUS.

	£	s.	d.
Every Affidavit in any Civil Case, Motion, or Proceeding in Insolvency	0	3	0
Every Ante-nuptial Contract	1	0	0
Articles of Partnership	2	0	0
Every Act of Suretyship	0	2	0
Notarial Protest of a Bill or Note exceeding £10, but not exceeding £40	0	2	6
Notarial Protest of a Bill or Note exceeding £40 ..	0	5	0
Notarial Certificate of the presentation of a Bill, Note, or Cheque not exceeding £40	0	1	0
Notarial Certificate of the presentation of a Bill, Note, or Cheque exceeding £40	0	2	6
Every Notarial Attestation of any instrument not otherwise stamped, and any Notarial Attestation of the truth of any Copy of any Instrument, each	0	1	0
Every Notarial Special Power of Attorney to do any particular act	0	1	0

*Repealed by
Act 30/11/81.*

	£	s.	d.	No. 20—1884.
Every Notarial Act not required to be otherwise stamped, and every Grosse	0	1	0	
Every Certificate of Authentication by a Minister of the Crown or Head of a Department	0	15	0	
Every proxy to vote at any Meeting of Shareholders or Members of any Joint Stock Company, Association, or Society	0	0	1	
Every General Power of Attorney which includes among the acts to be performed, Sales or Transfers of Ships or Lands, or the passing of Deeds of Hypothecation or Mortgage	1	0	0	
Every General Substitution to exercise all the powers conferred by a Power of Attorney as aforesaid.	0	10	0	
Every General Power of Attorney which does not include Sales or Transfers of Ships or Lands, or the passing of Deeds of Hypothecation or Mortgage, but includes the continuous performance of more than one act or transaction, or of various matters of business	0	10	0	
Every General Substitution to exercise all the powers conferred by such last mentioned General Power of Attorney	0	5	0	
Every Power of Substitution under any General Power of Attorney :—				
(a). If for the performance of a Single Transaction	0	1	0	
(b). If for the performance or continuous performance of more than one transaction.	0	5	0	
Every Special Power of Attorney not otherwise provided for	0	1	0	
Every Substitution under such last mentioned Power of Attorney	0	0	6	
Every Receipt for the Payment of Money (other than a receipt for, or in respect of, Money deposited in any Bank) when the sum exceeds £1	0	0	1	
Every Letter of Allotment or Letter of Renunciation, or every Letter having the effect of a Letter of Allotment of any Share in any Company or proposed Company	0	0	3	
Every Scrip Certificate, Scrip, or Share (new Scrip Certificates without change of proprietorship excepted)—				
(a). Entitling any person to become the proprietor of any Share in any Company or proposed Company				
(b). Issued or delivered in the Colony and entitling any person to become the pro-				

No. 20-1884.

	£	s.	d.
prietor 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 subscribed capital or fraction thereof	0	0	1
Every Debenture issued by any Company or Corporation—			
For every £100 or fraction thereof	0	5	0
Every Transfer or Cession of any Debenture not payable to bearer—			
For every £100 or fraction thereof	0	2	0
Every Fixed Deposit Receipt of any Bank or Joint Stock Company—			
For each £100 or fraction of £100 and for each year or fraction of a year	0	1	0
Every Renewal or Continuation of any Fixed Deposit Receipt of any Bank or Joint Stock Company—			
For each £100 or fraction of £100 and for each year or fraction of a year	0	1	0
Every Fixed Deposit Receipt of any Bank or Joint Stock Company terminable at the expiration of a notice to be given from either side—			
For each £100 or fraction of £100 and for each year or fraction of a year during its continuance	0	1	0

1. Every instrument mentioned in this tariff must be as to some part of it written upon stamped paper, or otherwise have an adhesive stamp affixed and cancelled in such manner as the Governor may from time to time direct.

2. Protests and certificates of presentation of bills, notes, and cheques under £10 shall not be required to be stamped.

3. The foregoing Tariff shall be and the same is hereby substituted in lieu of Tariff No. 16 of the Schedule to the Stamp Act, 1870.

TARIFF 2.—AGREEMENTS.

On every Lease or Agreement for Lease of Movable or Immovable Property, where the term of hiring shall not be less than six months,

	£	s.	d.
For every £100 given by way of fine or fore-gift, and in like proportion for any greater or less sum	1	0	0
For £10 of rent and not exceeding £20	0	2	0
Exceeding £20 „ „ „ 30	0	3	0
„ 30 „ „ „ 40	0	4	0
„ 40 „ „ „ 50	0	5	0

	£	s.	d.
Exceeding £50 and not exceeding £100.. ..	0	10	0
And for every additional £100 rent, or fraction thereof	0	10	0

On every lease for any period exceeding one year, the amount of the above stamp shall be multiplied by the number of the years of the duration of the lease; and for this purpose, every broken portion of a year shall be deemed to be an entire year.

When any lease or agreement for a lease shall be made, not for any definite period, but for and during the natural life of a person named therein, whether lessor or lessee, the value of such lease or agreement for a lease shall be calculated according to the tables for calculating the value of annuities contained in the Schedule annexed to the Act of the Imperial Parliament, called the "Succession Duty Act, 1853," and the stamp to be affixed to such lease or agreement for a lease shall be upon the value thereof as so ascertained, and according to the aforesaid scale of Ten Shillings for every Hundred Pounds or fraction of a Hundred Pounds of said value.

When any lease or agreement for a lease shall not be made for any definite period, but terminable on any notice stipulated in the said lease to be given, the stamp to be affixed to such lease shall be calculated as if the lease were for a period of three years.

When any lease or agreement for a lease shall be for a term or period which is partly definite and partly indefinite, the value of the stamp to be affixed to such lease shall, as regards the definite period stated therein, be calculated according to the above tariff, and as regards the indefinite period by an additional stamp of *twice* the value of the first-named stamp.

In case of the assignment of a lease by a lessee before the expiration thereof, such assignment shall bear a stamp of one-half of the amount payable according to the above scale upon a lease for the unexpired term assigned.

On all articles of apprenticeship to any of the following professions, that is to say:—

Attorney,
Notary Public,
Conveyancer,
Surgeon,

In case no premium be paid on such articles, or a premium which, reckoning at the rate of ten pounds sterling per centum, would not exceed ten pounds sterling .. £10

In case a premium be paid on such articles which, reckoning at the rate of ten pounds sterling per centum, would exceed ten pounds sterling, then the premium shall be reckoned as one gross sum, whether payable in one sum or by instalments, or as an annual or other periodical payment to be made during the apprenticeship, or to be paid partly or wholly, or at the end of the apprenticeship, and shall pay per centum, £10.

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On all articles of apprenticeship to any of the following trades, that is to say:—

Apothecary,
Chemist or
Druggist,

Half the above rates.

In case anyone shall combine in his own person any two or more of the above professions or trades, the one stamp shall cover articles of apprenticeship to such person in respect of all such professions or trades as aforesaid as shall be so jointly practised by such person.

Every agreement and assignment mentioned in the foregoing tariff must, as to some part thereof, be written upon stamped paper, or otherwise have an adhesive stamp affixed and cancelled, as in the fourteenth section of the "Stamp Act, 1864," is mentioned.

The foregoing Tariff shall be and the same is hereby substituted in lieu of Tariff No. 2 of the Schedule to the Stamp Act, 1870, as amended by section 8 of the Stamp Act, 1877.

FEES OF OFFICE.

Fees of Office.

I. In the Deeds Registry Offices at Cape Town, Kimberley, and King William's Town.		
For the preparation of any Deed of Transfer or Hypothecation of Immovable Property, prepared in the Deeds Registry Office	£	s. d.
For the registration of any such last mentioned Deed prepared elsewhere	2	0 0
For the registration of a Notarial Bond or Obligation in the name of each debtor and each surety—		
For each debtor and surety respectively ..	0	6 0
For the registration of every Ante-nuptial Contract, and every Notarial Contract of Servitude—		
At the office where such instrument shall be first registered	1	0 0
At any office where the same shall subsequently be registered	0	6 0
On each application to search the Index of the Register of Transfers and Hypothecations—		
For each letter searched	0	1 0
For an inspection of the entries under each name in the Debt Register or in the Land Register, or of every Bond, Deed of Transfer or Hypothecation, Ante-nuptial Contract, or Contract of Servitude	0	2 0

	£	s.	d.	No. 20-1884
NOTE.—No fee is to be charged to any Conveyancer in respect of any search or inspection connected with any Deed about to be passed or registered by him or to any surveyor engaged in surveys of Crown Land, or land for transfer.				
For Office Copies of Deeds or other documents not exceeding four folios of 100 words	0	5	0	
Every additional folio of 100 words	0	0	6	
For every registration, cancellation, entry, certificate, or other act to be made or done in the Deeds Registry Office, not being any of the matters or things aforesaid	0	3	0	
For every deduction from a Diagram	0	10	0	

II. In the offices of the Master of the Supreme Court and of the Master of the High Court of Griqualand.

a. ORPHAN CHAMBER BRANCH.

Repealed by Act 24/113 § 1

	£	s.	d.
For Filing and Registering any Will, Codicil, or Testamentary Writing	0	10	0
On every Application to Search the Index of Names of Deceased Persons; for every Name searched for	6	1	0
On every Application to Search the Index of Names of Executors, Tutors, Curators, or Sureties; for each Name searched for	0	3	0
For every Inspection of any Will (including Codicils, if any)	0	2	0
Of Liquidation Accounts:			
One Account, or the First of a Series ..	0	2	0
Each Subsequent Account	0	1	0
Of any other Document	0	1	0
For Office Copies of Wills or other Documents, not exceeding one Folio of 100 Words	0	3	0
Every Additional Folio of 100 Words ..	0	1	0
For Letters of Administration as Executor Testamentary, Assumed or Dative, or Certificates of Appointment as Curator Bonis, each:			
Where the Value of the Estate does not exceed £40	0	10	0
Where Value exceeds £40	1	0	0
For Letters of Confirmation of the Appointment of Tutors Testamentary, Assumed or Dative, or of Curators, Nominated, Assumed, or Dative, each	0	10	0
For every Edict, including Cost of Publication in the <i>Government Gazette</i>	1	0	0

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	£	s.	d.
For Attending any Meeting of Next-of-Kin, Legatees, or Creditors of Deceased Persons, Minors, or Absentees, whether by the Master or Resident Magistrate	0	10	0
For approving Security given by Executors, Tutors, or Curators	0	5	0
For filing Deeds of Assumption, each	0	10	0
For filing every Act repudiating an Inheritance	0	5	0
On every Inventory of an Estate or any part thereof :—			
Without a valuation :			
First sheet, not exceeding one folio of 100 words	0	3	0
Every additional folio of 100 words	0	2	0
With a valuation :			
If such valuation do not exceed £40	0	1	0
Do. do. £100	0	3	0
And for every additional £100 or part thereof	0	1	0
For registering Accounts of Executors, Tutors, or Curators, each	0	3	0
For every Report, in the discretion of the Master, subject to a taxation before the Court, or a Judge thereof ; or not less than	0	10	0
For filing and registering any Order of Court	0	10	0
For every Certificate in respect of which no other fee is payable	0	3	0
For Taxing the Remuneration of Executors, Tutors, Curators, or Appraisers, on every £ or fraction of a £ of the taxed amount	0	1	0
<i>b. INSOLVENT AND LAW BRANCH</i>			
For every Order of Sequestration filed	0	10	0
For every other Order of Court filed	0	3	0
For every Advertisement of Meeting of Creditors	0	5	0
For every Attendance at a Meeting of Creditors	0	12	0
On every Report of the filing of an Account or of Election of a Trustee	0	10	0
On every Certificate of Appointment of a Trustee, or of the confirmation of an Account	0	5	0
For each Attendance in matters referred by the Court	1	5	0
For every Report in the same, not exceeding five folios of 100 words, each	0	10	0
Each additional folio	0	1	0
For every search or inspection of any Account or Document	0	1	0
For certified Copies of Documents when not exceeding four folios of 100 words, each	0	5	0
Each additional folio	0	1	0
For Office Copies not certified one-half of the preceding charges.			

On all moneys received, paid, or distributed by the Master, in pursuance of any Order of Court One per cent.

III. 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:—

	£	s.	d.
For every Summons for a Defendant or Witness	0	12	0
For every Warrant of Attorney to Sue or Defend	0	6	0
For every Declaration or Special Case	1	0	0
For every Plea, Answer or Subsequent Pleading	0	10	0
Upon every Notice, entering or setting down any Illiquid Default, or Provisional Case	0	5	0
Upon every Notice, setting down for Trial, Argument or Judgment, any Contested Case	0	10	0
For every Certified Copy of any Document not exceeding four folios of 100 words each	0	5	0
Every additional folio of 100 words	0	1	0
For every Writ or Process of Execution	0	10	0
For every Writ of Arrest, or for the Attachment of the Person or of Property to found Jurisdiction	1	0	0
For every Petition to Appeal to the Queen in Council	2	0	0
For every Recognizance in such Appeal Cases, for each person	0	10	0
For every other Recognizance or Bond of Security for restitution	0	10	0
For affixing the Seal of the Court to Commissions for examination of Witnesses, or to any other Document	0	15	0
Upon every Liquid Document upon which provisional sentence is prayed, not being a document for which a stamp is by law provided	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	10	0
Searching for any Entry, Record, or Document:			
Through one year	0	2	0
For every additional year	0	1	0
Upon every Petition, Memorial, Notice of Motion, or other Application to the Court filed	0	5	0
On every Certificate of Completion of Security on Application for Rehabilitation	0	5	0
On every Balance Sheet on application for Rehabilitation	0	5	0
Taxation of Costs, for each £ or fraction of a £ taxed	0	1	0

No. 21—1884.]

[Promulgated 25th July, 1884.

See 1908 Act 25.

ACT

To Sanction the use of the Dutch Language equally with the English in Courts of Justice.

Preamble.

WHEREAS it is expedient to afford facilities for the use of the Dutch language equally with the English in courts of justice and in legal proceedings: 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:—

Charter of justice and previous enactments not to affect this Act.

1. Notwithstanding anything contained in the Charter of Justice or in the Act No. 20 of 1856, or in any other statutory enactment having the force of law in the colony, the judges of the superior courts of justice may, and resident magistrates, special justices of the peace and field-cornets shall, allow the use of the Dutch language equally with the English language at the hearing of any suits, cases, or enquiries, civil or criminal, in their respective courts when requested so to do by any of the parties to such suits or other proceedings; and upon such allowance it shall be lawful for either of the parties to such suits, cases, or other proceedings, or their respective counsel, attorneys, or agents, to use either the English or Dutch language in the conduct of their cases before such courts.

Judges may, and judicial officers shall, allow use of either Dutch or English in Courts of Justice.

Divisional Councils or number of voters may apply for summonses and notices, to be in Dutch.

2. Whenever any divisional council shall by a majority of its members, resolve at a meeting duly convened for that purpose; or whenever no fewer than one-third of the voters registered for parliamentary elections in any division shall in writing, by petition, apply to the Governor to order the issuing of summonses, notices, and documents referred to in any summons, in all suits brought in any of the courts within such division, in the Dutch as well as in the English language, it shall be lawful for the Governor in either of the cases before-mentioned by proclamation in the Gazette to grant such order.

Power of Governor by Proclamation to authorise the same.

Short title.

3. This Act may be cited as “The Dutch Language Judicial Use Act, 1884.”

No. 22—1884.]

[Promulgated 25th July, 1884.

Repealed by 1889 Act. 1.

ACT

For Authorising the Governor to Grant a Rebate of Customs Duty in respect of Goods removed Overland to certain Places beyond the Borders of the Colony.

Preamble.

WHEREAS it is expedient to grant a rebate of customs duties payable on goods imported into this colony when such goods shall be removed overland to certain places beyond the

borders of the colony : 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 :—

No. 23—1884.

1. Whenever any goods imported, or warehoused on importation, into this colony, upon which duties shall not have been paid shall be removed overland to any state or territory beyond the borders thereof to which the Governor shall by proclamation declare this Act to apply, it shall be lawful for the Governor to grant such rebate of the customs duties payable on the said goods, as notice may from time to time be given of in the Gazette, but such rebate shall in no case exceed the difference between the amount of customs duties payable at the time on such goods in this colony and the colony of Natal, respectively.

Rebate of duties on goods imported and removed overland to places beyond the Colony.

2. The Governor may make and publish, and from time to time as he shall see occasion, alter, by notice published in the Gazette, regulations for the removal and conveyance to and across the borders of the colony of such goods as aforesaid.

Regulations to be framed.

3. Any person who shall contravene any regulation made and published as in the preceding section mentioned, shall be liable to a fine not exceeding three hundred pounds sterling, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding twelve months, or to both such fine and imprisonment; and all goods removed in contravention of any such regulation, and all vehicles and animals made use of in the removal of such goods shall become forfeited to the Colonial Treasury.

Penalty for contravening regulations.

4. No customs duties shall be payable in respect of the importation into the colony across the inland border thereof of any articles grown or produced in South Africa, other than the following, namely: wine, beer, spirits, tobacco, coffee, sugar, molasses, and any other article that may hereafter be excepted by proclamation of the Governor.

What goods imported overland liable to duty.

5. This Act may be cited as the "Customs Rebate Act, 1884."

Short title.

No. 23—1884.]

[Promulgated 25th July, 1884.

ACT

To make Provision for the Discharge of the Duties of the Attorney-General of this Colony, during the illness or absence of that Officer.

WHEREAS it is desirable to provide for the performance under certain circumstances of the duties appertaining to the office of Attorney-General: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent

Preamble.

No. 24—1884. of the Legislative Council and House of Assembly thereof, as follows :—

In what cases Governor may appoint person to act for Attorney-General.

1. It shall be lawful for the Governor when, and so often as, by reason of the absence or incapacity, through sickness or other cause, of the Attorney-General for the time being, it shall appear to him necessary or expedient to do so, to appoint some other fit and proper person to act as and in place of the said Attorney-General, during such absence or the continuance of such incapacity, and thereupon every right, duty, power, and function, conferred or imposed by law upon the Attorney-General, shall and may be exercised and performed by such person as fully and effectually as the same may be exercised by the Attorney-General himself : Provided that nothing herein contained shall be taken to entitle such person to sit and take part in any proceedings in either the Legislative Council or the House of Assembly, nor to confer upon him any privilege, function, or power, possessed by the Attorney-General solely in his capacity as a Minister of the Crown under the provisions of the " Constitution Ordinance Amendment Act, 1872."

Short title

2. This Act may be cited as the " Attorney-General's Office Act, 1884."

No. 24—1884.]

[Promulgated 25th July, 1884.

Repealed by 1907 Act 10 Sec. 1 ACT

To Impose a Duty on the Export of Ostriches and Ostrich Eggs.

Preamble.

WHEREAS it is desirable to impose a duty on Ostriches and Ostrich Eggs exported from this Colony: 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 :—

Duty on export of ostriches and ostrich eggs.

1. Upon every ostrich exported from this Colony, except as hereinafter provided, there shall be payable a duty of one hundred pounds sterling, and upon every ostrich egg so exported there shall be payable a duty of five pounds: Provided, however, that no duty shall be payable on the export of any ostrich or ostrich egg to any neighbouring State or Colony which shall by its own legislature have imposed a duty on the export of ostriches or ostrich eggs not less in amount than the duty imposed by this Act.

Penalty for contravention.

2. Every person who shall contravene the provisions of this Act by exporting any ostrich or ostrich egg (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 more than one hundred pounds for every such ostrich or ostrich egg so exported, or to imprisonment with or without hard labour, for any term not less than one month nor more than six months or until such fine be paid,

3. All penalties under this Act may be recovered or enforced in the court of the resident magistrate of the district in which the offence was committed. No. 25—1884.
How penalty to
be recovered.

4. It shall be lawful for the Governor from time to time to make such rules and regulations as he may deem advisable for carrying out the provisions of this Act: Provided that such rules and regulations shall be published in the Gazette. Governor may
frame rules, &c.

5. This Act may be cited as the "Ostrich Export Duty Act, 1884." Short title.

No. 25—1884.]

[Promulgated 25th July, 1884.]

Repealed by 1916 Act 22 ACT

To Authorise the Expenditure of a further Sum of Two Hundred and Eighty-two Thousand Pounds (£282,000) sterling, in the Construction and Equipment of Railways already authorised, and in providing a Reserve of Store for the Service of the Railway System generally.

WHEREAS it is desirable to incur a certain expenditure in completing and equipping certain lines of railway, in addition to the expenditure already authorised for those purposes, and for providing a reserve of stores for the service of the railway system generally: And whereas it is desirable that the Governor should be authorised to apply to the purpose of meeting such expenditure moneys raised and taken up for the purpose of constructing and equipping certain other lines of railway and for other purposes: 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:— Preamble.

1. It shall be lawful for the Governor to expend, from time to time, as occasion may require, a sum not exceeding five hundred and thirty-five thousand pounds (£535,000), for the following purposes, that is to say:— Power to raise
£535,000.

- (1) For the purpose of constructing and equipping the railway from Beaufort West to Hope Town, the sum of one hundred and seven thousand pounds (£107,000).
- (2) For the purpose of constructing and equipping the line of railway from Wynberg to Kalk Bay, the sum of fifty-six thousand pounds (£56,000).
- (3) For the purpose of constructing and equipping the line of railway from Cradock to Colesberg, the sum of one hundred and eighty-two thousand pounds (£182,000).
- (4) For the purpose of creating a reserve of stores for the service of the railway system generally, the sum of one hundred and ninety thousand pounds (£190,000).

N

No. 26—1884.

Power to apply
£253,000 raised under
Act 14 of 1881.

2. It shall be lawful for the Governor to apply to the purposes in the last Section of this Act mentioned a sum of two hundred and fifty-three thousand pounds (£253,000) out of the moneys authorised by Act No. 14 of 1881, to be raised and taken up for the construction and equipment of certain other lines of railway, that is to say:—

- (1) From the appropriation for the purpose of constructing and equipping the railway from a point at or near Colesberg on the Cradock Extension, to a point at or near the one hundred and eightieth mile from Beaufort West on the Beaufort West Extension (being from Naauw Poort to De Aar), the sum of one hundred and sixty-nine thousand pounds (£169,000).
- (2) From the appropriation for the railway from Queen's Town to Aliwal North, the sum of eighty-four thousand pounds (£84,000).

Power to apply
£282,000 to purposes
in first section.

3. It shall be lawful for the Governor to apply for the purposes mentioned in the first section of this Act, a sum of two hundred and eighty-two thousand pounds (£282,000), in addition to the sums mentioned in the last preceding section, out of the moneys authorised to be raised and taken up under the provisions of the "Temporary Loans Act," being the Act No. 20 of 1883.

Short title.

4. This Act may be cited as the "Railway Additional Expenditure Act, 1884."

No. 26—1884.]

[Promulgated 25th July, 1884.

ACT

To Relieve the Government from the Charge of a certain Road in the Division of Stockenstrom and Queen's Town.

Preamble.

WHEREAS, by Acts No. 32 of 1868, and No. 5 of 1871, the Governor may be called upon by the divisional councils of Stockenstrom and Queen's Town, to take charge of a certain road running from Blinkwater, in the division of Stockenstrom, to Poplar Grove, in the division of Queen's Town, and thence to Penhoek, also in the division of Queen's Town, and to maintain the said road; and whereas the Governor having been so called upon under the provisions of the said Acts, the said road is now in charge of the Chief Inspector of Public Works; and it is desirable that the Governor should be relieved from the liability to be called on as aforesaid: 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:—

Repeal of 3rd Section
of Act 32 of
1868, and 3rd Section
of Act 5 of 1871.

1. The third Section of the Act No. 32 of 1868, and the third Section of Act No. 5 of 1871, are hereby repealed; and the said road in the preamble of this Act mentioned shall from and after the date of the passing of this Act cease to be a main road.

No. 27—1884.]

[Promulgated 25th July, 1884.

ACT

Respected by Act 40 of 1884

To Provide for the Definition of the proper Width of Main and other Roads.

WHEREAS it is desirable that the proper width of main and divisional roads, and roads over which a right of way exists in favour of individuals other than the proprietors of the land over which such roads pass, should be by law defined: 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:—

Preamble.

1. This Act shall apply to such Divisions of the Colony as shall be proclaimed in manner hereinafter mentioned, and no other.

Application of Act to proclaimed divisions.

2. It shall be the duty of every divisional council to fix and determine what shall be the width of every public road within their jurisdiction to be constructed for the use of wheeled vehicles, and also the width to be allowed on each side of such roads for the purpose of removing stock in cases where such roads are not enclosed; and for the purposes of this Act every road over which a right of way shall exist in favour of some person or persons other than the owner or occupier of the land on which such road is situate, shall be taken to be a public road: Provided that no alteration shall be made in the width of any road passing through or between any garden, cultivated lands, orchards, vineyards, or between buildings on homesteads.

Divisional Councils to fix width of roads.

3. In determining the width of the several roads the divisional council shall take into consideration the circumstance of any such road being

Width of different kinds of roads, &c.

(1) A main road,
 (2) A divisional road,
 (3) A road with the right of way mentioned in the first section of this Act,

(4) A mountain pass, or
 (5) An approach to a drift;

and also the nature of the soil over which such road passes, and whether the same is used for pastoral or agricultural purposes: Provided that it shall be lawful for every divisional council to select and appoint upon enclosed public roads resting places (each of which shall not exceed half an acre in extent or be distant less than two miles from each other), for cattle passing along such roads, and such resting places shall be selected and agreed upon by the divisional council, and the owner of the land upon which the same are to be reserved; and in case of disagreement the selection of such resting places, and the amount of compensation (if any) to be paid for injury to property or other loss, shall be settled or determined by arbitration, and for the purpose of any such arbitra-

No. 27—1884.

Notice to be given
to Field-cornets and
in *Gazette*.

Fences, &c., ob-
structing roads to be
removed.

Penalties for ob-
struction.

Expenses out of
rates.

Governor may pro-
claim Act when re-
quested by Divisional
Council.

Short title.

tion the provisions of the "Lands and Arbitration Clauses Act, 1882," are hereby incorporated.

4. Having defined the width of the several roads within their jurisdiction, the divisional council shall give notice of the same to the several field-cornets of the division: and shall also publish such notice in the Government Gazette and in some one or more newspapers, if any, published at the seat of magistracy in such division.

5. Within a reasonable time after such notice has been given the divisional council shall, if necessary, remove all fences or obstructions which shall in any way encroach upon the roads of which the width has been defined as hereinbefore provided for; but the owners of the fences so removed shall be entitled to receive compensation for such removal, the amount thereof to be agreed upon between such owners and the said council, and in case of any dispute as to such amount, the question shall be referred to arbitration in manner as provided in the second section of this Act.

6. Any person who shall erect any fence or raise any obstruction which shall encroach upon the width of any road as defined under the provisions of this Act, shall be called upon immediately to remove the same, and in case of his neglect to do so, such fence or other obstruction shall be removed by the divisional council at the expense of such person, which shall be recoverable at the suit of the council in the court of the resident magistrate of the district in which such fence or other obstruction shall be situate: Provided that nothing in this Act contained shall interfere with the provisions of Act No. 37 of 1879.

7. All payments which may be necessarily made by any divisional council for carrying out the provisions of this Act may be made out of the proceeds of the rates from time to time levied by such council.

8. It shall be lawful for the Governor, at the request of the divisional council of any division, from time to time, to put the Act in force in such division, by proclamation published in the Government Gazette, and upon the like request and in like manner to suspend the operation of this Act for such time as the Governor may deem necessary.

9. This Act may be cited as the "Public Roads Width Act, 1884."

No. 28—1884.]

[Promulgated 25th July, 1884.]

Spent.

ACT

For Applying a Sum not exceeding Four Hundred and Forty-two Thousand Two Hundred and Fifty-four Pounds Eleven Shillings and Sevenpence Sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

WHEREAS it has been necessary to expend from time to time in the service of this Colony certain sums of money amounting in the whole to four hundred and forty-two thousand two hundred and fifty-four pounds eleven shillings and sevenpence sterling, in addition to and beyond the sums voted and authorised by the Legislature to be so expended: And whereas it is expedient to legalise such Unauthorised Expenditure: 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:—

Preamble.

1. The Public Revenue of the Colony is hereby charged with a sum not exceeding four hundred and forty-two thousand two hundred and fifty-four pounds eleven shillings and sevenpence sterling, which sum shall be applied in the manner following, that is to say:—

Revenue charged with £442,254. 11. 7.

- (1) For unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended 30th June, 1883, the sum of one hundred and fifty-three thousand eight hundred and forty-five pounds five shillings and two pence sterling, as more fully described in 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 1882-83;" [G. 1—'84], pages 309 and 310, presented to both Houses of Parliament by command of the Governor.
- (2) For unauthorised expenditure beyond the amount provided for by certain special Acts of Parliament the sum of two hundred and eighty-eight thousand four hundred and nine pounds six shillings and five pence sterling, as more fully described in the aforesaid Report, pages 406 and 407.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1884."

Short Title.

No. 29—1884.]

[Promulgated 25th July, 1884.

ACT

To Provide for the Proper Registration of Newspapers.

Preamble.

WHEREAS no law at present exists in this Colony under which the proprietors and printers of newspapers can be compelled to register said publications, and it is desirable that provision should be made for such registration: 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:—

Newspaper to be registered in office of Civil Commissioner with address of Publisher, &c.

1. From and after the taking effect of this Act, it shall not be lawful for anyone to print or publish, or cause to be printed or published, any newspaper until there shall have been registered at the office of the civil commissioner of the division within which any such newspaper shall be intended to be printed and published the full and correct title thereof, and the full and correct names and places of abode of every person intended to be or who shall be a proprietor, printer, and publisher of such newspaper, and the description of the house or building where the same is to be published; and any person who shall contravene the provisions of this section shall be liable on conviction to pay a fine of not exceeding £100.

Penalty for contravention.

Register to be kept.

2. It shall be the duty of every civil commissioner within whose division any newspaper is published, to keep a register, in which shall be entered the particulars in the last preceding section of this Act mentioned.

Extracts from Register.

3. Any person desirous of having an extract from the register in the last preceding section mentioned signed by the civil commissioner of the division shewing the particulars in the second section of this Act, shall be entitled to obtain the same on application to the civil commissioner of the division, and on payment of a fee of two shillings and sixpence for every such extract.

Certified extract proof as to publisher, &c.

4. The production of such an extract as in the last preceding section mentioned and signed as aforesaid in any suit civil or criminal in any court of justice, shall be sufficient proof of the facts therein stated in regard to the names of the proprietors, printers and publishers of the newspaper therein named.

Penalty how recovered.

5. The penalty provided for in the second section of this Act may be recovered by any person suing for the same in the court of the resident magistrate of the district in which such penalty is incurred; and one-half of such penalty shall be paid to the party so suing, and the other half shall go into the public treasury.

Act No. 8 of 1859 not affected.

6. Nothing in this Act contained shall be taken to remove any of the penalties imposed by the Act No. 8 of 1859.

Short title.

7. This Act may be cited as the "Newspaper Registration Act, 1884."

No. 30—1884.]

[Promulgated 25th July, 1884.

See 1908 Act 18.

ACT

To Explain and Alter certain Provisions of the Kimberley Borough Act, No. 11 of 1883, and to Increase the Powers of the Borough Council of Kimberley.

WHEREAS doubts have arisen, which it is desirable to remove, as to the validity of certain bye-laws passed by the Borough Council of Kimberley, and whereas it is desirable to alter and amend in certain particulars certain sections of Act No. 11 of 1883, known as the Kimberley Borough Act, 1883, and to fix and determine the powers of the said Borough Council, and to explain certain of the provisions of the said Act: Be it therefore 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. The first section of the Kimberley Borough Act, 1883, shall be and hereby is repealed, and instead thereof the following shall stand as and be the first section of the said Act:—

Repeal of former Ordinances.

The Ordinance No. 17, 1879, and No. 10 of 1880, and the Ordinance No. 7 of 1876 of Griqualand West, so far as such last-mentioned Ordinance applies to the Borough of Kimberley, are hereby repealed; provided, however, that such repeal shall not affect the bye-laws of the Corporation at the time of the passing of the said Act in force, but the said bye-laws shall continue to be of force and operation until such time as the same shall be altered or new ones are published under the provision of the Kimberley Borough Act, 1883, or this Act; and such bye-laws or borough regulations passed or purporting to have been passed under the authority of the Kimberley Borough Act, 1883, shall be taken to be and to have been of equal force and virtue as if the same had been published either under the authority of the various provisions of this Act or of the Kimberley Borough Act, 1883.

Except rules made thereunder.

And provided, also, that the present mayor, councillors, and officers shall, until other persons shall be elected or appointed in their places respectively be, and they are hereby declared to be and to have been the mayor, councillors, and officers of the Borough of Kimberley created by the said Kimberley Borough Act, 1883, and this Act, and shall during the time aforesaid do and perform all such acts and things, and be vested with all the rights and powers, and be subject to all liabilities which are authorised or required to be done or performed by or are vested in or imposed on the mayor, councillors, and officers respectively of the Borough by the said Acts.

2. The forty-ninth section of the said Kimberley Borough Act, 1883, shall be and hereby is repealed, and instead thereof the following shall stand as and be the forty-ninth section of the said Act:

Powers of Council.

*Repealed by
1923 Act 21, Sec 27(1)
insofar as it relates
to natives and native*

No. 30—1884.

The Council shall have power and authority to do the following acts on all land within the limits of the Borough :

To make, alter, and keep in repair roads, tramways, streets, thoroughfares, dams, ditches, sewers, drains, and bridges; to dig, deepen, preserve, fence in, and cover or fill up wells, to excavate, construct and lay water-courses, water-pipes, conduits, sluices, dams, reservoirs, aqueducts, and other works supplying the Borough with water; and to keep the same in repair, or to grant leave to any person or company of persons to lay down pipes, dig or deepen wells, or to execute any other like works; to take means for the prevention and extinguishment of fires, and for that purpose to provide and keep fire engines, with pipes and utensils; to establish and maintain fire brigades and salvage corps under the control of such officer or officers as may be from time to time appointed by the said Borough Council, with power to do all things necessary to save any building or buildings from destruction by fire; to make regulations for the storing, carriage, and removal of gunpowder, dynamite, kerosene, and other explosives within the Borough; to order, establish, hold, alter or remove markets, outspans, and to lease or purchase any land, and to erect, lease, or purchase, or keep in repair any building for any municipal requirement or purpose; to cause all buildings, bridges, and other erections which may be found to be unsafe to the public to be placed in a state of security, or, if necessary, removed at the expense of the owners of such buildings; to lease, purchase, or erect and maintain such school buildings and manage such schools as the Borough Council shall from time to time think fit, and to enter into such guarantees in respect of such schools as may be required by the Government, in case any aid from the Government in support of such school may be required under any Act in force for this purpose, and to grant annually, half-yearly, or quarterly sums of money in aid of any school now existing or which hereafter may be established within the Borough, such sums to be determined in such manner and according to such system as to the Borough Council from time to time may seem good; to appoint an Inspector or Inspectors of Schools; to grant such sums of money in aid of public libraries within the Borough as may from time to time be voted by a majority of two-thirds of the Borough 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 casualty; to regulate from time to time the materials of which all future buildings shall be constructed, the distances, spaces, and character of party walls which shall be left between them, the height the foundation shall be above the level of the surrounding ground, and the height the floor shall be above the same; and no proprietor of any house or building found with insufficient foundations, or with floors lower than the height allowed after the taking effect of the Kimberley

7
 repealed by

13 Act 21 Dec 37/1
 so far as it
 relates to natives
 & native locations

Borough Act, 1883, shall be entitled to any compensation for damages caused by flooding from heavy rains or thunderstorms; to assize weights and measures according to the standards in force by law, and to appoint an officer for that purpose; to grant permits and licences for any purpose to be defined by the Borough regulations for the time being; to levy dues as hereinafter provided; and by Borough regulations duly approved to do any of the following acts, that is to say:—To regulate the time and place for slaughtering cattle, and the state and condition of slaughter houses or slaughter places; to make due provisions for the licensing, confining or killing of dogs, the confining or killing of pigs, goats and fowls; to appoint one or more competent persons to examine meat, fish, or other provisions exposed for sale, and to test or analyse any drinks offered for sale, and who, in case such meat, fish, or other provisions, or beverages be unfit for human food or drink, 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 for the advantage and convenience of the Borough; to establish and provide for the management of public pounds within the Borough limits; to make due provisions for the lighting of the streets, to regulate the width and direction of roads, streets and thoroughfares, to make regulations for the licensing of carts, wagons, or other vehicles belonging to residents, whether plying for hire or not, within the limits of the Borough; to fix a tariff of charges which the owners or drivers of vehicles plying for hire may make within a radius of four miles from the centre of the market-square; and to order, establish, alter, maintain, or remove, and to make regulations for the maintenance and control of native locations, and of locations for Indian immigrants, commonly called "Coolies," at the time of the passing of the said Kimberley Borough Act, 1883, existing or thereafter to be created by the Borough Council; and for the good government and control of natives, coolies and immigrants within the Borough; to regulate the proceedings of the Council and the duties of their officers and servants, and to preserve order at Council meetings; to regulate and license market guides, market agents, porters, public carriers, carters; to regulate public sales, to suppress houses of ill-fame and gaming-houses; to restrain noisome or offensive trades; to compel residents to keep their premises free from offensive or unwholesome matters; to preserve public decency; to prevent the spread of contagious or infectious diseases, and to preserve the public health; to regulate the removal of night-soil, stable litter, filth and refuse from private premises, and from all streets, roads, and public places; to prevent impure water being supplied to the inhabitants; to establish and maintain cemeteries; to plant and preserve trees and shrubs; to grant licences for the making of bricks or for digging or removing clay or gravel, or for quarrying stone, or for cutting grass upon Municipal commonage

*See note on
page 96*

No. 30—1884.

or lands; to fix the number and description of live-stock any inhabitant shall be allowed to keep within the limits of the Borough; to grant temporary grazing rights to carriers, travellers, and others frequenting or passing through the Municipality or attending the markets thereof; to establish, maintain, and regulate public libraries, museums, botanical gardens, parks, public baths, washhouses, and places of public recreation; to regulate traffic and processions; provided that no dues 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 fifty-fifth section of the Kimberley Borough Act, 1883, provided.

3. The fiftieth section of the said Act No. 11 of 1883 shall be and hereby is repealed, and the following shall stand as and be the fiftieth section of the said Act:—

Save and except as is hereinafter in this section and in section seventy-two of the Kimberley Borough Act, 1883, provided, nothing in this Act contained shall be construed so as to authorise the said Borough Council to exercise any of the powers vested in them within any mining area at the time of the passing of the Kimberley Borough Act, 1883, existing, or which may thereafter be created, so as to interfere with the rights and privileges of the claimholders of any mine at such time existing or which may thereafter be proclaimed on their depositing floors, or with the rights of the Government, or any mining board, proprietor or claimholder of any mine, or any tramways, tipping sites, roads or other works connected with such mine, whether the same at such time existed or shall thereafter be constructed or fixed; provided, nevertheless, that in case the said Borough Council shall deem it necessary for the proper Municipal management of the said Borough that drains or other public works should be constructed or carried out within such mining area, whether such works are or are not connected with any works situate without such area, or that any other of the duties or powers imposed or conferred upon the said Council under the provisions of the Kimberley Borough Act, 1883, or of this Act, shall be performed and carried out within any such area, then and as often as the same shall happen the said Borough Council shall by writing notify to the mining board as is provided in the fifty-eighth section of Act 19 of 1883, or joint-stock company as aforesaid exercising jurisdiction over such mining area or mining works as aforesaid, the nature, accompanied by sufficient particulars, of the work or duty which the said Borough Council may desire to have done or performed, and such mining board or body of persons or joint-stock company as aforesaid shall, within seven days after receipt of such notice, notify its sanction or refusal to do or perform such work or duty as aforesaid; then and in case and as often as the said mining board shall refuse to do the work thought necessary by the said

*See note on
page 96.*

Powers of Council
in Mining Areas.

Borough Council, or to sanction the same being done, the matter at issue shall forthwith be referred to arbitration under the provisions of Act No. 6 of 1882, save and except that the period limited by the said Act within which the arbitrators or umpire shall make their or his award shall not exceed seven days from the date of reference: Provided, further, that all such works or duties within any such mining area as aforesaid as may be sanctioned, approved or directed as aforesaid, shall forthwith be performed and carried out by such mining board, or body of persons, or joint-stock company as aforesaid, or by the Borough Council at the expense of such mining board, or body of persons, or joint-stock company as aforesaid, as may be determined by mutual arrangement, or by the award of the said arbitrators or umpire; provided, further, that the said Borough Council shall in no case be or be held liable in damages or otherwise by reason of any injury to person or property within any mining area, whether the same shall arise from flooding, defective drainage, or any other cause whatever, or by reason of such injury outside any mining area, provided the same shall have been caused by accumulation of water, flooding, defective drainage, or other cause within such mining area; provided, further, that in case any mining board or body of persons, or joint-stock company as aforesaid, shall neglect to carry out proper sanitation within its mining area to the satisfaction of the sanitary inspector for the time being of the Borough Council nothing in this section contained shall be deemed to prevent the Borough Council from enforcing such sanitary regulations, and claiming and charging such sanitary dues within such mining area as aforesaid, either as against the mining board or the claimholders and residents in such mining area, as may have been framed by the Borough Council specially for application within such mining area, and duly sanctioned by His Excellency the Governor; and in the event of any mining board ceasing to exist from any reason whatsoever, and no such board of persons as is provided in the fifty-eighth section of Act 19 of 1883 being appointed, or any joint-stock company acquiring the said mine, and who shall have notified to the Borough Council its willingness to discharge the duties herein imposed on mining boards or body of persons, then and in that case the Borough Council shall be vested with the same power as the mining board to carry out the provisions of this section, and the expenses incurred in connection therewith shall be borne by such mining board, or if there be no mining board or such body of persons appointed as aforesaid, by the owners of claims and other property in such mining area as aforesaid *pro rata*, according to the assessed value of the claim and other property in such mining area; and provided, further, that in such case as last aforesaid the Borough Council shall have the power from time to time, when necessary, to make an assessment of such claim and other pro-

No. 30 -1884.

perty, and to levy rates thereon; and provided, further, that the proceedings in respect of the said assessment, levy and recovery shall be as far as possible in the manner provided for in respect of the assessing, levying and recovery of rates on other property within the Borough, according to the provisions of this Act and of the Kimberley Borough Act, 1883.

Repeal of 72nd
Section of Act 11 of
1883.

4. The seventy-second section of the said Act No. 11 of 1883 shall be and hereby is repealed, and instead thereof the following shall stand and be the seventy-second section of the said Act :

New section sub-
stituted.

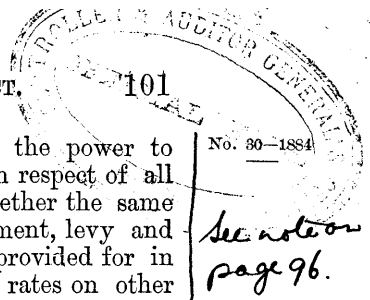
For the purpose of raising the means for making and repairing the roads, streets, market-places, bridges, drains, sewers, water-courses, reservoirs, wells, aqueducts, and other water-works; for the purchase of such lands or erection of such buildings as may be required in or about the execution of the 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 Borough; for the purpose of raising the means for effecting the repairs of all such works as the Council is hereby empowered to make or to have made; for the maintaining

Power to impos-
e rates.

of water-works, fire-engines, police establishments, markets, and pounds; for the payment of salaries and all other current expenses required to be borne by the Borough, the Council shall have the power to impose, levy, and recover all such market dues, water rates, pound fees, sanitary fees or charges, outspan fees, grazing fees, fees or charges for all such licences which may be granted by them, location fees, dog taxes, charges or expenses for services rendered in the extinction of fires, cemetery fees, and dues on all firewood not being delivered on contract, but being sold or hawked within the limits of the Borough exclusive of the public market, and shall be authorised by the said Borough regulations as aforesaid, and shall also have the power, as often as shall be deemed necessary and in manner hereinafter and in the Kimberley Borough Act, 1883, provided, to assess the value of all immovable property within the Borough, and to levy a rate on such assessment; 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 eight members of the said Council; and provided, also, that no rate shall be imposed on any immovable property belonging to Her Majesty the Queen and used for public purposes, nor on public prisons, or police stations, alms-houses or hospitals, nor any public building appropriated to public worship, nor upon burial grounds, nor upon buildings and land solely appropriated to the purposes of education, nor upon any claim in the Kimberley or Old De Beer's diamond mines, nor upon any claim in any declared digging or mine within the Borough, save and except in such manner and under such conditions as are in section three of this Act provided: provided, further, that notwithstanding anything in this section or in section three of this Act

*See note on
page 96*

KIMBERLEY BOROUGH AMENDMENT ACT.



contained, the said Borough Council shall have the power to assess the value of and to levy and recover rates in respect of all houses and buildings within such mining area, whether the same are used for mining purposes or not; which assessment, levy and recovery shall be, as far as possible, in the manner provided for in respect to the assessment, levying, and recovery of rates on other property within the Borough.

No. 80-1884

See note on page 96.

5. The seventy-third section of the said Kimberley Borough Act, 1883, shall be and hereby is repealed, and the following shall stand for and be the seventy-third section of the said Act:

Ratepayers.

All persons owning or occupying properties within the limits of the Borough, excepting such property as is hereinbefore exempted, shall be liable to be rated on account of such property in such manner and to such extent as is hereinafter and in the Kimberley Borough Act, 1883, provided; and provided, further, that in any case where a house, building, or other erection shall have been erected on any land the property of any person not the owner of such house or building or erection, the owner of such land shall be liable to be separately rated in respect of the value of such land, which value shall be computed on the principle that the annual rental receivable by the landlord in respect of such land is six per cent. of such rateable value; and the owner of such house, building, or erection shall be liable to be separately rated in respect of the value of such house, building, or erection; and it shall not be lawful for the owner of such land to enter into any contract with the occupier of such house, building, or erection, whereby the liability of the owner of such land shall be in respect thereof transferred to the owner of such house, building, or erection. And in case such house, building or erection shall have become abandoned or unoccupied, then the owner of the land on which such building shall have been erected shall further be liable to be rated in respect of such house, building, or erection.

6. The seventy-seventh section of the said Kimberley Borough Act, 1883, shall be and hereby is repealed, and instead thereof the following shall stand for and be the seventy-seventh section of the said Act:

Power to appeal against Valuation Roll.

It shall be lawful for any person who feels himself aggrieved by the value put upon any property owned or occupied by him upon or for the purpose of the valuation roll aforesaid, to appeal within twenty-one days against such valuation from the decision of the court in the last preceding section mentioned, to the court of the resident magistrate, and such court shall inquire into such valuation, and the decision of such court shall be final and conclusive; provided, however, that if any question of law shall arise as to the principle upon which any valuation has been or should be made, it shall be incumbent on such resident magistrate, at the request of the Council or party objecting, instead of himself deciding such question, to record

No. 30—1884.

such question of law for the decision of the High Court of Griqualand, and such question shall be stated in the form of a special case, the terms of which shall be agreed upon between the respective parties, or, in case of their disagreement by such resident magistrate, and such case shall be argued before and determined by the said court, and the said court may make such order as to the costs of such special case as to it shall seem fit, and the decision of the High Court thereon shall be final and conclusive; provided no objection shall be taken to the principle of any such assessment, or rate, or to the amount payable in respect thereof by any person, unless such person shall have appealed against such assessment or rate; provided, also, that in case any assessment or rate shall have been either wholly or partly upset, varied, or amended by any Court of Appeal, it shall be lawful for the Council forthwith to cause to be made when and as often as it shall be necessary, a fresh valuation, assessment, and rate, and for such purpose the various sections of the Kimberley Borough Act, 1883, in respect of the valuation, assessment, and rating of property within the Borough shall be held to be as far as may be applicable to such proceedings.

Power to sue for rates due by absent owner.

7. The eighty-first section of the said Kimberley Borough Act, 1883, shall be and hereby is repealed, and the following shall stand as and be as the eighty-first section of the said Act:

The Council may, in suing for the recovery of rates, proceed against the owner, or in case of his absence from the Borough, his agent or the person receiving rents for him, or the occupier, either separately or both of them, in one or the same action, each for the whole rate, in any competent court, and may recover the same by the judgment and process of the court; provided that any person who as occupier may have become liable for any rate as aforesaid, shall be liable for the payment of the same, although he may have ceased to occupy the property in respect of which the rate has been imposed; and provided, further, that nothing herein contained shall affect the liability of any owner of land in clause 5 mentioned in respect of any abandoned or unoccupied house, building, or other erection, but proceedings for the recovery of rates may be taken against such owner in respect of his interest in the land as well as of his interest in such unoccupied or abandoned house, building, or other erection.

Repeal of 83rd Section of Act 11 of 1883.

8. The eighty-third section of the said Act No. 11 of 1883 shall be and hereby is repealed, and instead thereof the following shall stand and be as the eighty-third section of the said Act:

Fresh Valuation.

The first valuation to be made as aforesaid for the purpose of this Act shall subsist and be in force for one year from the date of the same; at the expiration of which term, and of each successive term of three years, a fresh valuation shall be made in the same manner as hereinbefore directed with regard to the first valuation.

Triennial.

GREEN POINT AND SEA POINT RAILWAY COMPANY'S ACT. 103

9. The ninetieth section of the said Act No. 11 of 1883 shall be and hereby is repealed, and the following shall stand and be as the ninetieth section of the said Act:

No. 31—1884.
Repeal of 90th
Section of Act 11 of
1883.

All rates assessed under the authority of this Act and of the Kimberley Borough Act, 1883, shall be and be deemed to be a charge upon the property and recoverable as against the present or any future owner or occupier thereof.

Recovery of rates.

And whereas it is necessary for the proper management and good government of the Borough of Kimberley that the said Borough Council shall exercise uniform control and authority within the limits of the said Borough.

Further preamble.

Now, therefore, be it enacted as aforesaid as follows:—

10. Notwithstanding anything in any Act of Parliament to the contrary, no bye-law or regulation now made or hereafter to be made of any public water or lighting company carrying on business or established now or hereafter within the Borough of Kimberley, shall become binding on any person within the said Borough till such bye-law or regulation shall have been submitted to the said Borough Council for consideration, and have been approved of by the Governor.

Bye-laws to be sub-
mitted to Borough
Council and approv-
ed by Governor.

11. This Act may for all purposes be cited as "The Kimberley Borough Amendment Act, 1884."

Short title.

No. 31—1884.]

[Promulgated 25th July, 1884.

Repealed by 1889 Act 33 ACT

To authorise a Company, to be styled the Green Point and Sea Point Railway Company (Limited), to construct a Line from Cape Town to Sea Point.

WHEREAS it is desirable and expedient that a company should be formed under the Limited Liability Act 23 of 1861, for the purpose of constructing, maintaining, and working a line of railway from Cape Town to Green Point and Sea Point: and whereas certain steps have already been taken by the appointment of a provisional committee who have undertaken to defray preliminary expenses towards the promotion of this object: and whereas plans and sections of the said railway are now deposited in the office of the Clerk of the House of Assembly and in office of the Civil Commissioner for the Cape Division:

Preamble.

And whereas a company, to be styled the "Green Point and Sea Point Railway Company (Limited)," is about to be formed to undertake the construction, equipment and working of the said railway: and whereas it is expedient that the said company so to be formed should be authorised to construct, equip and work the said railway upon the terms in this Act contained:

104 GREEN POINT AND SEA POINT RAILWAY COMPANY'S ACT.

No. 31—1884.

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:—

Style of Company.

1. The company to be styled "The Green and Sea Point Railway Company (Limited)," whereof

Provisional Committee.

Carle G. Akerberg (Swedish Consul),
 Chas. Aiken Fairbridge (Fairbridge and Arderne, Solicitors, &c.),
 Thomas E. Fuller, M.L.A. (General Manager U.S.S. Co.),
 Willem J. van der Ven,
 Casper Henry van Zyl (Van Zyl, Buissonne & Leonard, Solicitors, &c.),
 John Carl Smith (Merchant),
 Charles Edward Solomon (Saul Solomon & Co.),
 Hercules Petrus du Preez, M.L.A. (Solicitor, &c.),
 Andrew McMeekan (Merchant),
 Lachlan McLean (Donald Currie & Co.),
 E. B. J. Knox, C.E.,
 William McLeod (McLeod & Shayer),
 H. C. Stephan (Stephan Bros., Merchants),
 Johan Jansen (Johan Jansen & Co., Brokers),
 David de Waal (De Waal & De Kock, Merchants),
 Henry Solomon, senior (Merchant),
 Capt. James Anderson, Marine Surveyor,

are the provisional committee, shall be and is 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, at a gradient of not more than one in sixty-three, from a junction with the Western Line of Railway, at or near the Cape Town Railway Station, and thence *via* the Dock Road to Sea Point, 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 any alteration as hereinafter provided.

Route of Railway and power of deviation.

2. The said railway shall commence at such a convenient junction point with the Western Railway System, Cape Town, as may be hereafter agreed between the Commissioner of Crown Lands and Public Works and the directors; thence following the line of the Dock Road in proximity to, or over and along the Colonial Government Railway line or portion thereof, on to vacant portion of Harbour Board property, crossing lower end of Bree-street through vacant Harbour Board property, across unnamed road and along unmade street, between the properties belonging to Messrs. Robertson and Bain; thence crossing Chiappini-street, unnamed street, and Alfred-street; thence over vacant Imperial Government ground into private road at back of Amsterdam Battery, thence across Ebenezer Road along Public Road, and

crossing Harbour Board enclosures at back of cottages and docks skirting the Imperial Government Magazine Reserve at the back of Gallows Hill, passing through an unused Moslem burial ground, crossing Public Road and commonage to point where road leading to Mouille Point joins main road to Sea Point; thence next to main road on commonage belonging to Cape Town and Green Point Municipality and Turf Club, to Three Anchor Bay; thence along seaside of Beach Road to Sea View, Villa Maria, Bordeaux, and on to Mont Desir, opposite residence of Saul Solomon, Esq.; thence through back gardens of property opposite residence of Henry Solomon, Esq., to the termination about two and a half chains beyond the property of J. Cavanagh, Esq.: Provided that within the limits of deviation on Crown land or land vested in the Colonial Government for special purposes, the route of the said line shall be subject to the approval of the Commissioner of Crown Lands and Public Works: and further that the running powers given hereby over the Colonial Government Railway line shall be upon such terms as to payment and otherwise and subject to such regulations as the Governor may from time to time determine.

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, 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.

Powers of entry,
&c.

4. The directors may, with the permission of the Commissioner of Crown Lands and Public Works, 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 enter upon any waste 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 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 provided also 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 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.

Power to take
Crown Lands.

5. All and singular the powers which are by the Public Roads Act No. 9 of 1858 bestowed upon the commissioners of roads in

Powers under Road
Act 9 of 1858 con-
ferred on directors.

No. 31—1884.

regard to taking and acquiring lands and materials necessary for the making or repairing of any such main 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 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 provided further that in the calculation of the price or compensation to be paid to any person under the provisions of the twelfth section of Act No. 9 of 1858, 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.

Provisions of 56th and 57th Sections of such Act to apply.

6. The provisions of the fifty-sixth and fifty-seventh sections of the said Act No. 9 of 1858 shall, *mutatis mutandis*, extend and apply to the said railway.

In case of railway 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 the said street or road: And said directors shall be bound 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 shall also be bound to maintain and keep in repair all such crossings, bridges, viaducts, cuttings, embankments and approaches, culverts and drains as aforesaid.

Streets or roads may cross railway.

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 the said authority shall be liable to make good all damage occasioned by such works.

Directors may act by agents.

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 appointed in writing.

Railway to be opened when certificate of Government officer obtained.

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 safe conveyance of passengers: And the cost of obtaining such a certificate shall be borne by the company.

Regulations of Railway Act to apply.

11. 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 Act No. 19 of 1861, entitled "The Regulation of Railways Act, 1861."

No. 32—1884.

12. The directors shall be bound and are hereby required to finish and complete the said 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 the said company shall be bound to commence the said railway not later than one year from and after the taking effect of this Act: Failing which all and singular the powers and authorities conferred by this Act shall cease and determine.

Railway to be completed in 2 years

13. The directors are hereby further authorised and empowered to construct, erect and work for the purposes of the said railway and no other, a telegraph and telephone, or either, along or near the line of railway, subject to the provisions of the Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs."

Power to construct telegraph or telephone for purposes of railway.

14. For the purposes of any land taken, or any arbitration under this Act, the provisions of the "Lands and Arbitrations Clauses Act, 1882," are hereby incorporated.

Lands and Arbitration Clauses Act incorporated.

15. The directors shall and may sue and be sued within this colony by the name or style of the "Green Point and Sea Point Railway Company (Limited)," and the service of process upon the agent of the said company, at his office or place of business in this colony, shall be good service of such process.

How Company to sue and be sued.

16. In this Act, save where there is anything inconsistent herewith, the following terms shall have the meanings set against them respectively:

Interpretation clause.

- (1). "The Company," the Company styled the "Green Point Railway Company (Limited)."
- (2). "The Directors," the directors for the time being of the said company.

17. This Act may be cited for all purposes as "The Green Point and Sea Point Railway Company's Act, 1884."

Short title.

No. 32—1884.]

[Promulgated 25th July, 1884.

ACT

To Enable the "Gill College Corporation" to sell certain Property and Appropriate the Proceeds thereof to certain purposes, and to Raise certain Moneys upon Loan.

WHEREAS one WILLIAM GILL, of Somerset East (hereinafter called the testator), did by his last will and testament; bearing date the 19th day of January, 1863, appoint certain seven

Preamble.

No. 32—1884.

persons therein named, under the style of the "Gill College Corporation," his sole and universal heirs, subject to the payment of certain legacies, and to the provisions of the said will generally, and did make due provision for the filling up of any vacancies that might arise in the said "Gill College Corporation," by reason of the death or resignation of any of its members from time to time: and whereas the said testator did further by the said will direct that the property bequeathed to the said corporation as aforesaid should remain in the custody of his executors, in the said will nominated, who should pay to the said corporation the annual interest, rents and revenues derived from such property, to be by the said corporation applied in the formation and maintenance of an institution for public education at some convenient place in the Eastern Province of this Colony to be by the said corporation or the majority of its members selected: and whereas the said testator did further direct that after the death of all the said executors the said corporation should enter upon and execute all such trusts and duties by the said will committed to the said executors as should then be unfulfilled or incomplete: and whereas the said testator did by the said will order that the said corporation should apply no part of the property bequeathed to it as aforesaid in the erection or purchase of any buildings: and whereas by a codicil to the said will, bearing date at Somerset East, the 25th day of July, 1863, the said testator did direct that his landed property should not be sold, but should be retained as it then existed, as long and in as far as should be consistent with his said will: and whereas the said testator died in the year 1863, without having altered the said will or codicil in any manner material to the matters above recited, and leaving certain property which has devolved upon the said corporation subject to the provisions aforesaid: and whereas the Governor of the Colony, by deed under his hand and the public seal, under date the 16th day of April, 1867, granted to the said corporation, under the style of the trustees or corporation of the Gill College at Somerset East, and to their successors, a certain piece of land, situate at Somerset East, and in the said deed fully described, on condition that the said land should be used as a site for the erection of the college proposed to be erected for the purposes of such educational institution as aforesaid, and other buildings connected therewith and for no other purpose whatsoever: and whereas the said corporation has, with funds provided by public subscription, caused to be erected such college as aforesaid upon the land granted as abovementioned, and has established and maintained, and continues to maintain, such educational institution, styled the Gill College, under the provisions of the said will: and whereas a certain erf, known as Erf No. 57, in Paulett-street, with the buildings thereon, in the town of Somerset East, formed part of the estate left by the said testator at his death, and is now vested in the said corporation as aforesaid:

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and whereas it is expedient, in the interests of the public and of the said Gill College, that the said corporation should provide suitable buildings for the establishment of a boarding house for students in connection with the said college, and should be placed in a position to erect such buildings upon the land granted as aforesaid: and whereas it is advisable that, for the purpose of providing the funds necessary for the erection of the buildings last abovementioned, the said corporation should be empowered to sell the aforesaid erf with the buildings thereon, and also to raise money upon the security of the land granted as aforesaid, and the said college buildings and any other buildings that may be erected thereon: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

1. It shall be lawful for the said Gill College Corporation, in pursuance of any resolution passed by a majority of its members, to sell the aforesaid Erf No. 57, situate in Paulett-street, in Somerset East, with the building thereon, in such manner as may be found most advantageous, and to devote the proceeds of such sale to the erection upon the land granted, as aforesaid, of buildings for the purpose of a boarding-house for the use of students, as in the preamble of this Act mentioned.

Power to sell certain erf in Somerset East.

2. The said Gill College Corporation is hereby authorised, in pursuance of any such resolution as in the last section abovementioned, to borrow, upon the security of the land granted as aforesaid and the said college buildings and other buildings erected thereon, such sum or sums of money as may be needed, in addition to the proceeds of the erf above described, for the erection and completion of the buildings required for the purposes of the said boarding house, and to execute all mortgage bonds, deeds, or other documents, and to do all things necessary to give effect to such security for the due repayment of such sum or sums, anything in the said deed of grant to the contrary notwithstanding.

Power to borrow.

3. Any mortgage bond, deed of transfer, or other document necessary to be signed or executed by the said corporation for the purposes of giving effect to the provisions of this Act may be signed or executed by any number of the members of the said corporation not being less than four, and when so signed and executed shall be as valid and effectual as if signed by the whole of the members of such corporation.

How deeds to be executed.

4. This Act may be cited as the "Gill College Corporation Act, 1884."

Short title.

No. 33—1884.]

[Promulgated 25th July, 1884.

ACT

To authorise the Trustees of the Port Elizabeth Volunteers to raise a Sum of Money on Mortgage for their Drill Hall.

Preamble.

WHEREAS by a deed of grant bearing date the 27th day of October, 1864, His Excellency Sir PHILIP EDMOND WODEHOUSE, the Governor of the Cape of Good Hope, did grant a freehold unto the civil commissioner of Port Elizabeth for the time being, the mayor of Port Elizabeth for the time being, and the senior officers of volunteers at Port Elizabeth for the time being, as trustees for the volunteers at Port Elizabeth, a piece of land upon the Hill, in the town of Port Elizabeth, as a site for a drill house and gymnasium for the use of the aforesaid volunteers, and for no other use or purpose whatsoever, the said piece of land being fully described in such deed of grant: And whereas it was in such deed made a condition that the said land should, by the said trustees, be held in trust for the Town Council of Port Elizabeth, in case and as soon as it should no longer be required for the purpose aforesaid: And whereas the said Town Council were thereupon to be entitled to have the said land transferred to them by the said trustees or by the two first of them, should the third of such trustees have ceased to exist: And whereas the said trustees being desirous of raising a sum of four thousand pounds for the purpose of paying off part of the cost of the drill hall of the said volunteers at Port Elizabeth, seek to do so by giving as security a mortgage for that amount upon the said piece of land granted to them as aforesaid, and upon the building erected thereon; but under the condition in the said grant hereinbefore cited they are unable to make such security satisfactory to persons who would otherwise be willing to advance the required amount: and whereas it is desirable that the said trustees should be empowered to raise the said sum and to give the requisite security: 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:—

Power to trustees to mortgage notwithstanding the provisions of the Deed of Grant.

1. It shall be lawful for the trustees of the piece of land on the Hill in the town of Port Elizabeth, granted to them on the 27th day of October, 1864, as in the preamble of this Act mentioned, to mortgage such land and any building or buildings erected thereon for any sum not exceeding £4,000; and thereupon such mortgage shall remain a charge upon such land and buildings until the capital and interest thereby secured shall have been paid off, whether such land shall continue vested in the hands of such trustees or shall be transferred to the Town Council of Port Elizabeth as in the said deed of grant provided, any conditions in such deed to the contrary notwithstanding.

Short title.

2. This Act may be cited as the "Port Elizabeth Volunteers' Drill Hall Act, 1884."

MALMESBURY BOARD OF EXECUTORS AND TRUST 111
COMPANY INCORPORATION AMENDMENT ACT.

No. 34—1884.]

Promulgated 25th July, 1884.]

ACT

To Alter and Amend Act No. 9 of 1865, entitled “An Act for Incorporating the Malmesbury Board of Executors and Trust Company, and enabling them to sue and be sued in the name of their Secretary.”

WHEREAS a company styling themselves the Malmesbury Board of Executors and Trust Company was incorporated by Act 9 of 1865, and has heretofore carried on business under the provisions and stipulations in the said Act contained: and whereas by the trust deed of the said company it is provided *inter alia* that the said co-partnership shall continue for a period of ten years, and thereafter for a further period of ten years: and whereas the said period of twenty years will expire on the third day of October, 1884: and whereas at a meeting of the shareholders of the said company, held at Malmesbury on the 15th day of January, 1884, it was resolved to alter and amend the trust deed of the said company in certain respects, to increase the capital of the company to be incorporated by this Act from twelve thousand five hundred pounds sterling to twenty thousand pounds sterling, and to enable the said Malmesbury Board of Executors and Trust Company to continue for a further period of twenty years: And whereas the directors of the said company are desirous of more effectually legalising the provisions and stipulations in the said amended trust deed contained, and of having the conditions and limitations under which the business of the said co-partnership is to be conducted, during the said extended period, incorporated under the provisions of this Act: Be it therefore 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:—

Preamble.

1. So much of the provisions of Act No. 9 of 1865 as are not repugnant to or inconsistent with the conditions and stipulations of this Act are hereby incorporated, and shall, *mutatis mutandis*, apply to the Malmesbury Board of Executors and Trust Company established under the provisions of this Act.

Act No. 9 of 1865 incorporated.

2. It shall and may be lawful for the said persons, and such others as may become entitled to the privileges of Act No. 9 of 1865, and of this Act under the provisions of the said amended deed, to be and continue joint-stock proprietors of the capital of twenty thousand pounds sterling, and of all such other sum or sums of money as they may hereafter acquire under the provisions of the said last-mentioned deed.

Institution of Proprietors.

3. The several persons who are or shall become shareholders in the said company, their respective heirs, executors, and adminis-

Incorporation of and title of company.

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trators, shall be and are hereby united into one body corporate under the name and title of "The Malmesbury Board of Executors and Trust Company."

Capital stock.

4. The capital stock of the company shall consist of two thousand shares of the value of ten pounds sterling each, which said sum of ten pounds sterling shall be paid and satisfied in the manner following, that is to say:—

The sum of five pounds sterling upon signing the said amended trust deed, and the remaining five pounds sterling as provided in the sixth section of the trust deed aforesaid.

Directors may call up full amount due on share.

5. It shall be lawful for the directors, in terms of the said amended deed, and subject to the provisions of the same and under the restrictions therein contained, upon a resolution of three-fourths of the shareholders present at any special general meeting, from time to time to call upon shareholders to pay up the full amount of their shares not exceeding one pound sterling per share at one and the same time, and at intervals of not less than two months between each call.

Short title.

6. This Act may for all purposes be cited as "The Malmesbury Board of Executors and Trust Company Incorporation Amendment Act."

No. 35—1884.]

[Promulgated 25th July, 1884.

ACT

To Provide for the Annexation to the Colony of the Cape of Good Hope of the Port or Settlement of Walfish Bay on the West Coast of Africa and of certain Territory surrounding the same, and of certain British Territories on the St. John's River in South Africa.

Preamble.

WHEREAS it is expedient that the Port or Settlement of Walfish Bay, situated on the west coast of South Africa, to the north of the Tropic of Capricorn, together with certain territory surrounding the same, and bounded as follows, viz.:— On the south by a line from a point on the coast fifteen miles south of Pelican Point to Scheppmansdorp to the Rooibank, including the plateau, and thence to ten miles inland from the mouth of the Swakop River; on the north by the last ten miles of the course of the said Swakop River, and on the west coast by the Atlantic Ocean, be annexed to this Colony; and whereas by Her Majesty's Letters Patent, bearing date at Westminster the 14th day of December, 1878, and passed under the great seal of the United Kingdom of Great Britain and Ireland, the Governor for the time being of this Colony was authorised by proclamation under his hand and the public seal of this Colony, to declare that from and after a day to be therein

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mentioned, the said port, settlement, and territory, as in the said Letters Patent described, should be annexed to and form part of this Colony. And further whereas it is expedient that the port and tidal estuary of the St. John's River in South Africa, and certain lands on the banks of the said river forming part of Her Majesty's Dominions be also annexed to this Colony; and whereas by Her Majesty's Letters Patent, bearing date at Westminster, the 10th day of October, 1881, and passed under the Great Seal of the United Kingdom of Great Britain and Ireland, the Governor for the time being of this Colony was authorised 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 territories should be annexed to and form part of this Colony, and by proclamation to signify the limits of the said territory so annexed, provided that in the case of either of the territories to be so annexed, no such proclamation should be issued until the Legislature of this Colony should have passed a law providing that the said territories shall, on the day aforesaid, become part of this Colony and subject to the laws in force therein: and provided also, that the application of the said laws to the said territories might be modified either by such proclamation as aforesaid or by any law or laws to be from time to time passed by the Legislature of this Colony for the government of the said territories so annexed: And whereas it is expedient that a law should be enacted providing that the said respective territories shall on the day to be mentioned in that behalf in a proclamation or proclamations of the Governor as aforesaid, become part of 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:—

1. From and after such day as the Governor shall, pursuant to the powers in that behalf contained in the said Letters Patent, by proclamation under his hand and the public seal of this Colony, fix in that behalf the port or settlement of Walfish Bay on the west coast of Africa, and certain territory surrounding the same, the limits of which are defined in the Letters Patent of the 14th December, 1878, aforesaid, and the said British Territories on the St. John's River, with the limits and name in any such proclamation signified, shall respectively become and be part of the Colony of the Cape of Good Hope, and subject to the laws in force therein, except as the application of the same to the said respective territories may be modified by any such proclamation.

2. From and after the annexation of the said respective territories to this Colony as aforesaid, the laws which may be in force therein under and by virtue of the last preceding section may, until it shall be otherwise provided by Act of Parliament, be repealed, altered, amended, and modified, and new laws applicable

Governor may proclaim date from which Walfish Bay and St. John's River shall become part of the Colony.

How laws at present in force may be modified, &c.

Amended by 1922 Act 24 Sec. 11.

Q

No. 36—1884.

When Colonial Acts to apply.

*Amended by
1922 Act 24
Sec. 1(f).*

to the said territories respectively may be made, and may be repealed, altered, amended, and modified by the Governor; and no Act hereafter passed by the Parliament of this Colony shall extend or be deemed to extend to the said territories or any or either of them unless such Act shall be extended thereto in express words either contained therein or in some other Act of Parliament, or unless the operation thereof shall be extended to any or either of such territories by the Governor, and no proclamation published in the Gazette after any proclamation or proclamations as in the last preceding section mentioned shall be deemed to extend or apply to the said territories or any or either of them unless the same shall be declared in express words contained in such or some other proclamation as aforesaid to extend or apply thereto.

Jurisdiction of E. D. Court.

3. 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 the territory of St. John's River so to be annexed as aforesaid.

Short title.

4. This Act may be cited as the "Walfish Bay and St. John's River Territories Annexation Act, 1884."

No. 36—1884.]

[Promulgated 25th July, 1884.

Spent. see Act 1 of 1885.

ACT

To Authorise the Governor to enter into a Contract under certain Conditions for the Completion of the Railway from the Orange River to Kimberley.

Preamble.

WHEREAS it is expedient to complete the trunk or main line of railway to Kimberley at as early a date as possible, and whereas the Colonial Government is willing to recommend the granting of certain facilities to any mining board, municipality or other public body, who will undertake to do so: 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:—

Governor authorised to contract for construction of railway.

1. It shall be lawful for the Governor to contract and agree with any mining board, municipality or other public body, or any one or more of them willing to construct the railway in the preamble to this Act mentioned under the conditions hereinafter provided.

Contractor authorised to construct and work line of railway as shown on plans.

2. Such mining board, municipality or other public body (hereinafter styled "the contractor"), shall, upon the completion of such contract with the Governor, be authorised and empowered to construct, maintain, equip, and work a line of railway between the Orange River and Kimberley, in all respects similar to the line constructed by Government up to the Orange River, on the same gauge, and at a gradient not exceeding one in eighty, from a point on the Orange River where the construction of the said line by the Government shall terminate, thence to the town of Kimberley,

according to plans to be submitted to the Governor and approved of by him, and referred to in such contract.

No. 36—1884.

3. The said extension shall commence at a point near or on the Orange River at which the construction of the main line from Cape Town to the Orange River by the Government shall cease, and shall from thence extend and continue over and across the route shown in the plans in the last preceding section mentioned and terminate on the Vooruitzicht Estate.

Route of railway.

4. The contractor may by his agent or any person or 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, and the same if not otherwise settled shall be recoverable by action brought in any competent court within three months from the date when such damage is alleged to have been committed.

Powers to enter upon any land for purpose of survey.

5. The said contractor or any one duly authorised by him in writing may with the consent of the Commissioner of Crown Lands and Public Works, enter upon and take possession of and hold and retain for the purpose of this Act, free of charge, so much of any waste Crown land or other land the property of the Crown as shall be required for the construction and maintenance of the said railway or any other purposes relating to the said Act, and also with the like consent may enter upon any Crown land lying convenient to the said railway, and dig for and excavate and carry away all stones, clay, or other material required for the purpose of the said railway, free of charge.

Powers to take Crown lands for construction and maintenance of line.

6. All and singular the powers which are by the Public Roads Act No. 9, 1858, bestowed upon the commissioners of roads in regard to taking and acquiring lands and materials necessary for the making or repairing of any such main road as in the said Act is mentioned, of any works in connection therewith, are hereby bestowed upon the said contractor precisely as if the said powers were, *mutatis mutandis*, herein again set forth and as if the said railway were a public road: Provided 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.

Powers conferred by Road Act No. 9 of 1858, given to contractor.

7. The provisions of Act No. 6 of 1882 and of the fifty-sixth and fifty-seventh sections of the said Act No. 9 of 1858 shall, *mutatis mutandis*, extend and apply to the said railway.

Also provisions of Act 6 of 1882, and sections 56 and 57 of Act 9 of 1858.

8. 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 said contractor to make and carry the said railway across such street or road either by means of a

Provisions in case railway crosses any street or road.

No. 36—1884.

level crossing or by means of a convenient and sufficient bridge or viaduct over or under the said street or road; and the said contractor shall be bound 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 shall also be bound to maintain and keep in repair all such crossings, bridges, viaducts, cuttings, embankments, approaches, culverts and drains as aforesaid.

Streets or roads may cross railway.

9. Nothing in this Act contained shall prevent any streets 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 any damage so caused shall be made good by the body causing the same.

Contractor may have use of bridge over Modder River.

10. The said contractor shall upon completion of the bridge over the Modder River now in course of construction, be entitled to use the said bridge for the purposes of the said railway: provided that he shall pay to the Government by way of toll for the use of the said bridge an annual sum equal to five per centum upon the cost of the bridge and works connected therewith as certified by the Government engineer; and provided further that the contractor shall be bound to keep the bridge in a state of repair to the satisfaction of the Government.

Contractor may take over plans, surveys, &c.

11. The contractor shall have the use and benefit of all surveys, plans or specifications heretofore made by, or for, the Colonial Government, for the purpose of the said railway, free of all charge, for the moneys expended thereon up to the date of the passing of this Act.

Contractor may act by duly appointed agent.

12. It shall be lawful for the said contractor to exercise all and singular the powers by this Act conferred either directly or by an agent duly appointed for that purpose: Provided that the appointment of such agent, and his address, shall from time to time be notified in the Gazette.

Government engineer to supervise construction.

13. The said railway shall be constructed under the supervision and control of an engineer or engineers appointed for that purpose by the Government, and the line, 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 goods.

"The Regulation of Railways Act, 1861," except 29th and 30th sections thereof, to apply.

14. 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 Act No. 19 of 1861, entitled "The Regulation of Railways Act, 1861," except the twenty-ninth and thirtieth Sections thereof: Provided that the scale or tariff of charges and all bye-laws of the said contractor for the working of the said railway and all alterations thereof shall be submitted to the Commissioner of Crown Lands and

Public Works, and shall not be enforced until such time as his approval thereof has been duly signified, obtained, and published in the Gazette for general information.

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15. The provisions of the Act No. 37 of 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.

Regulations as to gates.

16. All plant and material required for the construction, maintenance and working of the said railway and its appurtenances, and all material, plant, &c., required for the construction of the platelayers' cottages, crossings, &c., and all materials and the necessary apparatus required for the construction and maintenance of a telegraph and telephone line along the said railway shall be carried on the Government railways to the Orange River at such rates and subject to such regulations as the Governor may from time to time determine.

Conveyance of plant, &c., on Government railways.

17. So soon as the Government officer shall have certified that the said line is sufficiently completed for the safe conveyance of passengers and goods, as hereinbefore mentioned, the Governor is hereby authorised to pay to the contractor the sum of five thousand pounds per annum for a period of ten years, so long as the said railway shall be maintained and kept in such full working order as the Commissioner of Crown Lands and Public Works may from time to time require, or until such railway shall be taken over by the Governor: Provided that in case the Colonial Government shall determine to take over the said railway before the expiration of ten years, the contractor shall be entitled to receive from the said Government a sum equal to the annual instalments multiplied by the number of years of the unexpired term of ten years as aforesaid.

On completion of railway Government to pay contractor £5,000 for 10 years.

18. The contractor shall be bound, and is hereby required to finish and complete the said railway within eighteen months, reckoned from the date of the first commencement of the works thereof, so that the said railway may be opened for public traffic: Provided that the said company shall be bound to commence the said railway not later than ten months from and after the taking effect of this Act: failing which, all and singular the powers and authorities conferred by this Act shall cease and determine.

Payment to contractor if Government takes over railway.

Time for completing railway.

19. The contractor shall at the time of entering into the contract deposit with the Colonial Government a sum of ten thousand pounds, or provide approved security for such sum, and if the said railway be not commenced before ten months after the taking effect of this Act, or if the said railway be not completed as aforesaid within the said period of eighteen months, the sum so deposited or secured shall be forfeited and remain the property of the Colonial Government, and such contract shall thenceforth be void.

Contractor to find security.

No. 36—1884.

Telegraph or telephone to be constructed, subject to Act 20 of 1861.

20. The contractor is hereby further authorised and empowered to construct, erect, and work for the purposes of the said railway and for no other, unless by agreement with the Commissioner of Crown Lands and Public Works, a telegraph and telephone line, or either, along or near the line of railway, subject to the provisions of the Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs."

Government may, when disposed, purchase railway, telegraph or telephone.

21. At any time during the construction or after the completion of the said railway the colonial government shall have the right, if so disposed, to purchase from the contractor on giving three months notice to this effect, in three consecutive issues of the Gazette of the colony, and the contractor shall be bound three 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 contractor 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 possession of the said contractor under this Act, at a price not to exceed the actual cost as approved and certified by the Government engineer appointed for that purpose, after an allowance has been made for reasonable wear and tear, and for any new and additional works, such allowance or such additional sum to be agreed upon between the Government and the contractor, and failing such agreement the allowance to be fixed by arbitration.

Meaning of words "actual cost."

22. The words "actual cost" in the last preceding section mentioned shall mean the amount actually expended upon and interest at five per cent. per annum incurred upon such actual expenditure during the construction of the said railway and buildings, and the purchase of the said land, rolling stock and other matters and things in the said section mentioned.

"Lands and Arbitration Clauses Act, 1882," incorporated.

23. 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.

Name and style of contractor.

24. The contractor shall and may sue and be sued within this colony by the name or style of the "Kimberley Railway Contractor," and the service of process upon the agent of the said contractor at his office or place of business in this colony shall be good service of such process.

Provisions for mining board or municipality raising money if entering into contract.

25. In case a contract in this Act authorised to be entered into shall be made with any mining board or municipality or other public body, either jointly or severally, it shall be lawful for such board or municipality or body to pledge the lands, rates, revenues, and other property under their management and control for the purpose of raising from time to time money sufficient to carry on and complete the works stipulated for in such contract, and also to

levy rates for providing for any shortfall in the amount required to pay the annual interest and sinking fund, anything in any existing law to the contrary notwithstanding.

No. 37—1884.

26. This Act may be cited as the “Orange River and Kimberley Railway Act, 1884.”

Short title.

No. 37—1884.]

[Promulgated 25th July, 1884.

See 1909 Act-39 Sec. 1. ACT

To provide for the better and more effectual supervision and management of Native Locations, and for the more easy collection of Hut-tax.

WHEREAS it is desirable that the existing laws relating to native locations should be repealed, and other provisions made for the better and more effectual supervision and management of native locations, and for the more easy collection of hut-tax: 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:—

Preamble.

1. The following Acts are hereby repealed, that is to say, the Act No. 2 of 1869, the Act No. 6 of 1876, and the Act No. 8 of 1878.

Acts repealed.

2. By native location on private property is meant any number of huts, or dwellings, on any one farm occupied by three or more male adults, being Kafirs, Fingoes, Basutos, Hottentots, Bushmen, and the like, such occupants not being in the *bona fide* and continuous employment of the owner of such land, either as his domestic servants, or in or about the farming operations, or any trade, business, or handicraft by him carried on upon such land.

Definition of Native Locations.

3. Any private proprietor of land who is desirous of establishing a native location upon his property shall apply, the concurrence of the divisional council having been first obtained through the civil commissioner of the district in which such land is situate, to the Governor for leave so to do; and it shall be the duty of such civil commissioner to forward such application to the Secretary for Native Affairs, with his report or remarks thereon.

Private proprietors must get Government permission to establish location.

4. No native location, as defined in section two shall be established, or if already established, shall be allowed to continue, without the express leave and licence of the Governor, acting under the advice of the Executive Council, first had and obtained, which licence the Governor, acting as aforesaid, may from time to time revoke or suspend, as occasion may require: Provided, however, that native locations which are in existence at the time of the passing of this Act shall be deemed and taken to have been established, and to continue with such leave and licence, unless the Governor, with the advice aforesaid, shall give notice in the

No location to continue without licence

No. 37—1884.

Existing locations presumed to be licensed.

Government Gazette, that any such native location shall cease and be removed from a date to be named in such notice: Provided, moreover, that until the issuing of such notice, all such now existing native locations shall be subject to the conditions and provisions hereinafter in the fifth section of this Act contained: Provided, further, that nothing in this section contained shall be construed as giving any power to remove any occupant of a native location from any land of which he is the registered proprietor.

Governor may have limits of locations pointed out, and may limit number of huts, &c., therein.

5. It shall be lawful for the Governor, by and with the advice of the Executive Council, to point out or cause to be pointed out, within any native location, the place, or area, or limits upon or within which alone the huts or dwellings of such location shall be erected; and to limit the number of huts or dwellings which it shall be lawful to erect upon the place, or within the area or limits so pointed out; and the erecting of any hut or dwelling upon any other part of the location than that so pointed out, and the erecting or suffering to be erected any greater number of huts or dwellings than the number so limited, shall be deemed to be offences against this Act to be punished as hereinafter provided.

Penalty for establishing location without licence.

6. Any person establishing a native location without the leave and licence hereinbefore mentioned, or continuing any such native location after the publication of the notice for its discontinuance and removal in the fourth section of this Act provided, and after notice thereof to such person, or after the revocation or suspension of the licence as aforesaid, any person contravening any of the provisions in the last preceding section of this Act shall be liable to a penalty of not exceeding £25 for the first offence, and to double the amount of the last inflicted fine or penalty for each subsequent offence.

Definition of Crown Lands Locations.

7. By native location on Crown land is meant any number of huts or dwellings, occupied by any of the native races, such as Kafirs, Fingoes, Basutos, Hottentots, Bushmen, and the like, on certain Crown lands reserved for the purpose of native tribes within the Colony, commonly known as native locations.

Government Inspectors to be appointed.

8. It shall be lawful for the Governor, from time to time, to appoint a fit and proper person, to be called an inspector, to supervise and manage every native location: Provided that no inspector shall be appointed over less than one hundred huts or dwellings, unless the huts or dwellings are situated on land belonging to a private person; and provided also that the same person may be appointed as inspector of more than one location.

Salaries of Inspectors.

9. Every such inspector shall be paid from and out of the general revenue of the colony, such salary as may from time to time be fixed by the Governor.

Hut-tax.

10. A fixed annual amount of ten shillings each shall be chargeable as hut-tax on all such huts on private property as in the second section of this Act defined, and the proprietor of the land

Liability therefor of proprietor of land.

on which such huts are situate shall be liable for the payment thereof.

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11. A fixed annual amount of ten shillings as hut-tax shall be payable by the occupiers of each hut or by the persons using or claiming such hut, situate on Crown land as defined in the seventh section of this Act.

Hut-tax on Crown Lands.
Repealed by 1925 Act 41 Sec. 2

12. Every inspector appointed under this Act shall have the same powers and authorities, and it shall be lawful for him to perform all such duties within the location or locations over which he has been appointed as if he were a field-cornet or police constable.

Powers of Inspectors.
And so much of the other provisions as relate to the registration and collection of hut-tax shall apply to the same.
To keep a register.
Hut-tax on private locations.

13. It shall be the duty of every such inspector as aforesaid to keep a true and correct register of the number of huts or dwellings within every location over which he is inspector, together with the names and occupation of the occupants of such huts or dwellings, and the number, marks, and other description of the horses, horned cattle, sheep, and goats belonging to every such occupier, and such register shall be open to inspection at all reasonable times.

14. For the purpose of enabling every such inspector to keep such register as aforesaid, it shall be the duty of every inhabitant of such location to give to the inspector of such location such information as he may require for the purpose, and every such person who shall, upon being required so to do by any such inspector, neglect or refuse to give any such information, shall be liable to a fine not exceeding two pounds, and in default of payment thereof, to be imprisoned with or without hard labour, and with or without spare diet, for a period not exceeding one month.

Inhabitants to give information.—
Penalty for refusing.

15. It shall also be the duty of every such inhabitant as aforesaid, without any request so to do, forthwith to give notice to the said inspector of any new hut or building erected by him in such location, of any horses, horned cattle, sheep or goats, which from time to time have come into the possession of such inhabitant, and of the way by which they came into his possession, and of the death of any person in the hut or dwelling of such inhabitant, and any such person who shall neglect to give any such notice as aforesaid shall be liable to the same penalties as in the last preceding section mentioned.

Notice to be given to Inspector of new huts, &c.

16. All horses, horned cattle, sheep or goats, which may be found in any location, and which have not been so registered as aforesaid, or of whose arrival thereof no notice has been given to the inspector of such location, and of the right to or ownership of which no satisfactory account shall be given to such inspector, may be seized and taken possession of by him and impounded in the nearest accessible pound; and shall thereupon be dealt with and treated as other impounded animals in the said pound: Provided that no animals so impounded as aforesaid by any inspector shall be delivered up by the poundmaster to any inhabitant of any such location without a written order for such delivery signed by the said inspector.

Inspector may seize and impound unregistered cattle, &c.

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Aggrieved persons may complain to Resident Magistrate.

17. It shall be lawful for any person who may feel himself aggrieved by any seizure so made by the said inspector or by his refusal to grant any such written order as aforesaid to complain to the resident magistrate of the district, who shall enquire into and summarily adjudicate upon the matter of such complaint, and make such order thereon as to him shall seem proper.

Penalty for obstructing Inspector.

18. Any person who shall obstruct any inspector as aforesaid in the execution of this 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.

Persons in possession of unregistered cattle, &c., presumed to have stolen them.

19. In case any inhabitant of any native location as aforesaid shall be charged with having stolen any horse, head of horned cattle, sheep, or goat, 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.

Persons unlawfully in location may be removed.

20. Any person having no right or authority to be in any native location as aforesaid may be directed to remove therefrom, by order in writing signed by the resident magistrate of the district in which such location is situated, such person having been first summoned before the court of such resident magistrate to show cause why he should not remove from such location, and no sufficient cause to the contrary having been proved to the satisfaction of such court, and 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 location by the inspector of such location, or by any police constable.

Process provided.

Branding of cattle, &c.

21. All horses, horned cattle, sheep, and goats belonging to residents within any native location, shall be branded or otherwise marked in such manner as the inspector of such native location may require; and any resident within a native location who shall refuse to brand or mark, or to suffer to be branded or marked, any of his horses, horned cattle, sheep, or goats when thereto required by the said inspector, or who shall have in his possession or custody any horse, horned beast, sheep, or goat which shall not be branded or marked as aforesaid, shall be liable to imprisonment with or without hard labour for a period not exceeding one month, or to a fine not exceeding £2, and in default of payment to imprisonment with or without hard labour for a period not exceeding one month, unless the said fine be sooner paid.

Unbranded cattle to be dealt with under Section 16.

22. All horses, horned cattle, sheep, and goats, which may be found in any native location, and which have not been branded or

marked as aforesaid, may be dealt with in the same manner as by law is now provided for dealing with horses, horned cattle, sheep, and goats which have not been registered, and for that purpose the provisions of the sixteenth section of this Act shall be taken to apply also to cases of horses, horned cattle, sheep, and goats which have not been branded or marked as aforesaid.

23. It shall be lawful for the civil commissioner of the division within which any such native location as aforesaid shall be situate, or for any other person thereto authorised by the Governor by publication of such authority in the Government Gazette, to demand and sue for the amount of hut-tax payable under the provisions of this Act.

Recovery of hut-tax.
See note on page 121

24. In case default shall be made by the person liable to pay any such hut-tax in any year within three calendar months after the same shall become due and payable, as hereinafter by the twenty-sixth section provided, it shall be lawful for such civil commissioner or other person authorised to demand the same as aforesaid, in addition to the ordinary remedy by action for the recovery of such sum to attach and seize, to answer the same, and the costs of such levy and seizure and subsequent proceedings, a sufficient amount of the cattle, stock, and other movable property of the person liable to pay the same, and if payment shall not be made within fourteen days after such seizure, sufficient of such cattle, stock, and other movable property to answer the demand and the costs of levy and seizure and sale, shall be sold by public auction, unless before such sale shall have been actually made, the person claiming such cattle, stock, and movable property, shall commence in some competent court an action for the recovery of such cattle, stock, and movable property, and shall also find and give sufficient security to prosecute such action without delay, and abide and perform the judgment thereof in the premises, which judgment, if adverse to the plaintiff, may be not only for the amount of hut-tax for which such seizure as aforesaid shall have been made, but also for the costs of such levy and seizure lawfully incurred up to the time of such security as aforesaid being duly given, as well as for the costs of the action itself.

Proceedings in case of default of payment of hut-tax.
See note on page 121.

Seizure of cattle.

25. Upon such security as in the last clause mentioned being given and approved of by the court in which the action for the recovery of the said cattle, stock, and movable property shall have been commenced, the said cattle, stock and movable property shall be redelivered to the person claiming the same.

Restoration thereof on security.

26. The annual sum of ten shillings fixed under the tenth and eleventh sections of this Act, respectively, shall become due and payable in each year on the thirty-first day of December in respect of the year ending on such day, and shall thereupon be paid by the person liable to pay the same, to the civil commissioner of the division in which the location or locations containing the huts are

Sums payable under Sections 10 and 11, to be due on 31st December.

No. 37—1884.

Abandoned huts to be destroyed.

situated, or to such other person duly authorised to receive the same, without the necessity of any demand being made.

27. In case no person can be found who shall claim or shall have occupied or used any hut chargeable under this Act at any time during the year ending with the thirty-first day of December in any year, the civil commissioner, or such other person so authorised as aforesaid, may cause such hut to be destroyed.

Liability of landed proprietor for value of stolen cattle.

28. Whenever any occupier of such hut or dwelling on private property as defined in this Act, shall be convicted of the theft of any cattle, sheep, goats, horses, or ostriches, the proprietor of the land on which such hut or dwelling is situated, shall be liable for so much of the value of the property stolen as the rightful owner thereof shall fail to recover, after due process of law taken for such recovery, from the person guilty of such theft.

Power to Governor to make, alter, and amend regulations under this Act.

29. It shall be lawful for the Governor, with the advice of the Executive Council, by notice to be published in the Government Gazette, from time to time, to make, alter, and amend all such regulations not inconsistent with the provisions of this Act as may appear to be necessary and expedient for the better carrying the same into effect, and to provide that persons contravening any such regulations may, on conviction, be sentenced to imprisonment with or without hard labour, and with or without spare diet, for any term provided by such regulations, not exceeding one month, or to pay a fine not exceeding five pounds, and in default of payment thereof to such imprisonment, hard labour, and spare diet as aforesaid, and all fines so levied shall be paid into the public treasury, and all such regulations and any alterations and amendments of the same when so published as aforesaid shall have the force of law for all purposes mentioned therein and allowed thereby.

Act not to apply to municipal native locations.

30. This Act shall not apply to any native locations situate within the limits of any municipality: Provided, however, that it shall be lawful for any municipality by any municipal regulations made as by law required to apply the provisions of this Act, or any of them, to any such native location, so far as they can be so applied.

Magistrates to have jurisdiction.

31. All proceedings for any contravention of this Act or of any regulations made thereunder shall be had and taken in the court of the resident magistrate of the district in which the offender resides, and may be instituted and carried on by the inspector of the location in which the offence has been committed.

Short title.

32. This Act may be cited for all purposes as the "Native Locations Act, 1884."

No. 38—1884.]

[Promulgated 25th July, 1884.

Repealed by 1916 Act 32. ACT

To Amend in certain respects the Law relating to Insolvent Estates.

WHEREAS it is expedient to amend the law relating to insolvency and the administration of insolvent estates: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. From and after the passing of this Act, every person who may be desirous of voluntarily surrendering any estate as insolvent under the provisions of the Ordinance No. 6 of 1843 entitled "Ordinance for regulating the due Collection, Administration, and Distribution of Insolvent Estates within this Colony," (hereinafter referred to as the said Ordinance), shall give public notice in the Gazette, at least ten days before he makes application for the surrender of such estate, of his intention to make such application and of the date upon which and the place where he intends to make the same; and shall prepare for the inspection of the creditors of such estate a statement of its affairs and all such schedules, statements, accounts or other documents as he intends to lay before the court or judge, to whom such application as aforesaid is to be made, in support of the same; and shall lodge such statement or statements, schedules, accounts or documents at the office of the resident magistrate of the district in which he resides, where the same shall lie for the inspection of creditors at all reasonable times for a period not less than seven days from a date to be stated in such notice; and no estate shall be surrendered as insolvent until proof shall have been given to the satisfaction of the court or judge to whom such application as aforesaid is made that the provisions of this section have been complied with.

Ten days' Notice of desire to surrender to be given in *Government Gazette*.

Schedules, &c., to be lodged with Resident Magistrate.

2. From and after the publication of any such notice as in the last preceding section mentioned it shall not be lawful to sell any property belonging to the estate to which such notice relates, attached under any writ of execution or other process in the nature of an execution, at any time before the application for the surrender of such estate shall have been made and adjudicated upon, except by order of some competent court; and if the proceeds of any property sold under legal process for the satisfaction of any debt due by such estate shall remain in the hands of the sheriff or other officer of the law at the date of the publication of any such notice, such proceeds shall be retained by such sheriff or officer and shall not be paid over or distributed, except by order of some competent court, before such application as aforesaid shall have been made and adjudicated upon.

No Sale of property after notice, except by order of Court.

No. 38—1884.

Supreme, E. D. and High Courts on petition of Creditors to grant provisional order of sequestration

3. It shall be lawful for the Supreme Court and for the Court of the Eastern Districts, and the High Court of Griqualand respectively, within the limits of the jurisdiction of such courts, or for the Chief Justice or any other of the judges of the Supreme Court, upon the petition of any creditor or creditors having a claim or claims amounting in the aggregate to one hundred pounds against any person, company, or estate of any person deceased, or of any person legally or actually incapable of the administration of his estate, and whether such claim or claims shall or shall not be actually due or payable at the time, stating that such person, company, or estate of any person deceased, or any person legally or actually incapable of the administration of his estate is insolvent and that it would be for the benefit of the creditors that such estate should be sequestrated, and setting forth the grounds upon which such statements are based, to grant a provisional order for the sequestration of such estate in terms of the fifth, ninth, or tenth section, as the case may be, of the said Ordinance, and thereupon all and singular the provisions of the said Ordinance relating to the compulsory sequestration of persons, or companies, or estates of persons deceased, or of persons legally and actually incapable of the administration of their estate, shall, *mutatis mutandis*, apply to such provisional order.

Security may be demanded from Trustee.

4. It shall be lawful, at any meeting of creditors of any insolvent estate, by resolution passed by the votes of the greater part in number and value of the creditors or their agents present and entitled to vote, to require from the trustee of such estate reasonable security for the due administration and distribution thereof, to such amount as may by such resolution be fixed and determined, such security to be approved of by the Master of the Supreme Court or other officer before whom such meeting may be held, and to be filed with the proceedings in the said estate; and if any trustee shall fail to provide such security within fourteen days after the date of the passing of such resolution, his election if not confirmed shall be void, and if confirmed he shall be removed from his trust: Provided, that it shall be competent to such trustee or any person interested in the due administration of the said estate, to bring the amount of such security in review before the Supreme Court, and such court may thereupon make such order as justice may require.

When security to be cancelled.

5. Every security given by a trustee under the provisions of the last preceding section shall be cancelled by the said Master as soon as the final account of the liquidation and distribution of the estate shall have been confirmed according to law, and receipts for all dividends awarded to creditors of the estate shall have been lodged with the said Master from all such creditors by the said trustee; or in the case of unclaimed dividends the amount thereof lodged with the said Master as required by the one hundred and fifteenth section of the said Ordinance: Provided that the cancel-

lation of such security shall not be taken in any manner to affect the liability of the said trustee in respect of his trust.

No. 38—1884.

6. So much of the forty-first section of the said Ordinance as prohibits the election of any attorney as trustee of an insolvent estate is hereby repealed.

Attorney may be a Trustee.

7. It shall be lawful for any creditor or the attorney or agent of any creditor, as well as for the Master of the Supreme Court or the resident magistrate, as the case may be, to examine any insolvent upon oath under the provisions of the sixty-first section of the said Ordinance. And if at any such examination it shall appear to the said Master or magistrate that there are reasonable grounds for suspecting that the said insolvent has been guilty of culpable or fraudulent insolvency, it shall be the duty of such Master or magistrate to call for such further evidence and documents as he may deem necessary, and submit such evidence to the Attorney-General or Solicitor-General or Crown Prosecutor, as the case may be, for the purpose of instituting criminal proceedings against such insolvent; and at any such examination no insolvent shall be entitled to refuse to answer any question on the ground that the answer, if given, might tend to criminate him.

Examination of Insolvent.

Master or Magistrate may send papers, &c. to Public Prosecutor.

8. If at the trial of any action brought for the purpose of setting aside any alleged undue preference, under the provisions of the eighty-fourth, eighty-fifth, eighty-seventh, ninety-second or ninety-fifth section of the said Ordinance, it be proved that the alienation, transfer, cession, delivery, mortgage, pledge, or payment, forming the subject of such action, was made, granted or given within six months before the sequestration of the estate of the insolvent, and at a time when his liabilities fairly calculated exceeded his assets fairly valued, it shall be presumed that the insolvent at such time contemplated the sequestration of his estate unless proof be made to the contrary by the defendant in such action.

Contemplation of Insolvency to be presumed from certain acts of Insolvent.

9. Every insolvent whose estate shall be surrendered or sequestrated after the passing of this Act, and who shall not have kept or caused to be kept such reasonable and proper books or accounts containing all such entries concerning and exhibiting the nature of his dealings and transactions as (regard being had to his particular trade or calling) might reasonably be expected or required, shall be deemed to be guilty of the crime of culpable insolvency, and shall be liable to the punishment by the seventy-first section of the said Ordinance provided, anything in the said section to the contrary notwithstanding.

Not keeping proper books to be culpable Insolvency.

10. Every insolvent who shall fail, when thereto required in writing by the trustee of his insolvent estate, to give a true and sufficient explanation of the cause or causes of his insolvency, shall be deemed to be guilty of the crime of culpable insolvency, within the meaning of the seventy-first section of the said Ordinance, and shall be liable to punishment accordingly.

Not giving proper account of estate, culpable insolvency.

No. 38—1884.

Property reclaim-
able within ten days

11. The last proviso to the one hundred and fifth section of the said Ordinance shall in future be read and construed as if a period of ten days instead of three days were thereby allowed within which to reclaim by notice in writing the possession of any property sought to be recovered by virtue of the said proviso.

Justice of Peace
becoming insolvent
to lose his commis-
sion.

12. If the estate of any person holding a commission as a justice of the peace shall be surrendered or sequestrated as insolvent, such commission shall upon such surrender or sequestration be considered as annulled and cancelled.

Rates of trustees'
commission.

13. The rate of remuneration to be paid to trustees who shall be appointed after the passing of this Act shall henceforth be,

Upon the proceeds of immovable property for the first £1,000 or less than £1,000 $2\frac{1}{2}$ per cent.; for every following £100 or fraction thereof, $1\frac{1}{2}$ per cent.;

Upon the proceeds of movable property for the first £1,000 or less than £1,000, 5 per cent.; for any following £100 or fraction thereof, $2\frac{1}{2}$ per cent.,

but such rate may be increased or reduced, as occasion may require, by the Supreme Court.

Insolvents' Reha-
bilitation Act, 1859,
and rules thereunder
repealed.

14 The "Insolvents' Rehabilitation Act, 1859," and the rules of court having reference thereto and confirmed by the Act No. 15 of 1867, are hereby repealed, and the one hundred and seventeenth section of the said Ordinance is hereby re-enacted: Provided:—

(1) That it shall be lawful for the Supreme Court, upon motion made by any insolvent, who shall not have been convicted of the crime of fraudulent insolvency, at any time after the lapse of four years from the date of the surrender or sequestration of his estate, to make an order for the discharge of such insolvent without the production of any certificate from his creditors (subject to such conditions as to the giving of notice to creditors and otherwise as the court may impose) and such discharge shall have the same force and effect as the certificate and the allowance thereof in the said section of the said Ordinance mentioned; and

(2) That nothing in this section contained shall affect the rights of any insolvent whose estate shall have been sequestrated before the passing of this Act; and that any application for discharge made by any such insolvent shall be dealt with as if this Act had not been passed.

No retrospective
effect.Filing of accounts
by trustees.

15. If any trustee shall neglect to lay before the Master of the said court any account by the said Ordinance required, within the time prescribed, it shall be lawful for the said Master, and he is hereby required, to call upon any such trustee to show cause before the Supreme Court why he should not forthwith be ordered to file the said account, and the said court shall summarily make such order thereon and impose such penalty for the non-observance thereof as to such court shall seem fit and proper: Provided

that, in rendering all such accounts as aforesaid, the trustee shall be guided by and conform to all such rules, orders, and regulations as may be made in that behalf by the Supreme Court under and by virtue of the one hundred and thirty-eighth section of the said Ordinance.

No. 38—1884.

16. A copy of the Gazette, containing any notice inserted therein in pursuance of any law relating to or regulating the administration of insolvent estates, shall be evidence of the facts stated in the notice.

Evidence of facts.

17. It shall not be lawful for any person to make application for the process of any court for the civil imprisonment of any insolvent under the provisions of the one hundred and twenty-fourth section of the said Ordinance, or for leave to issue execution against any insolvent under the provisions of the one hundred and twenty-seventh section of the said Ordinance, or to proceed in any manner against such insolvent in respect of any debt or demand proved or provable against his insolvent estate, at any time after the lapse of four years from the date of the surrender or sequestration of his estate as insolvent: Provided that nothing in this section contained shall apply to any insolvent who shall have been convicted of the crime of fraudulent insolvency.

No decree of civil imprisonment or writ of execution against insolvent after lapse of 4 years.

18. It shall be lawful for the Governor, upon the necessary provision being made by Parliament, to direct that all or any of the duties imposed upon or the powers or functions exercised by the Master of the Supreme Court, under or by virtue of the laws relating to insolvency and the administration of insolvent estates, shall be performed or exercised by an insolvency commissioner or such other officer as may be appointed for the purpose: and such commissioner or other officer shall during his tenure of office be in all respects in the same position as if his name were substituted for that of the said Master wherever the said Master is mentioned in any of the said laws.

Insolvency commissioner may be appointed by governor when necessary provision made by Parliament.

19. This Act shall be read as one with the said Ordinance, and may be cited as the "Insolvent Law Amendment Act, 1884."

Short title.



ACTS OF THE CAPE PARLIAMENT.

No. 1—1885.]

[Promulgated 30th May, 1885.]

ACT

To Authorise the Construction, Working and Maintenance of a Line of Railway from Orange River Station to Kimberley.

WHEREAS it is expedient to complete the trunk or main line of railway from the Orange River Station to Kimberley at as early a date as possible: and whereas it is expedient to raise the necessary funds for the aforesaid purpose: and whereas Her Majesty's Imperial Government have consented to advance to the Government of this Colony the sum of four hundred thousand pounds sterling to be expended in the construction of the said railway as a temporary loan out of the Consolidated Fund of the United Kingdom for a period of five years bearing interest at the rate of three pounds ten shillings per centum per annum: and whereas it is required that the negotiation of the said loan upon the conditions of payment of interest aforesaid and eventual repayment to the Imperial Government of the capital sum so advanced as a temporary loan, should have the sanction of the Legislature of this Colony: 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:—

Preamble.

1. The Governor shall immediately after the passing of this Act cause to be constructed a line of railway from the present terminus at the Orange River Station, to Kimberley, at an expenditure not exceeding the sum of four hundred thousand pounds sterling, exclusive of the cost of erecting bridges over the Orange River and Modder River for which provision has already been made by Acts No. 30 of 1882 and No. 21 of 1883, the said line of railway to be completed ready for traffic not later than the 28th November, 1885.

Railway authorised to be constructed.

2. For the purposes mentioned in the preceding section of this Act, the Government of this Colony is authorised to accept from Her Majesty's Imperial Government advances, by way of loan, not exceeding in the whole the sum of four hundred thousand pounds sterling, bearing interest at the rate of three pounds ten shillings per centum per annum, for a period of five years reckoned from the day on which such advances shall have been made:

Negotiation for loan of £400,000 from Imperial Government sanctioned.

No. 1-1885.

provided that the said loan shall be appropriated to the construction of the said line of railway and to no other purpose whatsoever; and provided further that the said loan shall not be subject to the terms and conditions of Act No. 16 of 1881.

Capital and Interest for Imperial loan to be a charge upon Colonial Revenue.

3. The general revenues of this Colony shall be, and they are hereby charged, firstly, with the payment half-yearly of the said interest on the said loan to Her Majesty's Imperial Government, for the period of five years aforementioned, and secondly, with the sum or sums required to repay to Her Majesty's Imperial Government at the expiration of five years, the capital sum of the loan of four hundred thousand pounds sterling, the said repayment to be made in precisely the same manner as regards numbers and amounts of respective instalments by which the said advance shall have been made, that is to say that repayment of each instalment shall be made at the expiration of five years from the day on which and at the place where such instalment shall have been advanced.

Mode of repayment.

Debentures to be deposited with Imperial Government as security for advances.

4. In order to meet the requirements of the Act of the Imperial Parliament entitled the "Cape of Good Hope (Advance) Act, 1885," the Treasurer of the Colony is hereby authorised to issue and deposit with Her Majesty's Imperial Government as security for any advance to be made under the provisions of this Act such number of debentures of the Government of the Colony of the Cape of Good Hope, bearing interest at the rate of five per centum per annum, as in nominal amount shall be equal to the amount of the said advance with an addition of one-sixteenth of the amount of such advance.

The Governor may borrow money required for the repayment of instalments as they fall due.

5. For the purpose of raising if necessary the sum or sums required under this Act for the repayment of the loan aforesaid, the Governor may borrow any sum or sums not exceeding four hundred thousand pounds, according to the terms and conditions of Act No. 16 of 1881.

Abstract of expenditure and report of progress of works to be rendered to H.M. Treasury.

6. The Colonial Government shall render to Her Majesty's Imperial Treasury such abstract accounts of expenditure on the said railway, certified by the Controller and Auditor-General of this Colony, and such reports of the progress of the works, certified by the railway engineer-in-chief, as may from time to time be required.

Certain Sections of Act 19 of 1874 to apply.

7. For the purposes of this Act the several powers and provisions given and contained in the sections of Act No. 19 of 1874, numbered 2, 3, 4 and 5, shall be deemed and taken *mutatis mutandis* to apply to this Act.

Short title.

8. This Act may be cited as the "Kimberley Railway Extension Act, 1885."

Spent.

No. 2—1885.]

[Promulgated 27th June, 1885.

ACT

For applying a further Sum not exceeding Twenty-six Thousand Three Hundred and Ninety Pounds Sterling for the Service of the Year ending the 30th June, 1885.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending on the 30th June, 1885, in addition to the sums provided by the Acts No. 9 and No. 16 of 1884: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending on the 30th June, 1885, with a further sum of twenty-six thousand three hundred and ninety pounds sterling, in addition to the several sums provided for by the said Acts No. 9 and No. 16 of 1884.

Public Revenue charged with £26,390.

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.

How to be applied.

3. This Act may be cited for all purposes as the "Additional Appropriation, 1884-'85, Act, 1885."

Short title.

SCHEDULE.

Schedule.

Additional Appropriation, 1884-'85.	Establishments.	Services, exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
1. Ministerial Department of Colonial Secretary ..	648	6,807	7,455	7,455
2. Ministerial Department of Treasurer of the Colony	830	14,390	15,220	3,005
3. Ministerial Department of Attorney-General ..	270	..	270	270
4. Ministerial Department of Commissioner of Crown Lands and Public Works	201	14,001	14,202	14,202
5. Ministerial Department of Secretary for Native Affairs	475	983	1,458	1,458
Grand Total ..	2,424	36,181	38,605	26,390

No. 3—1885.]

[Promulgated 14th July, 1885.

ACT

To Provide for the Annexation to the Colony of the Cape of Good Hope, of the British Territories known as Tembuland, Emigrant Tembuland, Gcalekaland and Bomvanaland, and for the Government of the said Territories.

Preamble.

WHEREAS by resolution of both Houses of Parliament of this Colony, passed in the session of Parliament held in the year of our Lord 1884, it was resolved that it is expedient that the British Territories known as Tembuland, Emigrant Tembuland, Gcalekaland and Bomvanaland should be annexed to this Colony: And whereas by Her Majesty's Letters Patent, bearing date at Westminster the 2nd day of October, 1884, and passed under the Great Seal of the United Kingdom of Great Britain and Ireland, the Governor for the time being of this Colony was authorised by proclamation under his hand and the public seal of the said Colony, to declare that from and after a day to be therein mentioned, the said Territories, or so much thereof as to him after due consideration and consultation with his Ministers, shall seem fit, shall be annexed to and form part of this Colony; and was authorised and directed to determine and by proclamation to signify the limits of the said Possessions and Territories so annexed: Provided that no such proclamation should be issued until the Legislature of this Colony should have passed a law providing that the said Territories should on the day aforesaid become part of this Colony, and subject to the laws in force therein: and provided that the application of the said laws to the said Territories might be modified either by such proclamation as aforesaid, or by any law or laws to be from time to time passed by the Legislature of this Colony for the government of the said Territories so annexed: And whereas it is expedient that a law should be enacted providing that the said respective Territories shall, on the day to be mentioned in that behalf in a proclamation or proclamations of the Governor aforesaid, become part of this Colony, but in consequence of the said Territories being for the most part occupied by natives who are not yet sufficiently advanced in civilization and social progress to be admitted to the full responsibility granted and imposed respectively by the ordinary laws of this Colony to and upon other citizens thereof, subject to the laws in force therein only as the same may from time to time be applied and modified as hereinafter mentioned and hereinafter provided: 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. From and after such day as the Governor shall, pursuant to the powers in that behalf contained in the said Letters Patent, by proclamation under his hand and the Public Seal of this Colony fix in that behalf, the British Territories known as Tembuland, Emigrant Tembuland, Gealekaland and Bomvanaland, or so much of the said respective Territories as shall be defined in or by any such proclamation, and with the limits and name in any such proclamation signified, shall become and be part of the Colony of the Cape of Good Hope, and subject to the laws in force therein except as the application of the same to the said respective territories may be modified by any such proclamation: Provided that for the purposes in this section mentioned it shall be lawful for the Governor to issue one or more proclamations as may seem fit.

2. From and after the annexation of the said respective Territories to this Colony as aforesaid, the laws which may be in force therein under and by virtue of the last preceding section may, until it shall be otherwise provided by Act of Parliament, be repealed, altered, amended, and modified, and new laws applicable to the said territories respectively may be made, and may be repealed, altered, amended, and modified by the Governor, by proclamation published in the Government Gazette; and no Act passed or to be passed by the Parliament of this Colony shall extend or be deemed to extend to the said Territories or any of them unless such Act shall be extended thereto in express words either contained therein or in some other Act of Parliament, or unless the operation thereof shall be extended to any of such Territories by the Governor by such proclamation as aforesaid, and in such case any such proclamation may be amended or repealed from time to time by the like proclamation, and no proclamation published in the Government Gazette after any proclamation or proclamations as in the last preceding section mentioned shall be deemed to extend or apply to the said Territories or any of them unless the same shall be declared in express words contained in such or some other proclamation as aforesaid to extend or apply thereto: 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.

3. 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 the territories by this Act annexed.

4. The resident magistrates of such annexed Territories shall, until the Governor shall by any proclamation otherwise direct, have jurisdiction respectively in all cases of crimes and offences wherein

No. 3—1885.

Governor may proclaim date from which Tembuland, Emigrant Tembuland, Gealekaland, and Bomvanaland shall become part of this Colony.

Provision as to laws.

The laws at present in force in these territories may, until otherwise provided by Parliament, be repealed, altered, amended, and modified and new laws made by Governor in Council. No colonial Acts to apply unless expressly provided, or unless it is extended to these territories or any of them by Governor in Council.

Eastern Districts Court to have jurisdiction over annexed territories.

Jurisdiction of Magistrates' Courts in annexed territories in criminal cases.

No. 4—1885.

any person may be accused of any crime or offence not punishable by death; and may sentence any person convicted, to any punishment allowed by law; anything in the forty-second section of the Act No. 20 of 1856 to the contrary notwithstanding.

Review of such
Magistrates' deci-
sions.

5. The sentences of the resident magistrates in the last preceding section mentioned shall, until the Governor shall by any proclamation, issued for that purpose, otherwise direct, continue to be reviewed by the chief magistrates, respectively, of the Territories hereby annexed in the manner provided for in and by the twenty-seventh section of the regulations promulgated by proclamation of His Excellency the then Governor, bearing date the 26th day of January, 1882, in regard to the said Territories; provided that any person convicted and sentenced to suffer any punishment may appeal in the manner provided, and to the courts respectively mentioned, in the fourth section of the "Resident Magistrates' Courts Act, 1876."

Appeals in civil
cases.

6. Any person being a party to any civil suit, action, or proceeding pending in the court of any resident magistrate in the Territories hereby annexed, may appeal either to the chief magistrate thereof in the manner provided by the twenty-sixth section of the proclamation mentioned in the last preceding section, or to the Supreme Court or Court of the Eastern Districts, as such person may elect.

Short Title.

7. This Act may be cited as the "Tembuland Annexation Act, 1885."

No. 4—1885.]

[Promulgated 14th July, 1885.

ACT

To Authorise the Post Office Department to issue Postal Drafts for the Collection of Small Sums of Money.

WHEREAS it is expedient that provision should be made for the collection of small sums of money through the agency of the Post Office by means of Postal Drafts: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Postmaster-Gener-
al may authorise
issue of postal drafts

1. Subject to such regulations as may be made by the Governor under the provisions of this Act, the Postmaster-General may authorise his officers, or any of them, to issue postal drafts and to collect the amounts thereof.

No draft to exceed
£10 sterling.

2. No postal draft shall be issued for a higher amount than ten pounds sterling, nor for any sum which shall include the fractional part of a penny.

*Repealed
Act 1911 § 1*

3. The Governor may from time to time make, alter and repeal regulations for all or any of the following purposes:—

No. 4—1885.

Power of Governor to make, alter and repeal certain regulations.

- (1.) The fees to be received in respect of the issue to the drawer and presentation to the drawee of postal drafts.
- (2.) The charges to be made for the collection from the drawee and transmission to the drawer or other person authorised to receive the same of the amounts for which any such drafts shall have been drawn.
- (3.) For regulating the manner in which any fees payable under the provisions of this Act shall be paid and brought to account.
- (4.) For regulating the persons by or through whom and the places where and the times when such drafts shall be issued, and the persons by or through whom and the places where and the times when such drafts shall be presented for payment, and the payment of the amounts thereof received.
- (5.) For regulating the length of time for which such drafts shall remain current, and the manner in which the demands for the payment thereof shall be made.
- (6.) For regulating the conduct of all postmasters and other officers charged with the issue of such drafts and the collection of the amounts thereof.
- (7.) For any other purposes whatsoever necessary for the effectual carrying out of the object and provisions of this Act.

4. All amounts payable to the post office in respect of any postal draft shall be payable in current coin.

Amounts payable to Post Office to be paid in coin.

5. Every draft shall be payable in full, and it shall not be lawful for any postmaster or other officer of the post office to accept the payment of any sum in instalments.

Drafts to be paid in full.

6. All demands which, under the provisions of this Act, or the regulations to be framed by virtue thereof, shall be authorised by the drawer of any postal draft, shall be made by the postmaster in person, or by some other officer of the post office duly authorised by the Postmaster-General in that behalf, if the drawee resides in the immediate neighbourhood of the money order office on which such draft is drawn; but if the drawee should reside at a distance, or cannot be communicated with personally, a letter of demand on the form prescribed in the regulations to be framed under the provisions of this Act shall be addressed to him at the address given by the drawer, and be forwarded by post to the nearest post office to such address, and in the event of no reply being received to such demand, the postal draft, in respect of the payment of the amount of which such demand shall have been issued, shall be returned to the drawer at the termination of the

By whom and in what manner demands under this Act to be made.

No. 4—1885.

currency thereof, accompanied by a statement on the proper form, certifying to the non-payment thereof.

Production of draft returned for non-payment to be *prima facie* evidence of dishonour.

7. The presentation in accordance with the provisions of this Act, or the regulations to be framed by virtue thereof, of any postal draft, shall be of the same force and effect as a legal demand, and the return of any such draft so presented, by reason of the non-payment of the amount thereof by the drawee, and the report thereon by any postmaster or other duly authorised officer, shall, in any suit or action on the account or claim, in respect of which such draft was drawn, be taken on the mere production of such returned draft, together with the report thereon, as evidence of the facts stated in such report, unless the contrary shall be proved.

Receipts, &c., not chargeable with fees or duties.

8. No receipt, demand, or other document issued under the provisions of this Act shall be chargeable with any fees or duties whatsoever, excepting such as shall be imposed by the regulations made by the Governor under the authority of the third section hereof.

Governor empowered to make conventions with foreign countries for system of postal drafts.

9. The Governor may from time to time make conventions with the proper authorities of any other British possession or foreign country for the institution of a system of postal drafts between this colony and such other British possession or foreign country as the case may be, and by proclamation in the *Government Gazette*, define the time when such convention shall come into operation, and the regulations under which it shall be carried into effect.

When Postmaster-General and officers discharged from liability on drafts.

10. The presentation of a draft to the drawee, or the non-presentation within the prescribed period when the drawee cannot be communicated with, and in the case of payment, the collection of the amount of a postal draft and the transmission of the money in the form of a money order or postal order in a registered letter to the drawer shall discharge the Postmaster-General and his officers from all liability whatsoever in respect of such draft, notwithstanding any forgery, fraud, or mistake, which may have been committed or have occurred in reference to such draft, or to the procuring thereof, or to obtaining payment thereof, or by reason of any default, delay, or loss, in respect of any sum collected or to be collected, and notwithstanding any disregard of any regulations to be framed under the provisions of this Act.

Interpretation Clause.

11. In the interpretation of this Act the term Postmaster-General shall mean the Postmaster-General of the colony for the time being; the term postmaster shall mean the postmaster or other officer duly authorised to issue, or collect the amounts of postal drafts; the term drawer shall mean the person in whose favour or on whose behalf a postal draft shall be issued; the term drawee shall mean the person from whom the amount of a postal draft is to be collected.

12. Copies of all regulations and conventions, and orders made by the Governor under the provisions of this Act shall, from time to time, be laid before both Houses of Parliament within thirty days after the making thereof, respectively, if Parliament be in session, and if Parliament be not then in session, after the commencement of the next session.

No. 5—1885.
Copies of rules and conventions to be laid before Parliament.

13. This Act shall come into operation on such day as may be fixed by the Governor by Proclamation, and may be cited for all purposes as the "Postal Drafts Act, 1885."

Short Title.

No. 5—1885.]

[Promulgated 11th July, 1885.

Spent.

ACT

To apply a Sum not exceeding Two Hundred Thousand Pounds Sterling, towards the Service of the Year ending the 30th day of June, 1886.

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

Preamble.

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending the 30th June, 1886, with a sum not exceeding two hundred thousand pounds sterling (£200,000), which sum shall be applied towards the service of the said year in conformity with the estimates of the expenditure for the said year which have been presented to Parliament.

Revenue charged with £200,000 towards service of year ending 30th June, 1886.

2. This Act may be cited for all purposes as "The Appropriation (part 1885-86) Act, 1885."

Short title.

No. 6—1885.]

[Promulgated 14th July, 1885.

ACT

To Amend and Add to the Laws relating to Customs Duties.

WHEREAS it is expedient to amend in certain respects the laws relating to customs duties, and to provide more effectually for the collection of duties on goods imported across the inland border 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. All laws now or hereafter to be in force relating to the customs, and all regulations of the customs, shall so far as the same are applicable, extend and apply to all goods imported across the inland border of this colony, as fully and effectually as if such inland border were part of the high seas within one league

Customs Laws to extend to goods imported over inland border.

Repeated by Act 9/13/812

No. 6—1885.

Governor may prescribe forms of bills of entry and other necessary documents

Penalty for contravention of regulations.

Forfeiture of goods imported without duty paid.

How the value of goods imported generally to be estimated.

How in regard to goods imported across inland border.

Act 1 of 1864, the "Customs Act, 1872," and "The Customs Tariff Amendment Act, 1884," amended.

of the coast of this colony: Provided always that the Governor may, from time to time, prescribe the several forms of bills of entry, reports, warrants, and other necessary documents, and frame such rules and regulations as may be necessary for the due and more convenient collection of duties payable on goods imported across the inland border of this colony: and any person who shall contravene any such rule or regulation shall be liable to a fine not exceeding three hundred pounds sterling, and in default of payment to imprisonment with or without hard labour for any period not exceeding twelve months, or to both such fine and such imprisonment; and provided further that the owner, driver, or other person in charge of any animal or vehicle in or upon which any such goods are so imported, shall, *mutatis mutandis*, be in the same position as the master of any vessel importing such goods by sea.

2. If any goods liable to the payment of duties shall be imported by land or sea into any part of this colony, the customs and other duties thereon not having been first paid or secured according to law, then such goods shall become forfeited to the Colonial Treasury: provided that nothing herein contained shall be taken to affect or remove any other penalty which shall be incurred under any other law in force by such importation.

3. For the purposes of the twenty-sixth section of the "Customs Act, 1872," and of the declaration and the oaths thereby required to be made, the current value of any goods the duties on which are imposed *ad valorem*, or according to the value thereof, shall be taken to be the cost or value of such goods when placed on board the ship or vessel by which the same are imported and brought into this colony, and shall include the cost of all packages in which the said goods are contained, and also all costs and charges attending the transport of the said goods from the place where the same were manufactured or purchased to the place or port of shipment to this colony, but shall not include marine insurance or freight to the colony, nor shall it include agents' commission for purchasing, provided such commission does not exceed five per cent.: Provided that in respect of any such goods brought into this colony across the inland border thereof the value upon which customs duties shall be payable shall be the current value of such goods and the packages wherein the same are contained at the place in Africa from whence the same were imported into this colony: and so much of the said section and of any other law as may be inconsistent with or repugnant to the provisions hereof is hereby repealed.

4. The Act No. 1 of 1864, entitled "An Act for the better Protection of the Customs Revenue in certain cases," shall be read and construed as if the words "taken out of bond by being" in the first section thereof were omitted therefrom; and the twenty-sixth section of the "Customs Act, 1872," shall be read

THE TOWN OF ALIWAL (MOSSSEL BAY) WATER SUPPLY ACT 141
AMENDMENT ACT.

and construed as if the words "with the addition of ten pounds per centum" were omitted wherever they occur therein, and the words "with the addition of five pounds per centum" were substituted for the words so omitted; and "The Customs Tariff Amendment Act, 1884," shall be read and construed as if in the Schedule of Customs Duties thereunto annexed the words "not perfumed" occurring between the words "soap, common, brown, blue, yellow, or mottled," and the words "the 100 lbs." were omitted.

No. 7—1885.

5. This Act may be cited as "The Customs Amendment Act, 1885."

Short title.

No. 7—1885.]

[Promulgated 31st July, 1885.

ACT

To Amend in certain respects Act No. 19 of 1882, intituled "The Town of Aliwal (Mossel Bay) Water Supply Act, 1882."

WHEREAS it is expedient to amend in certain respects the Act No. 19 of 1882, intituled "The Town of Aliwal (Mossel Bay) Water Supply 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. Anything in the provisions of Act No. 19 of 1882 or of Act No. 45 of 1882 to the contrary contained notwithstanding, the preamble to the said Act No. 19 of 1882, and sections one and eighteen thereof, shall be read as if the words "twenty-six thousand pounds" had been originally inserted in the said preamble and sections in place of the words "twenty-four thousand pounds" contained in the said preamble and in the said sections.

In Act No. 19 of 1882, £26,000 to be inserted instead of £24,000.

2. All and sundry the other provisions of the said Act No. 19 of 1882 shall be of the like binding force and effect as if the words "twenty-six thousand pounds" had been originally inserted in the said preamble and sections in place of the words "twenty-four thousand pounds."

Provisions of Act No. 19 of 1882 not affected.

3. The necessary costs, charges, and expenses of obtaining this Act may be paid by the municipal commissioners in the Act No. 19 of 1882 referred to, out of the moneys by them borrowed, or to be borrowed, under and by virtue of the provisions of that and this Act.

Costs, &c., of obtaining Act paid out of moneys borrowed.

4. This Act may be cited for any purpose as "The Town of Aliwal (Mossel Bay) Water Supply Act Amendment Act, 1885."

Short title.

No. 8—1885.]

[Promulgated 31st July, 1885.
ACT

To Authorise the Divisional Council of Tarka to borrow Moneys upon the Security of Road Rates for the purpose of paying off certain Debts.

Preamble.

WHEREAS the Divisional Council of Tarka has been ordered by the Honourable the Court of the Eastern Districts of the Colony of the Cape of Good Hope to pay to the Divisional Council of Cradock, certain sums of money which were due to the said Divisional Council of Cradock, under and by virtue of the provisions of Section II of Act 24 of 1858: and whereas the payment of the sum so ordered to be paid will involve a larger outlay of money than could be met by immediate taxation under the powers by law vested in the said Council: and whereas it is expedient that the said Council should be authorised to borrow moneys upon the security of road rates of the said division, for the purpose of paying off the debt abovementioned, and that provision should be made for the gradual extinction of the debt to be incurred for the purpose of paying off the aforementioned debt: 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:—

Repugnant Laws repealed.

1. So much of Act No. 9 of 1858, entitled “An Act to provide for the management of the Public Roads,” and so much of the “Road Act No. 10 of 1864,” as is repugnant to or inconsistent with the provisions of this Act, shall in so far as it relates to this Act, but not otherwise, be and the same is hereby repealed.

Loan of £2,000.

2. 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 two thousand pounds sterling in the whole, as may be required for the purpose of this Act, upon such terms and conditions as shall be most favourable to the said Council.

Conditions precedent to raising any part of loan.

3. No loan under this Act shall be capable of being raised except in pursuance of a resolution passed at an ordinary meeting of the said Council, of which due notice shall have been given at some ordinary meeting previously held, and in which resolution two-thirds of the elected members shall concur, and no such loan shall be capable of being raised in any year in which the rates assessed by the said Council shall be less than one half-penny ($\frac{1}{2}$) in the pound sterling upon the value of the property to be rated in the said division.

Security for repayment of loans and interest.

4. For the due payment of moneys to be raised as aforesaid and the interest thereof, the road rates of the said Council are hereby charged and hypothecated, and it shall be lawful for the said Divisional Council to apply to the payment of interest or principal of the money raised under this Act any such revenues.

5. The said Council shall grant written acknowledgements of or for such sums of money borrowed as aforesaid, which acknowledgments shall be as nearly as may be in the form annexed to this Act and shall be signed on behalf of the said Council, by three of its elected members thereto duly authorised by resolution of the said Council.

No. 8—1885.

Acknowledgement for loans to be given in form provided in Schedule.

6. All moneys raised under this Act shall on receipt thereof be deposited in a bank to be chosen by the said Council, and all sums required shall be drawn by cheques signed by the secretary and countersigned by the chairman of the Divisional Council.

Moneys raised to be kept separate.

7. As a fund for the payment of the interest upon and the gradual extinction of the loans to be raised under this Act, there shall be charged and chargeable upon, and set apart out of the annual revenues of the said Council, an annual sum equal to the interest on the whole amount of such loans, or the balance thereof remaining due and unpaid, and a further sum equal to one pound per centum on the total amount of the capital sum of such loans or the balance thereof remaining due and unpaid, and such sum shall annually be charged upon and be paid out of the revenues of the said Council so long as any portion of the loans to be raised as aforesaid shall remain unpaid and unextinguished: Provided, however, that in the event of there being any balance of the ordinary revenue available after payment of the ordinary annual expenditure of the said Council, such balance being not less than two hundred and fifty pounds, it shall be competent to the said Council to apply such balance or surplus to the reduction of the said debt of two thousand pounds, or such portion as shall at any time be due, and the said Council shall be and is hereby authorised to give the person or persons or body who shall have lent and advanced the money to be borrowed by virtue of this Act, three months notice in writing of their intention so to reduce the existing debt as aforesaid, and thereupon after the expiration of the three months to pay over the said balance or surplus as aforesaid.

Fund for repayment of loan.

Provision for reduction of loan.

8. The said Council shall keep a separate and distinct account of all moneys received and expended by virtue of this Act, and shall cause an abstract of the said account to be transmitted to the Colonial Secretary half-yearly, shewing all moneys received and expended up to the 30th June and 31st December then preceding, and all liabilities and assets on the same days.

Separate accounts to be kept.

9. The accounts in the last preceding section mentioned shall be audited and examined by the auditors of the Divisional Council appointed under the provisions of the Divisional Council Act, 1865, and the provisions of the eighty-third and eighty-fifth sections of the said Act shall apply to all accounts, books and papers connected with this loan.

Accounts audited by Divisional Council's Auditors.

10. All the necessary costs and expenses attending the providing of this Act, and carrying the provisions thereof into effect, shall be paid out of the general revenue of the said Council.

Expenses of Act, how to be paid.

E

No. 9—1885.
Short title.

11. This Act may be cited for all purposes as the "Tarka Divisional Council Loan Act, 1885."

Schedule.

SCHEDULE.

TARKA DIVISIONAL COUNCIL LOAN ACT, 1885.

Acknowledgment of Loan £

We, the undersigned members of the Divisional Council of Tarka, duly authorised thereto by resolution of the said Council, do hereby acknowledge that the Divisional Council of Tarka is indebted to

in the sum of

being so much money borrowed for the purposes mentioned in the Tarka Divisional Council Loan Act, 1885, and certify that the said sum is secured by the said Act in manner and form as by the said Act is provided. And we further covenant and agree in our said capacity that the capital and interest of the said debt shall be payable and paid by the said Council in manner following, that is to say:—

Given under our hand at this day of
Entered Secretary. Members of the Divisional Council of Tarka.

No. 9—1885.]

[Promulgated 31st July, 1885.

ACT

To Amend the provisions of Ordinance No. 9 of 1836, and to extend the provisions of the twenty-second section of Act No. 45 of 1882, to Municipalities which have not yet come under the operation of that Act.

Preamble.

WHEREAS it is expedient to amend in certain respects the provisions of Ordinance No. 9 of 1836, and to extend the provisions of the twenty-second section of the Act No. 45 of 1882, to municipalities which have not yet come under the operation of that Act: 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:—

Repugnant or inconsistent provisions of Ord. 9 of 1836 repealed.

1. So much of Ordinance No. 9 of 1836 as may be repugnant to or inconsistent with the provisions of this Act shall be and is hereby repealed.

Section 22 of Act 45 of 1882 to apply *mutatis mutandis* to municipalities not under operation of Act.

2. The provisions of the twenty-second section of Act No. 45 of 1882, commonly called the "Municipal Act," shall apply, *mutatis mutandis*, to municipalities which have not yet come under the operation of that Act, and the office or seat of any person duly elected a commissioner in such municipality shall be deemed to be vacant upon any of the grounds of vacancy set forth in the said twenty-second section.

Short Title.

3. This Act may be cited as the "Municipal Law Amendment Act, 1885."

No. 10—1885.]

[Promulgated 31st July, 1885.

No. 10—1885.

Repealed by 1902 Act 18. ACT

To Confer additional powers upon the Body Corporate styled
“The Mayor, Councillors and Citizens of Graham’s
Town.”

WHEREAS it is expedient to confer additional powers upon
the body corporate styled “The Mayor, Councillors, and
Citizens of Graham’s Town”; Be it therefore enacted by the
Governor of the Cape of Good Hope, with the advice and consent
of the Legislative Council and House of Assembly thereof, as
follows:—

Preamble.

1. All laws repugnant to or inconsistent with this Act shall be,
and the same are hereby repealed.

Repugnant laws
repealed.

2. Whenever any rateable property situated within the Muni-
cipality of Graham’s Town shall be unoccupied and any rates
accrued thereon shall have been unpaid for five years, the Council
of the said body corporate may in the name of the said body
corporate take possession of such property and grant leases of the
same subject to the provisions of this Act.

What unoccupied
rateable property in
arrear for rates may
be taken possession
of and leased by
Council.

3. Every such lease shall be for such term not exceeding five
years as the said 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 said Council may
determine.

Conditions on
which Council may
lease such property.

4. 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 property, if within this Colony, and whose name and
address is 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 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 said Council otherwise in
accordance with the provisions of this Act shall be valid not-
withstanding 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.

What Council to
do before taking
possession of such
property.

5. Within three months after demand by the owner of any
property taken possession of by the said Council as aforesaid made
within thirty days after the date of taking possession, and after
payment of all arrears of rates due in respect thereof and interest

On what conditions
owner entitled to
resume possession of
such property.

No. 11—1885.

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 said Council under the provisions of this Act.

By whom rent, &c., payable under such lease to be received and how to be applied.

6. 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

- (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 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.

Such property if possession not resumed within thirty years to vest in Municipality.

7. Unless some person entitled to resume possession of any property of which the said Council has taken possession as aforesaid shall within thirty years after the date of taking possession pay all arrears of rates, interest and incidental expenses properly chargeable under this Act, such property and all accumulations of rent and other moneys received in respect of such property shall vest absolutely in the aforesaid body corporate.

Short title.

8. This Act may be cited for all purposes as the "Graham's Town Municipal Amendment Act, 1885."

No. 11 of 1885.]

[Promulgated 31st July, 1885.

ACT

To Legalise certain Unauthorised Loan raised by the Divisional Council of Calvinia.

Preamble.

WHEREAS great expenses have heretofore been of necessity incurred by the divisional council of Calvinia in and about the making or maintenance of certain pass called the "Boterkloof Pass" and of certain other roads in the said division: and whereas such expenses were incurred for the advancement of the said division and for the benefit of its inhabitants: and whereas an unauthorised loan of the capital sum of £1,700 was raised by the said council and expended in meeting the great expenses aforesaid: and whereas it is expedient to legalise the said loan and to con-

stitute it a just debt of, and legal liability and obligation against, the said council, and to make legal provision for the proper repayment of the said sum, with interest: 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:—

No. 11—1885.

1. The loan of the capital sum of £1,700, heretofore raised without legal authority by the divisional council of Calvinia to meet the necessary costs and expenses incurred in and about the making, alteration or maintenance of a certain pass called the “Boterkloof Pass” and of roads within the division of Calvinia, together with the interest now due upon the said capital sum, shall be deemed, and is hereby declared to have been, at and from the date of the raising of the said loan, a just debt, liability and obligation of the said council, within the meaning of the preamble and provisions of the Act No. 11 of 1867, commonly called the “Public Bodies Debts Act, 1867:”—Provided, however, that no legal proceedings, under the said Act or otherwise, shall be taken for the recovery of the capital sum aforesaid or any portion thereof or of any sum of interest due thereon, until after the expiration of six months from the passing of this Act.

Provisions of Public Bodies Debts Act, 1867, to apply to unauthorised loan.

Stay of proceedings.

2. Notwithstanding anything to the contrary contained in the Act No. 9 of 1858, entitled “An Act to Provide for the Management of the Public Roads of the Colony,” or in any Ordinance or Act having the force of law in this Colony, it shall be lawful for the said divisional council, and it is hereby empowered, at any time after the passing of this Act, out of any rates at that time in its possession, to make payment to any person entitled thereto under the first section of this Act of the whole or any portion of the aforesaid capital sum, together with interest to the date of payment; or it shall be lawful for the said council, in order to secure the repayment of the said capital sum, together with interest, to issue to any such person debentures for the amount due at the date of issue, and such debentures shall bear interest at a rate not exceeding six per cent. per annum, and shall, subject to any then existing preferential claim, charge, or hypothecation, bind, pledge and hypothecate the rates and revenues of, and the immovable property vested in, the said council for the due payment of the amount of such debentures and of such interest.

Authority to repay loan or pass debentures for security.

3. The said capital sum, together with all interest thereon due at the date of the passing of this Act, shall be deemed and taken to be a loan legally heretofore raised by the said council within the meaning of the eleventh sub-section of the second section of Act No. 11 of 1882, commonly called the “Local Loans Act, 1882,” for the purposes specified in the first sub-section of that section.

“Local Loans Act, 1882,” to apply.

4. All necessary costs, charges and expenses incurred in obtaining the passing of this Act shall be paid by the said council out of the revenue derived from rates.

Cost of obtaining Act to be paid out of rates.

F

No. 12—1885.]

[Promulgated 31st July, 1885.

ACT

To Include Domesticated Ostriches within the several meanings of the terms Cattle, Stock, and Animal, employed in certain Acts of Parliament.

Preamble.

WHEREAS it is expedient that domesticated ostriches should be included within the several meanings of certain terms employed in certain Acts of Parliament: 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:—

Domesticated ostrich included under cattle, stock, animal in certain Acts.

1. From and after the passing of this Act, and notwithstanding anything to the contrary contained in the several Acts hereinafter mentioned, the several terms cattle, stock, and animal shall each of them be deemed to denote and include domesticated ostriches wherever any one of the said terms shall be employed in any portion of any one of the following Acts:—Act No. 16 of 1864, Act No. 17 of 1867, Act No. 14 of 1870, Act No. 21 of 1876, Act No. 18 of 1879, and Act No. 19 of 1884.

Short Title.

2. This Act may be cited for all purposes as the “Cattle and Stock Definitions Amendment Act, 1885.”

No. 13—1885.]

[Promulgated 31st July, 1885.

ACT

Repealed by 1893 Act 35

To Make further provision for the Repression of Thefts of Ostrich Feathers, Skins, Mohair, and Wool.

Preamble.

WHEREAS the theft of ostrich feathers, skins, mohair, and wool still prevails throughout the Colony, and it is desirable to make further provision for the repression of such crimes than that already provided in Act No. 32 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:—

Purchase of feathers, skins or hides between sunset and sunrise prohibited, except at public sales

1. It shall not be lawful for any person to purchase or sell for purposes of trade any ostrich feathers, skins, hides, mohair, or wool between the hours of sunset and sunrise: Provided however, that this prohibition shall not apply to any person purchasing or selling ostrich feathers, skins, hides, mohair, or wool at any public sale.

Penalty for contravention of foregoing section.

2. Any person contravening the first section of this Act shall, upon conviction, be liable to a penalty of not exceeding twenty pounds, or to imprisonment with or without hard labour, not exceeding three months.

REPRESSION ACT.

3. The provisions of this Act shall not apply to any contract for the purchase and sale of any of the articles in this Act mentioned where the purchase price paid or agreed to be paid for the said articles shall amount in value to the sum of one hundred pounds sterling or upwards.

4. This Act shall only apply to and be in force in such divisions of this Colony as shall from time to time be notified by the Governor by Proclamation published in the *Gazette*, and the Governor shall be authorised to publish any such Proclamation at the request of the divisional council of any division, and, by the like request, to revoke or alter any such Proclamation: Provided that, before any divisional council shall make any such request as aforesaid, three-fourths of the elected members thereof present at a meeting to be specially called for the making of such request shall concur in making the same, and not less than three months' notice of such meeting, and of the object thereof, shall have been given by advertisement in some newspaper circulating in the division.

5. This Act may be cited as the "Ostrich Feathers and Skins Theft Further Repression Act, 1885."

No. 13—1885.

Act not to apply to contract of sale where price not less than £100.

Act to be in force in any division upon proclamation after request of council by vote of three fourths at special meeting.

Short title.

No. 14 of 1885.]

[Promulgated 28th July, 1885.]

ACT

For the Regulation of the Trade in Diamonds within the Colony, and to provide for the punishment of certain offences therein.

WHEREAS it is expedient to regulate the trade in diamonds, and to provide for the punishment of certain offences within the districts of the Colony other than Griqualand West: 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:—

Preamble.

1. It shall not be lawful for any person, firm, or joint-stock company, except as in this Act is excepted, to have in his or its possession, or to buy, deal in, or receive by way of barter, pledge or otherwise, either as principal or agent, or to sell, offer, or expose for sale, barter, pledge, or in any way, either as principal or agent, to dispose of or deliver any diamonds, or to be an accessory to such buying, dealing in, receiving, selling, offering, exposing, disposing, or delivering as aforesaid, unless such person, firm, or joint-stock company so buying, dealing in, receiving, selling, offering, exposing, disposing or delivering, as aforesaid, shall be duly licensed, or authorised to deal in diamonds, either as buyer, seller, broker, factor, or otherwise as the case may be, or shall be duly licensed

Who authorised to buy, deal in, &c., or sell, offer, &c., any diamonds or to be an accessory thereto.

No. 14—1885.

And then only if the diamonds are the property or in lawful possession of the authorised person.

Onus of proof of *bona fide* possession of diamonds rests on authorised person.

Penalty for contravening Section I.

Penalty on authorised person for buying, dealing in, &c., any diamonds from, with, &c., person not authorised.

to carry on the business or trade of a diamond cutter, or unless such person, firm, or joint-stock company buying, dealing in, receiving, selling, offering, exposing, disposing, or delivering as aforesaid shall be a banker or registered claimholder within this Colony: Provided that it shall not be lawful for such banker, licensed diamond dealer, registered claimholder, or duly authorised person, firm, or joint-stock company to deal in diamonds otherwise than in the manner specially authorised by his or their licences or authority, or to sell, offer, or expose for sale, barter or pledge, either as principal or agent, or in any way to dispose of, or deliver any diamonds, unless such diamonds shall be actually the property or in the lawful possession of such banker, licensed diamond dealer, registered claimholder, duly authorised person, firm, or joint-stock company: Provided also that the onus of proof of the *bona fide* possession of or authority to deal in any such diamonds as aforesaid within the meaning of this section shall in all cases rest on such banker, licensed diamond dealer, registered claimholder, duly authorised person, firm, or joint-stock company as aforesaid. And provided further that any person who shall be unable to account satisfactorily for, or to prove his right to the possession of any diamonds found in his possession, or to produce his proper permit for the same in accordance with the provisions of this Act, shall be liable on conviction to the penalties of the following section.

2. Any person convicted of contravening the above section shall be liable to a penalty not exceeding one thousand pounds, or to imprisonment with or without hard labour, for a period not exceeding fifteen years, or to both such penalty and imprisonment, and all diamonds the subject of any transaction in contravention of this Act may be confiscated to the Crown by the court before which the proceedings relating thereto shall be taken, or by any other competent court, and such diamonds shall be sold and disposed of as hereinafter provided; provided, however, that when any person shall have been sentenced under the provisions of this Act to any greater term of imprisonment than five years, it shall be lawful for the Governor to remit any portion of such term in excess of such five years, on condition of such person so sentenced leaving and not returning to any part of this Colony, including Griqualand West, during the remainder of his sentence; and if any person, a portion of whose sentence shall have been so remitted, shall notwithstanding return within the time aforesaid, such person shall be liable to be re-arrested and imprisoned for a term equal to the portion of the sentence unexpired at the time of his release from custody: Provided also, that nothing herein contained shall in any manner affect Her Majesty's prerogative of mercy.

3. Any banker, licensed diamond dealer, registered claimholder, joint-stock company, licensed cutter of diamonds, or duly authorised

No. 14—1885.

person buying or receiving by way of barter, pledge, or otherwise, either as principal or agent, any diamonds from any person, or in any way dealing with the same with any person not being a banker, licensed diamond dealer, registered claimholder, joint-stock company, licensed cutter of diamonds, or duly authorised person, shall be liable upon conviction to the penalties in the second section in this Act provided, and shall in addition forfeit any licence which such person may hold, and any right of renewal of the same for such period as the Court may direct, and no such person shall thereafter be registered as the agent of any claimholder or joint-stock company.

Forfeiture of licence.

4. Any licensed or authorised diamond dealer or diamond cutter in any way dealing in diamonds otherwise than in the manner specially authorised by the licence or authority held by or vested in him, shall on conviction thereof be liable to the penalties in the second section in this Act provided, and shall in addition forfeit his licence, and any right of renewal of the same for such time as the Court may think fit to direct.

Penalty under Section 2 extended to any dealing not specially authorised by the licence held by an authorised person.

Forfeiture of licence.

5. If in any proceeding under this Act the Court has to be satisfied either that the prisoner or any witness or any other person, is not authorised or licensed to deal in diamonds within the meaning of the section under which such accused person is being tried, such prisoner, witness, or other person shall be deemed to be unlicensed or unauthorised, unless such prisoner, witness, or other person shall prove to the satisfaction of the Court that he is duly authorised or licensed as aforesaid.

Onus of proof of authorisation rests on the person whose authority to deal in diamonds is in question.

6. All diamonds imported into this colony or intended for transit from any outside country or state through this colony, shall, before importation or introduction, be first registered with the chief of the detective department of Griqualand West or such other person as may be appointed by him in that behalf, who shall have authority and power to require the importer or introducer to account satisfactorily to him for the possession of such diamonds, and to give such proof as may be demanded by the said chief of the detective department, or other person so appointed as aforesaid regarding the mine or mines wherein such diamonds were produced, and thereupon to grant a certificate of registration to such importer or introducer, and any person importing diamonds into, or sending diamonds through this colony without such registration, or, when required to do so as aforesaid, failing to account satisfactorily for the possession of such diamonds, shall upon conviction be liable to the penalties in the second section of this Act provided, and all such diamonds so imported or introduced without such registration shall be liable to be confiscated and sold, and the proceeds of such sale shall be disposed of as in this Act provided: Provided, however, that it shall be lawful for His Excellency the Governor to make such arrangements with the authorities of the Free State, for the transmission of diamonds through this Colony

Registration of diamonds to be imported into this Colony.

Penalty on importation without registration.

Governor may arrange for export of diamonds from Free State through Colony.

No. 14—1885.

for export, as may to him appear not to endanger the efficient working of this Act, or of the Diamond Trade Act of the Free State.

Certain persons authorised to search letters, &c., passing through the post, or good cause to suspect that unregistered diamonds are therein contained.

7. It shall be lawful for the resident magistrate, or any commissioner, inspector, or other chief officer of the police of any district, or any officer duly authorised by the Governor in that behalf, whenever he shall have good cause to believe that any letter, parcel or package is being dispatched through the post-office by any person, which letter, parcel, or package contains diamonds which have not been registered according to the provisions of the sixth and twenty-fifth sections of this Act in the register of the person so sending them as aforesaid, or of which he may at any time have become unlawfully possessed, to stop or cause to be stopped such letter, parcel, or package as aforesaid at any post-office within the Colony, either during the transit of such letter, parcel or package, or otherwise, and thereupon the said resident magistrate, commissioner, inspector or chief officer of the police of the district as aforesaid, or officer duly authorised by the Governor in that behalf as aforesaid, may proceed to open and examine such letter, parcel or package, in the presence of the postmaster of such post-office as aforesaid, and if there shall be discovered therein any diamonds which shall not have been duly entered in the register of such person as aforesaid in accordance with the provisions of this Act, or for the possession of which the person who has despatched such letter, parcel or package is not able satisfactorily to account, such person shall be liable to the penalties provided in the second section of this Act, and all diamonds contained in such letter, parcel or package shall be forfeited and sold as hereinafter provided: Provided that if any person shall within six months after such discovery be able to prove a *bona fide* right to the possession of such diamonds, the said diamonds or the value thereof shall be restored or paid to such person.

Penalty on person despatching such letters, &c., containing unregistered diamonds, on failure to account for possession of such diamonds.

8. It shall be lawful for any detective officer, constable, or policeman of any district when thereto authorised by a warrant granted under the hand of any resident magistrate of such district, or any officer duly authorised by the Governor in that behalf, to enter into and upon, and search any buildings, premises, vehicles, ships or boats, where he may have good cause to suspect that any diamonds are unlawfully concealed, and to arrest and search any person then being upon such building, premises, vehicle, ship, or boat, whom he may have good cause to suspect of having upon his person, or in his possession any diamonds unlawfully obtained, or without having a proper permit for the same, and should there be found any diamonds in or upon such building, premises, vehicle, ship or boat, or upon such person, to seize and detain such person then being in or upon such building, premises, vehicle, ship, or boat, who may reasonably be suspected

Search warrant to issue upon good cause to suspect concealment of diamonds in any buildings, &c., arrest of persons there found and reasonably suspected of being in possession of diamonds found in such building, &c.

of being the possessor of, or interested in such diamonds, and as soon as possible bring such person before any magistrate or justice of the peace; and if such person shall then fail to produce a proper permit or licence for such diamonds, or to account for the possession thereof to the satisfaction of the magistrate or justice of the peace before whom such person shall be brought, such person shall be liable to the penalties provided for by the second section of this Act; and all such diamonds found in such building, premises, vehicle, ship, or boat, or on such person as aforesaid, shall be forfeited, and sold as hereinafter provided: Provided that if any person be able to prove a *bona fide* right to the possession of such diamonds, or to produce a proper permit for the same, the said diamonds, or the value thereof, shall be restored or paid to such person.

No. 14—1885.

Penalty on person convicted under this section.

9. No person who by the order in writing of any court or resident magistrate shall sell any diamonds seized, detained, or forfeited under this Act, shall be liable in respect of such sale to any of the penalties provided for in this Act.

Order of Court sufficient warrant for the sale of diamonds seized, &c., under this Act.

10. All fines recovered, and the proceeds of all diamonds forfeited and sold under the provisions of this Act, shall be paid into the public treasury: Provided, however, the Governor shall allow any person upon whose information any diamonds are captured and confiscated, such sum out of the proceeds of such diamonds as he may deem just and reasonable, such reward being not less than twenty-five and not more than fifty per cent. of the value of the same.

Fines and proceeds of diamonds sold under this Act paid into Public Treasury.

Rewards to informers.

11. Every person who shall at the time of the taking effect of this Act have in his possession any diamonds which shall not be registered, shall within thirty days thereafter obtain from an officer duly authorised thereto, a permit stating the number and weight of such diamonds, and after the expiration of such period of thirty days, such permit shall upon any prosecution be the sole evidence of the lawful possession of such diamonds.

Permit for the possession of diamonds in possession at the passing of this Act.

12. It shall not be lawful for any person to deal in diamonds, either as buyer, seller, exporter, or importer, or to carry on the business or trade of a diamond cutter, or the business or trade of a diamond broker or factor, unless such person shall be duly licensed for such purposes as aforesaid, either as dealer, broker, or factor, or diamond cutter as aforesaid, and any person contravening this section shall be liable to the penalties provided in the second section of this Act: Provided that registered claimholders can sell or deliver to, and licensed bankers receive but not purchase from, authorised persons, diamonds, without any licence first obtained.

Dealing in diamonds as buyer, seller, &c., unlawful except by licence to buy, sell, &c.

Penalty for contravention of this section.

13. Every licence to deal in diamonds within the Colony shall be written upon or covered with stamps to the value of thirty pounds sterling for a yearly licence, or ten pounds sterling for a quarterly licence, and every such licence shall be in the form A set forth in the Schedule to this Act.

Licences to deal, how to be stamped.

No. 14—1885.

Broker's or factor's licences how to be stamped.

14. Every licence to be a diamond broker or factor shall be written upon or covered with stamps of the value of fifteen pounds sterling for a yearly licence, or five pounds sterling for a quarterly licence, and shall be in the form B set forth in the Schedule to this Act.

Certificate of magistrate required that applicant is fit and proper person, before licence is issued.

15. It shall not be lawful for any distributor of stamps to issue any licence to deal in diamonds, or to be a diamond broker, factor, or cutter, unless the person so applying for the same produce and lodge with the distributor of stamps a certificate under the hand of the resident magistrate of the district in the form C set forth in the Schedule to this Act; and it shall not be lawful for any such resident magistrate to sign or issue such certificate until the person applying for the same shall have satisfied such resident magistrate or other duly authorised officer that he is a fit and proper person to hold such licence: Provided that it shall not be lawful for any resident magistrate of any district, or any person duly authorised thereto by the Governor, to grant such certificate as aforesaid to any person holding a retail or bottle licence for the sale of intoxicating liquors, and any such person convicted of any contravention of this Act shall, upon conviction, in addition to the penalties provided for in this Act, forfeit such licence.

No certificate to be granted to certain persons.

Diamond cutter's licences, how to be stamped.

16. Every licence to carry on the business of or trade of a diamond cutter shall be written upon or covered with stamps to the value of ten pounds sterling for a yearly licence, or three pounds ten shillings sterling for a quarterly licence, and every such licence shall be in the form D set forth in the Schedule to this Act.

Termination of licences.

17. All such licences as are quarterly shall, no matter when taken out, terminate upon the last day of the current quarter, such quarters ending respectively on the 31st March, 30th June, 30th September, and 31st December in each year, and all such licences as are annual, no matter when taken out, shall expire upon the 31st December then next.

Forfeiture of licence for concealment or misrepresentation. Further penalty.

18. Any licence or permit which may be obtained by concealing or misrepresenting matters which, if known, would have prevented the issue of any certificates under this Act for any of the reasons aforesaid, shall upon proof of such concealment or misrepresentation before any resident magistrate be forfeited, and the person who by such concealment or misrepresentation shall have obtained or have attempted to obtain such licence or permit shall, upon conviction, be liable to a penalty not exceeding five hundred pounds sterling, or be imprisoned with or without hard labour for any period not exceeding five years, or to both such fine and imprisonment.

Diamond cutter may receive diamond from person producing permit.

19. Any licensed diamond cutter may, without permit, as in the following section provided, receive for the purpose of his trade, any diamond from any person not otherwise licensed or authorised as in this Act provided, on the production by such person of a written authority or permit from any resident magis-

trate or other officer duly authorised in that behalf, as in the following section of this Act provided.

20. It shall be lawful for any resident magistrate or other officer duly authorised to give any person a permit, bearing a stamp of the value of one shilling, to buy, sell, deliver, or receive any diamonds, such permit to set forth clearly the person from whom and to whom such diamonds are to be bought or received, sold or delivered, and to be in the form E, as set forth in the Schedule to this Act: Provided that no such permit shall be granted unless the applicant shall make a solemn declaration that the person from whom he is to receive such diamonds is duly authorised under the provisions of this Act to be in possession of the same, and that the intended purchase, sale, delivery, or receiving is not for the purpose of trade, and in the case of an applicant for a permit to sell or deliver, that such applicant is the lawful owner of such diamonds; provided, further, that the magistrate or other duly authorised officer shall keep a record of all such permits, and of all such declarations as aforesaid.

21. Every licensed dealer in or cutter of diamonds shall have an office or place of business at some place to be described in his licence, and shall have affixed on some conspicuous place on the outside of or over, or by the side of the outer door of such place of business his name at full length (or where there are partners the name or style of the firm or partnership), and after such name or style the words "licensed diamond dealer (or dealers)," or "licensed diamond cutter (or cutters)," as the case may be, such name or style and such description to be publicly visible and legible in letters at least two inches in length, and every licensed diamond buyer, seller, or cutter contravening this section shall incur a penalty not exceeding twenty pounds, and shall be liable to forfeit any licence held by him, or any right of renewal of the same, for such period as the Court may direct.

22. It shall not be lawful for any licensed diamond buyer, seller, or cutter, to carry on his business as such otherwise than in his said office or place of business, and any such licensed person as aforesaid convicted of contravening this section shall be liable to the penalties provided in the preceding section of this Act.

23. It shall not be lawful for any licensed diamond dealer or cutter, to remove his office or place of business at which he is licensed to deal in or carry on his business to another place, unless the distributor of stamps shall endorse on the licence of such diamond buyer, seller, or cutter, a certificate that such licence is transferred to the place to which such diamond buyer, seller, or cutter, desires to remove his office or place of business. Any licensed diamond buyer, seller, or cutter contravening this section shall be liable to the penalties provided by the twenty-first section of this Act.

No. 14—1885.

Stamped permit to buy, sell, &c., diamonds upon solemn declaration by applicant.

Purchase, sale, &c., not to be for purposes of trade.

Record of permits to be kept.

Office of buyer or cutter to be described in licence: name to be affixed on or near outer door of office.

Penalty for carrying on business of buyer, &c., away from office.

Penalty for removal of office without endorsement on licence.

No. 14—1885.

Broker's notes to be delivered to purchaser and seller by licensed broker or factor.

Particulars of brokers' notes.

Penalty for contravening this section

Register to be kept of dealings in diamonds by authorised persons.

Particulars of register.

24. Every licensed broker or factor in every case in which he concludes a contract of purchase or sale of diamonds, for or on account of any person employing him as such broker or factor, shall deliver to the seller a proper and sufficient broker's bought note, stamped as by law required, such broker's note to be in the form F set forth in the Schedule to this Act, and shall also deliver to the purchaser a proper and sufficient broker's sold note according to the said Schedule, and every registered claimholder, authorised or registered agent of a registered claimholder or joint-stock company, shall in every case in which a sale is effected by him personally, pass a seller's note, and receive a buyer's note, or otherwise as the case may be; and every such broker's, seller's, and buyer's note shall respectively set forth all the parties to the transaction in the form F set forth in the Schedule to this Act, and shall set forth the weight of the parcel sold, the number of diamonds of the weight of ten carats and upwards, and the price per carat, and the amount for which such diamonds were sold: Provided that every diamond above the value of one hundred pounds sterling, shall be separately described in every such broker's, seller's, and buyer's note; and provided also that every such broker's, seller's, and buyer's note shall be certified as correct by the licensed dealer disposing of the same; and any person convicted of any offence against this section shall be liable to a penalty not exceeding five hundred pounds, and in default of payment to be imprisoned with or without hard labour for any period not exceeding five years, and shall in addition be liable to forfeit any licence held by him, and any right of renewal of the same for such period as the Court may direct.

25. Every banker, dealer, importer, exporter, broker, factor, cutter of diamonds, registered claimholder, accredited and registered agent of any registered claimholder, or joint stock company, holder of a washing permit or prospecting licence, shall keep a true and correct register in the English language of all their respective dealings in diamonds, in which they shall enter, or cause to be entered immediately

- (a.) The date of all purchases, sales, exports, imports, or receipts.
- (b.) The name of consignor, cutter, prospector, seller, buyer, and broker, or consignee, or owner.
- (c.) Total weight of each parcel.
- (d.) The number of stones of ten carats and upwards in each parcel.
- (e.) The price received or paid, or duty on import.
- (f.) The weight of any single stone found, received, bought, sold, cut, or consigned (separately or with others), the buyer's valuation of which exceeds one hundred pounds.

And every such register shall be in the form G set forth in the Schedule to this Act, and any person so required to keep a register as required by this Act, who shall be convicted of

neglecting or failing to keep a proper register shall be liable to a penalty not exceeding five hundred pounds, and in default of payment thereof, to be imprisoned with or without hard labour for any period not exceeding five years, or to both such fine and imprisonment, and shall in addition forfeit any licence held by him, or any right of renewal of the same for such period as the court may decide.

26. Every person so required to keep a register shall, within three days after the expiration of each month, forward to the resident magistrate of the district a true copy of such register for the previous month, together with a solemn declaration of the correctness thereof, and shall also produce and exhibit such register whenever the same may be required in any competent court on the written order of the resident magistrate of the district as aforesaid; and if he shall refuse or fail to do so, he shall be liable to the penalties in the last preceding section of this Act mentioned.

27. The resident magistrate of every district wherein this Act may be in force, or such other officer as may be appointed by the Governor in that behalf, shall keep a register in the form H in the Schedule to this Act, showing the weight, description and value of all diamonds brought or imported into such district, the name of the person bringing or importing the same, and the place whence they are brought or imported, and shall upon application made and upon production of a certificate as provided in clause six of this Act, grant to the person bringing or importing such diamonds a certificate of registration, setting forth all the particulars above mentioned in the form I in the Schedule to this Act, and any person who shall neglect to obtain such certificate as aforesaid within forty-eight hours of his arrival in any district, shall be liable upon conviction to a penalty not exceeding five hundred pounds, and in default of payment to imprisonment with or without hard labour for any term not exceeding five years, or to both such fine and imprisonment, and shall in addition forfeit such diamonds.

28. No diamonds shall be exported from any district in which this Act shall be in force, until the weight and value of the same, and the name of the person exporting them, shall have been entered in a register, to be kept in such form as the Governor may direct, by the resident magistrate of such district, or such other officer as may be appointed by the Governor in that behalf, and a registration fee of one-half per cent. on the value of such diamonds shall have been paid. Any person contravening the provisions of this section shall be liable to the penalties provided in the second section of this Act.

29. The proceeds of such registration fees as are provided for in this Act shall be paid by the resident magistrate into the Public Treasury.

No. 14—1885.

Penalty for contravening this section.

Copy of register to be forwarded monthly to Resident Magistrate, together with solemn declaration.

Register to be produced on order of magistrate.
Penalty.

Official register of imported diamonds kept in every district.

Penalty on person failing to obtain official certificate of registration within forty-eight hours.

Official register of exported diamonds kept in every district

Penalty for contravening this section.

Registration fees paid into public Treasury.

No. 14—1885.

Penalty for failure to produce licence when called on by writing under hand of Resident Magistrate.

30. Every licensed diamond dealer or cutter of diamonds, and every holder of a permit granted under the twentieth section of this Act shall be bound to exhibit his licence or permit to any person authorised by the resident magistrate of the district in writing to demand it, and every such person as aforesaid who shall refuse or neglect to produce and exhibit his licence or permit when called upon to do so by any person exhibiting such authority as aforesaid to demand it, shall incur a penalty not exceeding one hundred pounds, and shall in addition be liable to forfeit any licence held by him or any renewal of the same for any such period as the Court may direct.

Counterfoils of broker's notes to be kept by broker or factor.

31. Every licensed broker or factor shall keep copies or counterfoils of his bought and sold notes as in the form F contained in the Schedule to this Act, and shall produce and exhibit such copies or counterfoils to any person authorised by the Resident Magistrate of the district to demand them, and every licensed broker or factor refusing or neglecting to do so when called upon by any officer exhibiting his authority to demand them, shall incur the penalties provided in the last preceding section of this Act.

Jurisdiction of Resident Magistrate only over cases remitted for trial for offences under this Act.

32. No court of a resident magistrate shall have jurisdiction in any case in which any person shall be charged with an offence against the provisions of this Act unless such case, after a preparatory examination has been duly taken therein, shall have been remitted for trial to such court by the Attorney-General, or the Solicitor-General, respectively, under the provisions of the statutes in that behalf made and provided.

Accessories dealt with as principals.

33. Any person who shall be an accessory either before or after the fact to the contravention of any of the provisions of this Act shall be liable to be charged and dealt with in all respects as the principal.

Advertisement of diamonds found or picked up. No claim being proved, diamond sold and proceeds paid into public Treasury.

34. Whenever any person shall find or pick up any diamond not being his property, he shall forthwith take and deliver such diamond to the resident magistrate of the district, who shall thereupon advertise the same in a local newspaper: and if within twenty-one days from date of such advertisement the owner of such diamond shall not have been discovered, or in case no person shall have been able to prove to the satisfaction of the resident magistrate his right to have such diamond delivered to him, the resident magistrate shall thereupon order the same to be sold and the proceeds thereof to be paid into the public treasury: Provided always that a sum calculated at the rate of ten per cent. on the amount realised by such sale shall in all cases be paid to the person finding such diamond as aforesaid; and provided always that any person so finding or picking up any diamond as aforesaid, who shall fail or neglect to deliver the same to the resident magistrate, as provided by this section shall, on conviction thereof, be liable to a fine of five hundred pounds sterling, or to imprisonment with or without hard labour for a period not exceeding five years.

Ten per cent. paid to finder.

Penalty on finder not delivering diamond to Resident Magistrate.

No. 14—1885.

Meaning of certain words and expressions.

35. In the construction of this Act the following words and expressions shall have the meaning hereby assigned to them, unless there be something in the context repugnant thereto, that is to say :—

“ Dealer ” and “ deal ” shall include buyer, seller, broker and factor, and any sort of dealing in diamonds.

“ Public place ” shall mean any place except a private residence.

“ Resident Magistrate ” shall include the additional magistrate for any district.

“ Diamonds ” shall mean rough or uncut diamonds only.

“ Rough and uncut diamonds ” shall in the case of diamond cutters be taken to include diamonds which have been cut, shaped, and polished by them out of the rough.

“ Cutter ” shall include cleavers and polishers of diamonds.

“ Chief of the Police ” shall mean any commissioner or inspector of police, or the resident magistrate of any district.

“ Banker ” shall mean any manager, cashier, or other officer of a joint-stock bank, acting in his capacity as such.

“ Registered Claimholders ” shall include the registered or accredited agents of claimholders.”

“ Import, ’ Importer, ’ Importing, ’ Importation, ’ Brought, ’ Bringing, ’ Introduction, ’ Introducer, ’ shall not include such diamonds as have been duly registered in terms of clause 36 of Act 48 of 1882, and are in course of transit.”

When any form is directed or required to be used, such form shall be as nearly as material, according to the form set forth in the Schedule to this Act.

36. It shall not be lawful for any person arrested for any offence against the provisions of this Act to sell, exchange, give, or otherwise alienate any property of which he may be possessed at the time of his arrest, whether movable or immovable, until he shall have been discharged from custody or acquitted of such offence, or if such person shall be convicted and sentenced to pay any fine, until such fine shall have been paid or recovered; and any such sale, exchange, gift, or other alienation made contrary to the provisions of this section shall be void.

Persons arrested for offences under this Act prohibited from alienating property.

37. The funds necessary to defray the expenditure of the detective department in connection with carrying out the provisions of this Act, after giving credit for the proceeds of all diamonds confiscated and all fines, if any, recovered under this Act, shall be recoverable quarterly, commencing on the first day of October next, from the Mining Boards of Griqualand West respectively in such proportions as the Governor shall determine: Provided that before such quarterly payments as aforesaid any of the said Mining Boards shall be entitled to require that accounts of such expenditure and the receipts from confiscations and fines shall be furnished to such Board.

Expenses of carrying out this Act to be recoverable from Mining Boards of Griqualand West, who shall be furnished with accounts of expenditure.

No. 14—1885.
Limitation of Act.

38. This Act shall not be in force, except so far as regards the last preceding section, in any district of the Colony in which the Act No. 48 of 1882 is now or may be hereafter be put in operation.

Schedule.
Form A.

SCHEDULE.

A.

DIAMOND DEALER'S LICENCE.

(Under Act , of)

I, _____ distributor of stamps in
do hereby authorise and empower _____ on this _____ day of _____ 18____, _____
his office at _____ (who has produced to me having
his certificate required by law), to deal in, export and import, rough or uncut diamonds, within _____ for
ending on the _____ 18____, and no longer.
This Licence expires on the _____ day of _____ 18____.

Distributor.

Form B.

B.

DIAMOND BROKER'S LICENCE.

(Under Act , of)

I, _____ distributor of stamps in
do hereby authorise and empower _____ on this _____ day of _____ 18____, _____
of _____ (who has produced to me the certificate required by law), to act as a Diamond Broker within _____ for
ending on the _____ day of _____ 18____, and no longer.

This Licence expires on the _____ day of _____ 18____.

Distributor.

Form C.

C.

DIAMOND BROKER'S AND CUTTER'S CERTIFICATE.

(Under Act , of)

I, _____ Resident Magistrate of _____
do hereby certify that _____
of _____ is a fit and proper person to receive a licence to act as a Diamond Dealer, Broker, Factor (or Cutter).

R. M. Office,
day of _____

18____

R. M.

D.

No. 14—1885
Form D.

DIAMOND CUTTER'S LICENCE.

(*Under Act* of .)

I, Resident Magistrate of
do hereby certify that of , whose place
of business is situated at , is a fit and proper
person to receive a Licence to carry on the trade or business of
cutting, cleaving, and polishing rough or uncut Diamonds.

Resident Magistrate.

Resident Magistrate's Office,
day of

18 .

E.

Form E.

FORM OF PERMIT.

(*Granted under section 20, Act* of .)

Resident Magistrate's Office, 18 .

Permission is hereby granted unto , of
to purchase (or receive, sell, or deliver)
Diamonds from (or to) of the
approximate weight of
Dated at this day of 18

Resident Magistrate of

[F.]

Brokers', Companies', and other Licensed Sellers' Notes of Sale.

A.

COUNTERFOIL TO BE KEPT BY SELLER OR BROKER AS REGISTERED.

No. _____ 18

SOLD FOR _____

SOLD TO _____

DETAILS OF PARCEL.			CARATS.	PRICE.	AMOUNT.			CARATS.	TOTAL OF PARCEL.		
Stones under 10 Carats each in Lump.	Stones, 10 Carats each, or over.	Stones of a Value of £100 or over.			£	s.	d.		£	s.	d.

CERTIFIED CORRECT.

Licensed Seller or Broker.

[F.]

Brokers', Companies', and other Licensed Sellers' Notes of Sale.

B.

NOTE TO BE HANDED BY BROKER TO SELLER.

No. _____ 18

SOLD TO _____

DETAILS OF PARCEL.			CARATS.	PRICE.	AMOUNT.			CARATS.	TOTAL OF PARCEL.		
Stones under 10 Carats each in Lump.	Stones, 10 Carats each, or over.	Stones of a Value of £100 or over.			£	s.	d.		£	s.	d.

CERTIFIED CORRECT.

Licensed Seller or Broker.

[F.]

Brokers', Companies', and other Licensed Sellers' Notes of Sale.

C.

NOTE TO BE HANDED BY BROKER, DEALER, ETC., TO BUYER.

No. _____ 18

BOUGHT OF _____

DETAILS OF PARCEL.			CARATS.	PRICE.	AMOUNT.			CARATS.	TOTAL OF PARCEL.		
Stones under 10 Carats each in Lump.	Stones, 10 Carats each, or over.	Stones of a Value of £100 or over.			£	s.	d.		£	s.	d.

CERTIFIED CORRECT.

Licensed Seller or Broker.

G.

IMPORTS, PURCHASES, ^{AND}_{OR} FINDS.

DATE.	OWNER or CONSIG- NEE.	BROKER or OWN FINDS.	DETAILS OF PARCEL.					TOTAL OF PARCEL.			
			Stones un- der 10 cts. each in lump.	Stones of 10 cts. each or over.	Stones of Value of £100 or over.	Carats.	Price.	AMOUNT.	Carats.	AMOUNT.	
						£	s.	d.	£	s.	d.
	Balance	on hand...									

G.

SALES AND EXPORTS.

DATE.	BUYER or CONSIG- NEE.	BROKER.	DETAILS OF PARCEL.					TOTAL OF PARCEL.			
			Stones un- der 10 cts. each in lump.	Stones of 10 cts. each or over.	Value of Stones of £100 or over.	Carats.	Price.	AMOUNT.	Carats.	AMOUNT.	
						£	s.	d.	£	s.	d.
	Balance	on hand...									

No. 15—1885.]

[Promulgated 7th August, 1885.

ACT

To Amend in certain respects the Law with relation to the
Imposition of Duty on Dogs.

WHEREAS it is expedient in certain respects to amend the provisions of the law with regard to the imposition of a duty on dogs, and especially of the Act No. 14 of 1884, entitled "An Act to Impose a Duty on Dogs," and to make provision for the destruction under certain circumstances by certain persons of dogs upon which no duty or tax has been paid: 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, the sixth section of the "Dog Tax Act, 1884," shall be read and construed as if the words "if such person travelling as aforesaid shall have described himself as living in a district other than that from which such council has jurisdiction send such report to the divisional council of such other district," were omitted from the said section, and as if the words "with all convenient speed proceed in accordance with the provisions of this Act," were as they are hereby inserted in the said section in the place and stead of the aforesaid words.

Amendment of Section 6 of Act 14 of 1884.

2. After the promulgation of this Act, and notwithstanding anything to the contrary contained in the sixth section of the "Dog Tax Act, 1884," it shall be lawful for any justice of the peace, field-cornet, constable, or other officer of the peace, or for any collector of the duty or tax on dogs lawfully appointed by any divisional council for that purpose, to destroy any dog found by him at any place within the limits of the division or district within which such justice of the peace, field-cornet, constable, or other officer of the peace has authority, or such collector is appointed to collect the duty or tax on dogs, and it shall be lawful for any proprietor or occupier of land to destroy any dog found trespassing upon the land owned or occupied by such proprietor or occupier.

Certain persons may destroy dogs in certain places.

3. Nothing in the last preceding section contained shall render it lawful for any of the persons therein mentioned to destroy any dog at any time when such dog shall be in the custody, charge, or possession of some person if such person shall either

Limitation of power to destroy dogs.

- (1) Upon request under the sixth section of the "Dog Tax Act, 1884," produce a licence to keep such dog, or
- (2) Satisfy any such justice of the peace, field-cornet, constable, or other officer of the peace, that the person in whose custody, charge, or possession such dog shall be found has a fixed abode, or that a duty or tax has been at that time duly paid in any division in respect of such dog.

K

No. 16—1885.

Limitation on collector's power to destroy dogs.

4. Nothing in the second section of this Act contained shall render it lawful for any collector of the duty or tax on dogs to destroy any dog found in the custody, charge, or possession of any person unless such person shall after demand on failure to produce a licence for such dog have refused or neglected to pay the amount of the duty or tax on such dog levied in the division within which the said collector is lawfully appointed as aforesaid, in accordance with rules and regulations framed in pursuance of the provisions of the second section of the "Dog Tax Act, 1884."

Exemption of hounds maintained.

5. Nothing in this Act contained shall be deemed to authorise the destruction by any person of any hound belonging to a pack kept *bonâ fide* for sporting purposes and exempted from the provisions of the "Dog Tax Act, 1884."

Penalty for interference with person authorised to destroy dogs.

6. Any person who shall in any way hinder, prevent, obstruct, or interfere with any person duly authorised to exercise and while lawfully exercising the powers conferred by the provisions of this Act shall upon conviction be liable to the penalties prescribed in the sixth section of the "Dog Tax Act, 1884."

Tax to be fixed annually.

7. Every duty or tax authorised by the aforesaid Act to be levied upon dogs shall be payable annually, and every licence to keep a dog shall expire upon the 31st day of the month of December next after the issue of such licence.

Funds collected may be applied to destruction of wild animals.

8. It shall be lawful for divisional councils to apply the funds collected as the proceeds of the said duty or tax to the destruction of wild carnivorous animals, anything contained in Act 14 of 1884 to the contrary notwithstanding.

Fines to be paid to and costs of prosecution to be borne by divisional councils.

9. All fines and penalties imposed under the provisions of the "Dog Tax Act, 1884," or of this Act, shall when recovered, be paid over to the divisional council; and all costs incurred in prosecuting offences under the said Acts shall be borne by such council.

Short title.

10. This Act may be cited for all purposes as the "Dog Tax Act Amendment Act, 1885."

No. 16—1885.

[Promulgated 7th August, 1885.]

ACT

To Authorise the Municipality of Oudtshoorn to borrow a Sum not exceeding Four Thousand Five Hundred Pounds, for the purpose of paying the Colonial Government the Purchase Price of certain Two Pieces of Crown Land, for the purpose of paying existing Liabilities, and for other purposes.

Preamble.

WHEREAS it is expedient to empower and enable the Municipality of Oudtshoorn to borrow money for the purpose of paying the Colonial Government the purchase price of certain two pieces of Crown Land called "Rhenoster Hoek" and

“Doornkuil,” for the purchase price of which certain mortgage bond was passed by the said Municipality, and for the purpose of paying existing liabilities and effecting local improvements, and to levy rates for the payment of the amount so borrowed, with interest :

And whereas at a public meeting of the ratepayers of Oudtshoorn convened for that purpose on the second day of April, one thousand eight hundred and eighty-five, it was resolved that the Commissioners of the said Municipality be authorised to borrow the sum of four thousand five hundred pounds sterling for such purposes :

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

1. The Municipality of Oudtshoorn is hereby authorised and empowered to borrow and take up at interest on debentures or otherwise, from time to time, such sum or sums of money as may be needed for the purpose in the preamble to this Bill mentioned, not exceeding in the whole the sum of four thousand five hundred pounds sterling: provided that after payment of the aforesaid purchase money and interest and the existing debts the said Municipality shall in all cases convene a meeting of ratepayers by notice of not less than fourteen days in at least one of the local newspapers and obtain the sanction and approval of such ratepayers in manner as is now or hereafter may be provided by any Municipal Ordinance now in force or hereafter to be enacted, before expending on any public works any balance of the moneys to be raised under this Act.

Municipality authorised to borrow a sum not exceeding £4,500.

2. It shall be lawful for the said Municipality for the purpose of providing for the payment of the interest, and also for the payment of the annual contribution in repayment of the principal, as hereinafter described, of the money or moneys aforesaid to levy a special rate or rates upon the immovable property situate within the Municipality of Oudtshoorn and liable to be rated for municipal purposes.

Power of Municipality to impose rates.

3. As a fund for the payment of interest and gradual extinction of the loan or loans to be raised under the authority of this Act, 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 loans, or the balance thereof, and a further sum equal to nine pounds per centum on the total amount of the capital sum of such loan or loans so long as any portion of the money to be raised as aforesaid shall remain unpaid, and the amount yielded by the said sum of nine pounds per centum shall be applied annually in paying off the debentures (if debentures be issued), or, otherwise in part discharge of the loan. Should debentures be issued, the said debentures

Payment of interest and gradual extinction of loan.

No. 16—1885.

tures shall be numbered in rotation, and the selection of debentures for repayment shall be by an annual drawing to be made and determined by lot by the chairman of the Municipality or mayor in public at a meeting of the Municipality.

Application of moneys.

4. It shall be lawful for the said Municipality 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 Municipality from any source whatever and not specially appropriated or required for any other object.

Accounts of all moneys to be kept.

5. The 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 for the purposes aforesaid, and the said Municipality shall yearly as long as any part of the debt contracted under the authority of this Act shall be owing, prepare and deposit in the municipal office at Oudtshoorn for the inspection at all reasonable times of ratepayers, an account showing the particulars aforesaid, and giving any other information which the said Municipality may deem it necessary or expedient to impart: Provided that every such account so prepared shall be made up to the 31st day of December in each year, and shall be deposited in the office of the said Municipality not later than the 1st day of March in the year next succeeding.

All moneys borrowed to be subject to provisions of Public Bodies' Debts Act, 1867.

6. 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 and may be lawful for the supreme court in case any such 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 rates 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," to the contrary notwithstanding.

Costs and expenses.

7. The necessary costs, charges and expenses of obtaining this Act, and all costs of raising the loans or other expenses incurred in carrying out the provisions of this Bill, shall be paid by the said Municipality out of the moneys so to be borrowed as aforesaid.

Short title.

8. This Act may be cited as the "Oudtshoorn Municipality Loan Act, 1885."

No. 17—1885.] [Promulgated 7th August, 1885.]

Repealed by 1891 Act 22 ACT

To Amend the Law relating to Jurors.

WHEREAS it is provided by the sixteenth section of Ordinance No. 84, that no person shall be put on trial on any indictment at any criminal session of the Supreme Court unless the bill of such indictment shall first have been presented to a Grand Jury, and shall have been returned by them a true bill: and whereas this provision does not extend to criminal trials other than those in the Supreme Court, and has been found in practice to be inconvenient and unnecessary in the Supreme Court: and whereas it is expedient to amend the law relating to giving publicity to jurors' lists: 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:—

Preamble.

1. The sixteenth and seventeenth sections of the said Ordinance No. 84 and all other laws or rules of court relating to the attendance and service of grand juries at the criminal sessions of the Supreme Court, are hereby repealed: Provided that nothing herein contained shall be deemed to dispense with the necessity of lists of grand jurors being made out as heretofore for the purpose of selecting juries in civil cases as provided by Act No. 30 of 1874, or to alter the law which renders grand jurors whose names appear in such list liable to serve as petty jurors in the Supreme Court.

Grand Juries abolished.

2. So much of the seventh section of the said Ordinance as requires that a copy of the jurors' list shall annually be affixed to the principal door of every church, chapel, or other place of public worship in a certain portion of such district, shall be and is hereby repealed.

Portion of Ordinance No. 84 section 7 requiring jurors' lists to be affixed to doors of churches, &c., repealed.

3. This Act may be cited as the "Jurors' Law Amendment Act, 1885."

Short Title.

No. 18—1885.] [Promulgated 7th August, 1885.]

Repealed by 1892 Act 32 ACT

To Amend in certain respects the provisions of the "Cape Mounted Riflemen Act, 1878," and of the "Cape Infantry Act, 1881."

WHEREAS it is expedient to amend in certain respects the provisions of the Act No. 9 of 1878, commonly called the "Cape Mounted Riflemen Act, 1878," and of the Act No. 7 of 1881, commonly called the "Cape Infantry Act, 1881": Be it enacted by the Governor of the Cape of Good Hope, with the

Preamble.

168 CAPE MOUNTED AND INFANTRY FORCES AMENDMENT ACT.

No. 18—1885.

advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Officer of either force qualified to serve on board for trial of offences of members of other force.

1. Notwithstanding anything to the contrary contained in either the Act No. 9 of 1878, or the Act No. 7 of 1881, any officer of either the Cape Mounted Riflemen or the Cape Infantry, who would under the twelfth section of the first or the fourteenth section of the second of the Acts abovementioned be qualified to be selected and summoned by any field officer of the force in which he serves, to serve upon either of the boards mentioned in the said sections, shall also be qualified to be selected and summoned by any field officer of the other of the said two forces to serve upon the board, to serve upon which each field officer shall by either of the said sections be authorised and empowered to select and summon officers of the force under his command, and any officer so selected and summoned shall thereupon be qualified to serve upon such board as though he actually served in such other force.

Jurisdiction of F.O. commanding the force over offences committed by members of others.

2. Any field officer commanding either of the aforesaid forces, shall, in the absence of any field officer commanding the other force, be qualified and empowered to exercise all and singular the powers of jurisdiction over offences committed by members of such other force conferred upon such absent field officer by the provisions of either of the aforesaid Acts or of this Act.

Military secretary has jurisdiction and seniority in absence of field officers commanding.

3. The military secretary for the time being of the Defence Department of the Colony shall, in the absence of any field officer commanding either of the said forces be qualified and empowered to exercise all and singular the powers of jurisdiction over offences committed by members of either force conferred upon any such absent field officer by the provisions of either of the aforesaid Acts or of this Act, and the said military secretary shall at all times be qualified, *ex officio*, to sit upon any board constituted for the trial of such offences, and shall after any field officer commanding either of the said forces be deemed and taken to be the senior officer present.

Ex-officio a member of board.

Short title.

4. This Act may be cited as the "Cape Mounted and Infantry Forces Amendment Act, 1885."

No 19—1885.] [Promulgated 11th August, 1885.
ACT

To Amend in certain respects Act No. 39 of 1879, entitled
“An Act for the Incorporation of the Municipality
of Queen's Town.”

WHEREAS it is expedient to amend in certain respects the Act No. 39 of 1879, entitled “An Act for the Incorporation of the Municipality of Queen's Town,” and whereas it is expedient that the Council for the Municipality of Queen's Town should exercise and possess powers other and further than those conferred on the Council by the said 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:—

Preamble.

1. The ninth section of the said Act shall be read and construed as if the words “Provided that for the purposes of this section owner and occupier shall not both be entitled to vote in respect of one and the same property, and that the occupier shall at all times be entitled to exercise the right of voting,” had not been included in the said section and had been entirely omitted therefrom.

Certain words in section 9 of Act 39, 1879, omitted;

2. The tenth section of the said Act shall be read and construed as if the word “shall,” after the words “each of such co-occupiers,” had not been inserted therein, and as if the words “may claim to have his name enrolled in the list of the ward in which such property is situated and” had been substituted; also as if the word “shall” had been inserted after the word “mentioned.”

And in section 10 of same Act: and other words substituted.

3. The thirtieth section of the said Act shall be read and construed as if the words “At the first ordinary meeting of the council annually in the month of March,” had been substituted therein for the words “on the day following every annual election of councillors,” also as if the words “or subject to the provisions of the thirty-second section until such time as his successor in office has been appointed,” had been inserted after the word “ensuing.”

Section thirty amended.

4. The thirty-seventh section of the said Act shall be read and construed as if after the words “or cutting firewood on the commonage,” there had been inserted the following words:—

Additional powers for making regulations.

As to the duties of any servant, any police or other officer of the council, or any officer or member of any fire brigade when there shall occur any fire by which any house, building or property shall be in danger of being destroyed or injured.

Regulations as to fires.

As to determining the amount of all occupation rents, fees for residence, permits, water taxes, health board rates, or special taxes for any sanitary purpose that shall be due and payable from time to time by the inhabitants of the native location, and for the recovery of the same by the council or its agents.

Location rents, &c.

- No. 19—1885.
Location inhabitants in default of house duty, &c.
- Rates. Taxes.
- Grazing licences.
- Inspection of plans.
- Dangerous buildings.
- Animals affected with contagious diseases, or dying or dead.
- Section fifty-two amended.
- Section fifty-eight repealed.
- Section sixty repealed.
- As to the procedure which may be adopted by the council in the case of any inhabitant of the native location who shall make default in respect of the payment of any house duty, hut or other tax made and levied by the Colonial Government.
- As to the recovery of all rates lawfully made and levied on rateable property. As to the amount of any water or other tax which may from time to time be lawfully demanded by the council from inhabitants within the municipality or within any particular area of the municipality and for the collection and recovery of the same by the council or its agents.
- As to the fees for grazing licences which shall be payable to the council by butchers and by other inhabitants and by travellers depasturing any animals on the common pasturage lands and for the impounding of any animals that may be depastured on the same the owners of which have not obtained such licence.
- As to the inspection, approval, and registration of all plans for buildings within the municipality or within any area of the municipality, and for preventing persons proceeding with the erection of any building the plans of which have not been so inspected, approved and registered.
- As to the measure which may lawfully be taken in respect of buildings certified by competent authority and in the opinion of the council believed to be dangerous to the safety of the public.
- As to the duties of owners or persons in charge of any cattle or other animals affected with any contagious disease, or of any animal that may be found in a dying state, or of any carcase of any animal that may be found dead on any public place or near any public water-course, or on the common pasturage lands.
5. The fifty-second section of the said Act shall be read and construed as if the words "subject to the exception provided for in the thirty-second section of the said Act," had been inserted therein after the word "council."
6. The fifty-eighth section of the said Act is hereby repealed and the hundred and twenty-fifth and hundred and twenty-sixth sections of the "Municipal Act, 1882," shall be read and substituted in its place as if, *mutatis mutandis*, such section had been incorporated in the said Act 39 of 1879.
7. The sixtieth section of the said Act is hereby repealed, and in its place there shall be substituted and read the hundred and twenty-seventh, hundred and twenty-eighth, hundred and twenty-ninth, hundred and thirtieth, hundred and thirty-first, hundred and thirty-second, hundred and thirty-third, hundred and thirty-fourth, hundred and thirty-fifth, hundred and thirty-sixth, hundred and thirty-seventh, hundred and thirty-eighth, hundred and thirty-ninth, hundred and fortieth, hundred and forty-first, hundred and forty-second, and hundred and forty-third sections of the Municipal Act, 1882, as if such sections, *mutatis mutandis*, had been incorporated with the said Act 39 of 1879.

8. The council may with the consent of the majority of the ratepayers as provided in section ten and of His Excellency the Governor first had and obtained, raise by debentures (or otherwise), any sum and sums of money which shall be necessary in order to liquidate the capital and interest or interest alone of any debt or debts at present due, or which hereafter may become due and payable by the municipality of Queen's Town. The debentures herein mentioned shall be as near as is material to Form in Schedule No. 1 to Act 39 of 1879, and all transfers of such debentures shall be registered in the books of the municipality: Provided that in respect of any sum and sums of money which at the time of the passing of this Act have already been taken up by the council from the Colonial Government for the construction of a storage reservoir, or from any bank for paying the cost of public works and improvements, it shall not be necessary to have the further consent of the majority of the ratepayers or of His Excellency the Governor, as herein set forth.

No. 19—1885.
Raising money by debentures.

9. The council may for any of the purposes of this Act, hypothecate or charge by debentures the municipal rates and other sources of revenue of the said municipality for a period not exceeding twenty-four years in security for any sum and sums of money borrowed by the said council; Provided that no sums of money other than those referred to in the last preceding section of this Act as having been borrowed by the municipality at the time of the passing of this Act, and to which this provision shall not be applicable, shall be capable of being borrowed under the provisions of this Act, except with the previous consent of a majority of the said ratepayers first obtained as provided in section ten as aforesaid: Provided also that it shall be lawful for the said ratepayers to sanction, and after such sanction, for the said council to borrow upon the security of the said rates or other revenues or property of the municipality any sum and sums of money which may be found necessary not exceeding in the aggregate the sum of one thousand pounds in any one year.

Hypothecation of rates and other revenues.

10. In every case in which it is by the Act provided that the consent of the majority of ratepayers shall be first had and obtained for the purpose of any of the provisions hereof, the word "ratepayers" shall mean and be taken to refer and apply only to such ratepayers as are entitled to vote at the election of councillors, under the provisions of section nine of Act 39 of 1879: and for the purpose of recording their votes the said ratepayers shall be summoned to appear at a public meeting, by notice published in such of the local newspapers, if any, published within the municipality as to the council may seem fit, or by a notice affixed on some conspicuous place, upon or near the municipal office or market place, for at least twenty-one days previous to the holding of such meeting, which notice shall clearly set forth the object of such meeting, and the time and place for holding the same:

Who to vote.

Meeting of voters, how summoned.

No. 20—1885.	and at every such meeting it shall be lawful for any two or more of the duly qualified ratepayers present to demand a poll of the ratepayers entitled to vote, 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' notice shall be given in such manner as is hereinbefore provided for the publishing of notices,—which poll shall begin at 10 o'clock a.m. and be closed at 3 o'clock p.m. on such day, and the result of such polling shall be final and conclusive: Provided that when by such polling the consent of the ratepayers has not been obtained, it shall not be lawful for the council to submit the same proposal for the consent of the ratepayers at any time within twelve months thereafter except upon the receipt of a requisition in that behalf signed by twenty-five qualified ratepayers.
Poll may be demanded.	
Cost of Act how to be defrayed	11. 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.	12. This Act may for all purposes be cited as the "Queen's Town Municipality Act Amendment Act of 1885."

No. 20—1885.]

[Promulgated 11th August, 1885.]

Repealed by 1887 Act 9. ACT
To Amend the "Excise Spirit Duty Act, 1884."

Preamble.	W HEREAS it is expedient to amend in certain respects the provisions of the Act No. 14 of 1884, commonly called the "Excise Spirit Duty Act, 1884:" 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:—
Duty on spirits distilled from other material than wine, &c., after this Act raised to 4s. per gallon.	1. From and after the passing of this Act the second sub-section of the first section of the Excise Spirit Duty Act, 1884, shall be read and construed as though the word "four" were inserted therein instead of the word "two;" provided that nothing herein contained shall be deemed or taken to increase the amount of duty payable in respect of any spirits distilled before the passing of this Act, but in respect of any such spirits the said sub-section shall continue to operate as if this Act had not been passed.
Short title.	2. This Act may be cited as the "Excise Spirit Duty Amendment Act, 1885."

No. 21—1885.]

[Promulgated 11th August, 1885.

ACT

To Authorise the Divisional Council of Oudtshoorn to borrow Moneys on the security of the Road Rates of the Division for the purpose of meeting certain Expenditure.

WHEREAS the Divisional Council of Oudtshoorn have contracted debts and incurred liabilities in the construction of the Schoeman's Poort and Zwartberg Pass, in altering the road between Oudtshoorn and Robinson's Pass and in repairing the roads throughout the division damaged by the late rains: and whereas it is expedient that the said council should be authorised to borrow moneys upon the security of the rates of the said division, for the purpose of paying off the debts and liabilities abovementioned: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

Preamble.

1. So much of any act of parliament, ordinance, or other statutory enactment having the force of law as is inconsistent with or repugnant to the provisions of this Act, is hereby repealed so far as such inconsistency or repugnance may exist but not otherwise.

Repugnant laws repealed.

2. 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 the sum of ten thousand pounds sterling, as may be required for the purpose of this Act.

Loan of £10,000.

3. No loan under this Act shall be raised except in pursuance of a resolution passed at an ordinary meeting of the said council of which due notice shall have been given at some ordinary meeting previously held, and in which resolution two-thirds of the elected members shall concur, and no such loan shall be raised in any year in which the rates assessed by the said council shall be less than one half-penny ($\frac{1}{2}$) in the pound sterling upon the value of the rateable property in the said division.

Conditions precedent to raising of loan.

4. For the due payment of the moneys to be raised as aforesaid, and the interest thereof, the road rates of the said council are hereby charged and hypothecated, and it shall be lawful for the said council to apply to the payment of the interest or principal of the money raised under this Act any such revenues.

Security for repayment of loans.

5. The said council shall grant and issue debenture certificates in acknowledgment of such sum or sums of money borrowed as aforesaid, which certificates shall be as nearly as may be in the form annexed to this Act, and shall be signed on behalf of the said council by the chairman for the time being, and two elected members duly authorised thereto by resolution of the said council.

Acknowledgment for loans to be given in form provided in schedule.

6. The council shall keep a full and complete register of all debenture certificates granted under this Act, and it shall be

Register of debenture certificates to be kept.

No. 21—1885.

incumbent on the holder or cessionary of every debenture certificate to have such certificate duly registered in his name in the council's register, and no money shall be paid under the provisions of this Act in reduction or extinction of any debt or interest due upon any such debenture certificate except to the person whose name shall be so registered, and only upon production of such certificate or of satisfactory proof that the same has been lost or destroyed.

Money raised to be kept separate.

7. All moneys raised under this Act shall, on receipt thereof, be deposited in a bank to be chosen by the said council, and all sums required shall be drawn by cheques signed by the secretary and countersigned by the chairman of the council.

Fund for repayment of loan.

8. As a fund for the payment of the interest upon and the gradual extinction of the loans to be raised under this Act, there shall be charged and chargeable upon and set apart out of the annual revenues of the said council, an annual sum equal to the interest on the whole amount of such loans, or the balance thereof remaining due and unpaid, and a further sum equal to one pound per centum on the total amount of the capital sum of such loans, and such sum shall annually be charged upon and paid out of the revenues of the said council so long as any portion of the money to be raised as aforesaid shall remain unpaid and unextinguished: Provided, however, that in the event of there being any balance of the ordinary revenue available after payment of the ordinary annual expenditure of the said council, such balance not being less than two hundred and fifty pounds, it shall be competent for the said council to apply such balance or surplus, together with any money or moneys set apart to constitute the sinking fund aforesaid, to the reduction of the said debt of ten thousand pounds or such portion as shall at any time be due, and the said council shall be and is hereby authorised to give the person or persons or body who shall have lent and advanced the money to be borrowed by virtue of this Act, or whose names shall appear on the register provided in the sixth section of this Act as holders of the council's debenture certificates, three months notice in writing of the intention to hold a public drawing specifying time and place, in order to decide to the reduction or extinction of whose debt the said surplus shall be applied, and thereafter at the time and place specified in the said notice the said council shall hold a public drawing in manner following, that is to say, the name of every person appearing on the register as being the holder or cessionary of any debenture certificate under this Act shall be written on a slip of paper and the said slip shall be folded and placed in a covered box, and the secretary for the time being of the said council or any member thereto authorised by a vote of the majority of the said council shall in the presence of all persons assembled at the said time and place proceed to draw one of the slips of paper out of the said box, and the creditor whose name shall appear on the slip of paper

Surplus revenue may be applied to reduction of debt.

Debenture holders to receive notice of drawing.

Proceedings at drawing.

thus drawn shall receive the said surplus in reduction or extinction of his debt on all debenture certificates held by him and, in the event of the said surplus being more than sufficient to cover such creditor's debt then a second or further drawing in manner aforesaid may in the discretion of the person drawing the said slips take place, and the balance of such surplus shall in manner aforesaid be applied to the reduction or extinction of the debt or debts of the creditor or creditors whose name shall appear on the second or further slips then drawn.

No. 21—1885.

9. The said council shall keep a separate and distinct account of all moneys received and expended by virtue of this Act, and shall cause an abstract of the said account to be transmitted to the Colonial Secretary half-yearly, shewing all moneys received and expended up to the 30th June and 31st December then preceding, and all liabilities and assets on the same days.

Separate accounts to be kept.

10. The accounts in the last preceding section mentioned shall be audited and examined by the auditors of the divisional council appointed under the provisions of the Divisional Council Act, 1865, and the provisions of the eighty-third and eighty-fifth sections of the said Act shall apply to all accounts, books and papers connected with this loan.

Accounts to be audited.

11. All the necessary costs and expenses attending the passing and working of this Act and carrying the provisions thereof into effect shall be paid out of the general revenue of the said council.

Expenses of Act how to be paid.

12. This Act may be cited for all purposes as the "Oudtshoorn Divisional Council Loan Act, 1885."

Short title.

SCHEDULE No. I.

Schedule.

DIVISIONAL COUNCIL OF OUTDSHOORN.
DEBENTURE CERTIFICATE.

No. _____ £ _____

This is to certify that the Divisional Council of Oudtshoorn is indebted to _____ in the sum of _____ for so much money borrowed for the purpose of (here state object for which loan has been raised), under and by virtue of the provisions of the Oudtshoorn. Divisional Council Loan Act, 1885, and that the said money is secured by mortgage on the road rates of the division, and further that the said debt will be payable and paid by the said Divisional Council to the said _____ Order or Assigns in the manner following (state rate of interest, time of payment, and other conditions that may be agreed upon).

In witness whereof we, the Chairman of the said Council and two directors appointed under resolution of the said Council, bearing date the _____ day of _____ have hereunto set our hands at _____ on the _____ day of _____ 188—.

Chairman.

Secretary.

} Directors.

N

No. 22—1885.]

[Promulgated 11th August, 1885.

Repealed by Acts 31 of 1898 + 11 of 1899.

ACT

To Amend in a certain respect "The Precious Stones and Minerals Mining Act, 1883."

Preamble.

WHEREAS in and by the sixty-first section of the Act No. 19 of 1883, known as "The Precious Stones and Minerals Mining Act, 1883," provision was made to enable mining boards to borrow such moneys as might be required for the purpose of liquidating debts incurred, or for the due and efficient working of the mines under their control in manner in said section set forth: and whereas by the sixty-second section of said Act further provision was made for the event of legal proceedings being taken under the Public Bodies Debts Act of 1867, against any diggers' committee, mining board, or board appointed under the provisions of the said Act 19 of 1883, in respect of any debt or liability contracted for any loan or moneys received after the passing of said Act by such committee or board: And whereas the provision so made in and by the said two sections has been found to be insufficient for the purpose of enabling mining boards to liquidate debts incurred for the due and efficient working of the mines under their control, and it is therefore expedient and necessary to extend the provisions of the said sixty-second section so as to meet cases of loans of money raised for such purpose or other debts lawfully incurred before as well as after the passing of the said 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 the House of Assembly thereof, as follows:—

Section 62 Act 19 of 1883 amended.

1. The sixty-second section of Act No. 19 of 1883 shall be read and construed as if the words "or any other debt lawfully incurred, either before or" were inserted after the word "raised" where it first appears in the said section.

Proviso thereof expunged.
No rate exceeding ninepence in one year

2. The proviso of the said sixty-second section is hereby expunged, and the following substituted: Provided that no such rate shall exceed in any one year ninepence in the pound of the value of every rateable claim upon which such mining board is empowered to levy rates.

Short Title.

3. This Act may be cited as "The Precious Stones and Minerals Mining Act Amendment Act, 1885."

No. 23—1885.]

[Promulgated 11th August, 1885.

ACT *Repealed by 1902 Act 32.*

To Amend Act No. 15 of 1857, and Act No. 8 of 1873.

WHEREAS it is expedient in certain respects to amend the provisions of Act No. 15 of 1857, intituled "An Act for enabling Municipalities to obtain additional Police, by contributing towards the expense thereof," and of Act No. 8 of 1873, commonly called the "Divisional Police Act, 1873": Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. All payments which have heretofore been made annually, and which would, without the passing of this Act hereafter be made annually to the civil commissioners of the several divisions of this colony, by municipal councils or commissioners, under the provisions of the Act No. 15 of 1857, or by divisional councils, under the provisions of Act No. 8 of 1873, shall, notwithstanding anything contained to the contrary in the two last-mentioned Acts, be after the passing of this Act made quarterly in advance, and so soon as in any year the first quarterly payment in advance shall have been made the several provisions of the said Acts shall respectively apply as though the whole annual payment for the said year had been duly made.

Payments to be made quarterly by Municipalities and Divisional Councils, not annually as heretofore.

2. This Act may be cited as the "Police Acts Amendment Act, 1885."

Short title.

No. 24—1885.]

[Promulgated 11th August, 1885.

ACT

To Provide for a Special Valuation of Landed Property in the Division of Barkly West, for the purpose of collecting Road Rates under the Acts No. 9 of 1858 and No. 10 of 1864.

WHEREAS the Valuation Roll and Register of Landed Property within the Division of Barkly West was accidentally lost or mislaid in the year 1883, and cannot now be found, and it has become necessary to frame a fresh valuation of landed property within that division for the purposes of the Acts No. 9 of 1858 and No. 10 of 1864: 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:—

Preamble.

1. It shall be lawful for the Divisional Council of Barkly West to appoint some fit and proper person or persons to make a

Divisional Council to appoint Valuers.

No. 24—1885.

valuation of the landed property within the said division of Barkly West, and such person or persons shall thereupon proceed to value such landed property and frame an assessment roll, and do and perform all and singular the matters and things required to be done by any valuator duly appointed under and by virtue of the provisions of the said Acts, and in regard to such valuation the Divisional Council of Barkly West shall take all necessary steps for hearing and determining objections as if the said valuation had been made at the ordinary period.

Rates to be paid as if original valuation roll not lost.

2. The said valuation of landed property in the said division shall be made, and the rates on such property for the present year shall become payable and shall be collected in all respects as if the Valuation Roll hereby authorised to be made had been the Valuation Roll which has been lost or mislaid as in the preamble of this Act stated.

Special valuation to continue for same period as that of lost roll.

3. The special valuation herein provided for shall continue in force for the purposes of the said Acts No. 9 of 1858 and No. 10 of 1864, during the period for which the valuation of the property contained in the said roll in the preamble of this Act mentioned would have been completed, and during the period of five years then next ensuing, and such valuation roll as to the last mentioned period shall stand and be in the place of the valuation roll which otherwise would have been framed.

Short title.

4. This Act may be cited as the "Barkly West Divisional Council Valuation Act, 1885."

No. 25—1885.]

[Promulgated 11th August, 1885.

ACT

To Amend the Kimberley Waterworks Company (Limited)
Ordinance No. 12 of 1880.

Preamble.

WHEREAS, owing to the imperfect wording of section No. twenty-two of the Griqualand West Ordinance No. 12 of 1880, entitled "The Kimberley Waterworks Company (Limited) Ordinance, 1880," doubts have arisen as to powers thereby conferred on the said company with reference to the making of bye-laws: And whereas it is necessary that these doubts should be removed: And whereas it has been found necessary to amend in certain other respects the aforesaid section of the said Ordinance: 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 section 22 of Ordinance No. 12 of 1880.

1. Section twenty-two of the Griqualand West Ordinance No. 12 of 1880, entitled "The Kimberley Waterworks Company (Limited) Ordinance, 1880," shall be and is hereby repealed, and the following sections shall be taken to be inserted in its place:—

THE KIMBERLEY WATERWORKS COMPANY (LIMITED) 179
ORDINANCE AMENDMENT ACT.

No. 25—1885.

2. It shall be lawful for the Board of Directors for the time being from time to time to make such bye-laws as they shall see fit, for the purpose of regulating the conduct, whilst on duty, of the officers and servants of the company, and for providing for the due management of the affairs of the company in all respects whatever, and in such bye-laws to provide penalties for any breach thereof by any person or persons whomsoever, and from time to time to alter and repeal such bye-laws and to make others.

Company to have power to make bye-laws.

3. No bye-laws or regulations other than those imposing penalties upon servants of the company shall be of any force or effect until they shall have been submitted to the Borough Council of Kimberley and the Town Council of Beaconsfield for consideration, and have been approved of by the Governor and published in the Government Gazette.

Certain bye-laws to be approved by Governor.

4. The company shall cause the short particulars of the several offences for which any punishment or penalty is provided by the Ordinance or by any bye-law 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 on paper or linen and posted 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.

Notice of penalties under bye-laws how to be published.

5. This Act may be cited for all purposes as "The Kimberley Water Works Company (Limited) Ordinance Amendment Act, 1885."

Short Title.

No. 26, 1885.]

[Promulgated 11th August, 1885.

ACT

To Authorise the Cancellation of certain Existing Titles to certain Properties vested in "The Simon's Bay Dock and Patent Slip Company," and to re-vest the said Properties in the Colonial Government, and further to authorise the grant of the said Properties by the Governor to "The Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland."

WHEREAS by certain deeds of transfer and title-deeds, issued under certain laws of the colony, the Simon's Bay Dock and Patent Slip Company stands invested and possessed of certain properties subject to the conditions, restrictions, or servitudes contained in the said title-deeds and laws: and whereas it is expedient to annul and cancel the said transfers and title-deeds, and to re-vest in the Colonial Government the said properties, and

Preamble.

o

No. 26—1885.

further to give title to and to authorise and empower the conveyance of the said properties by the Governor to "the commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland," free and unburdened by any of the conditions, restrictions, or servitudes contained in the said transfer and title-deeds or the said laws: 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:—

Cancellation of title deeds of certain properties held by Simon's Bay Dock & Patent Slip Company.

Property to vest in Colonial Government for certain purposes.

Conveyance of properties to be made to Admiralty Commissioners, and title registered free of servitude, etc.

Costs, &c., and transfer duty to be paid by Company.

1. Notwithstanding anything to the contrary contained in the law of this colony, and especially in the Act No. 13 of 1859, the Act No. 17 of 1861, and the Act No. 18 of 1862, the transfer and title-deeds relating to the immovable properties specified in the agreement set forth in the schedule to this Act and vesting the said properties in "The Simon's Bay Dock and Patent Ship Company," shall be, and are hereby annulled and cancelled from the date of the passing of this Act, and the said properties shall on the said date become vested in the Colonial Government for the purposes set forth in the second section of this Act.

2. The Governor is hereby authorised forthwith, upon the passing of this Act, to grant the said properties to and in favour of "The Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland."

3. All costs, charges, and expenses incurred or payable in respect of the grant provided for in the second section of this Act shall be borne and paid by the "Simon's Bay Dock and Patent Slip Company."

SCHEDULE TO THIS ACT.

Schedule to this Act.

An Agreement made this fifth day of May, one thousand eight hundred and eighty-five, between James Murison, Charles John Manuel, Henry Mathew Arderne, Patrick Dugald Martin, Petrus Jacobus Hugo, Heinrich Peter Hablutzel, George Willett, and William George Anderson, junior, all residing in the colony of the Cape of Good Hope, and being all the directors of the Simon's Bay Dock or Patent Slip Company, acting by William James Anderson, of London, in England, their attorney and agent, duly constituted in that behalf by a power of attorney dated the ninth day of July, one thousand eight hundred and eighty-four (hereinafter called the vendors), of the one part, and the commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland (hereinafter called the purchasers) of the other part, whereby it is agreed as follows:—

1. The vendors will sell and the purchasers will purchase at the price of sixteen thousand pounds, first: the freehold in a certain piece of ground, with the buildings and erections thereon, being the lot marked No. 165, situated in Simon's Bay, in the Cape Division of the said colony, and known by the name of "Sober Island," measuring

three hundred square roods, extending, as a certain title deed with a diagram thereon granted to Henry Diedrich Jenken, on the ninth January, one thousand eight hundred and forty-five, and four subsequent deeds of transfer, the last of which made in favour of the said company on the twenty-first of February, one thousand eight hundred and sixty, will more fully point out, but subject to such conditions as in the said title deed of the ninth January, one thousand eight hundred and forty-five, and certain memoranda written at foot thereof, and respectively dated the fourteenth of October, one thousand eight hundred and fifty-nine and the twenty-first day of August, one thousand eight hundred and sixty mentioned. Second, the freehold in a piece of land with the buildings and erections thereon, being the piece of land situate in the Cape Division in Simon's Bay aforesaid, adjoining the so-called "Sober Island" granted in freehold to the then directors of the said company and to the directors of the said company for the time being on the second day of October, one thousand eight hundred and sixty, containing one morgen three hundred and twenty-one square roods and twelve and a half square feet, extending as will more fully appear from the title deed thereof, with a diagram annexed, made in favour of the vendors on the said second day of October, one thousand eight hundred and sixty, subject, however, to the conditions contained in the said title deed. Third, all the buildings, sheds, erections, piers, wharves and slip for refitting and repairing vessels now standing or being in or upon the said lands or any part of them or any adjoining land but used or occupied by the said company, together with the said slip, or as part of their property there. Fourth, all the plant, gear, articles and things specified in the schedule hereunder written, and fifth all other the plant, gear, articles and things belonging to the directors or the said company now used or being upon or about the said lands and buildings, and all the rights and privileges of the vendors or of the said company in the said land, buildings, slip, property and premises.

2. The said purchase money of sixteen thousand pounds shall be paid in sterling money of Great Britain or Bank of England notes or by bills on the Accountant-General of the Navy, as may be arranged by the purchasers to the vendors at Cape Town or Simon's Town so soon as the transfer and delivery to the purchasers of the property purchased shall have been completed to the satisfaction of the Commander-in-Chief of Her Majesty's Naval Forces at the Cape of Good Hope, and a certificate to that effect signed by him, shall have been produced by the vendors to the purchasers in England, or to any agent or official at Cape Town or Simon's Town, who may have been empowered by the purchasers to act on such certificate and complete the purchase on behalf of the purchasers.

3. The vendors shall show and deduce a good title according to the law of Cape Colony to the whole of the real and personal property hereby agreed to be sold, and in particular, shall show to the satisfaction of the purchasers that the vendors as representing the said Company, or the said Company, now have power to sell the said property, and that the vendors have power to appoint the said William James Anderson their attorney, to act for them in selling

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 (SALE TO IMPERIAL GOVERNMENT) ACT.

No. 26—1885.

the said property and to delegate to him the sale thereof, and that the whole of the said property, both real and personal, is free from incumbrances; and if the purchasers shall be advised by competent legal authority at Cape Town that it is not certain that the vendors as representing the said Company, or the said Company, can sell the property, the vendors on behalf of the Company will, or the Company will obtain, at the expense of the Company, an Act of the Colonial Legislature, or such other authority as shall be sufficient to enable the vendors or the Company to make a good title to the property, and to sell and convey the same to the purchasers.

4. If any of the plant, gear, goods, chattels and effects hereby agreed to be sold shall for any reason not be handed over to the purchasers, the vendors shall make compensation for such of the said premises as shall not be handed over in the amount assessed by some independent person to be nominated by the Commander-in-Chief for that purpose.

5. If by reason of any neglect or default of the vendors the purchase shall not be completed on or before the thirty-first day of December, one thousand eight hundred and eighty-five (and in this respect time shall be of the essence of the contract), it shall be lawful for the purchasers by notice to the vendors signed by their secretary to determine the contract.

6. The vendors shall bear, pay, and discharge all their own law and other costs for or in connection with the sale and attending the completion thereof, and shall produce all deeds and other documents to the purchasers without expense to the purchasers. In witness whereof the said parties of this agreement have hereunto set their hands the day and year first before written.

SCHEDULE.

Cradle and donkey piece	Dwelling-house and Engine room
Hauling bars, links and pins	Engine and multiplying gear
Launching chain	Spare tubes for boiler
Chairs and rollers	Spare links for chain
Smith's shop, bellows and anvil	‡ Ditto for bars
Work shop with tubular boiler.	Spare cheeks for connecting to chain
	Spare chairs and rollers.

Signed by Admiral Lord ALCESTER, G.C.B., and Rear-Admiral (Sig.) ALCESTER.
 Sir FREDERICK WILLIAM RICHARDS, K.C.B., two of the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, in the presence of "ARTHUR J. CLAYTON,"

Admiralty, Whitehall.

No. 27—1885.]

[Promulgated 11th August, 1885.

ACT

To amend the Provisions of the "Excise Beer Duty Act, 1884."

WHEREAS it is expedient to amend the provisions of the Act No. 11 of 1884, commonly called the "Excise Beer Duty Act, 1884:" 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. Notwithstanding anything to the contrary contained in the "Excise Beer Duty Act, 1884," especially in the fourth section and first schedule thereof, there shall be levied, collected, and paid in respect of beer brewed in the colony from worts of the specific gravity of less than one thousand and forty degrees, a duty of three shillings and no more upon every thirty-six gallons of such worts.

Duty of one penny per gallon on light colonial beer.

2. This Act shall come into operation on a date to be hereafter proclaimed by the Governor.

Date of operation of Act.

3. This Act may be cited as the "Excise Beer Duty Amendment Act, 1885," and shall be read and construed as one with the "Excise Beer Duty Act, 1884."

Short title.

No. 28—1885.]

[Promulgated 11th August, 1885.

ACT

Repealed by 1893 Act 26.

To Amend the Act No. 44 of 1882.

WHEREAS it is expedient to amend the Cape Town Municipality Act No. 44 of 1882, entitled "An Act to consolidate and amend the Acts No. 1 of 1861 and No. 1 of 1867:" And whereas it is deemed desirable to increase the powers of the Town Council of Cape Town, and also to enable and to authorise the said Council to make further and better provision for the protection and saving of property from fire within the municipalities of Cape Town and Green Point and Sea Point, and to impose a tax on certain vehicles, and to impose penalties in default: 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 person or persons in whom shall be vested on the 15th day of March in each year the legal title to any immovable property on which rates shall be assessed shall be the person or persons liable for the landlords' rate for that year, and the occupier on the 15th day of March shall be the person liable for the tenants' rate.

Who liable for landlord's rate.

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ACT, 1885.

No. 28—1885.
Rates, when and
where payable.

Fine for default.

How recoverable.

Powers given to
the officer in charge
of fire brigade in
case of fire.

Police to assist
brigade.

Indemnity for
damage caused in
discharge of duty.

Charges for ser-
vices of brigade.

2. All rates levied under the Act 44 of 1882 shall be due and payable at the office of the treasurer of the town council on the 15th day of March of each year, and every person who shall be in default in payment of any such rates after the 30th day of June 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 an additional sum equal to one-twentieth of the rate, and such additional sum together with the original rate shall be deemed to be the rate payable under Act 44 of 1882, and shall be recoverable as such by any of the means provided by this Act or Act 44 of 1882 for the recovery of rates.

3. On the occasion of any fire the superintendent of the Cape Town municipal fire brigade or other officer in charge may in his discretion avail himself of the assistance and take the command of any person who may voluntarily place their services at his disposal; and generally he may take any measures that may appear expedient for the protection of life and property; with power by himself or his men to break into or through, or take possession of, or pull down, any premises for the purpose of saving life or property or putting an end to 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 private property.

4. The police authorities shall aid the fire 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, or on the request of the superintendent or other officer of the fire brigade, remove any persons who interfere by their presence or otherwise with the operations of the fire brigade.

5. The town council, the mayor, the superintendent and men of the fire brigade, as also all police constables and other persons acting under the orders of such superintendent or other officer in charge of the fire brigade, are hereby indemnified and exempted from all claims or demands whatsoever by reason of any damage done upon sufficient necessity to property in the execution of their duties.

6. In every case of fire the town council shall be authorised to charge on every shop, store, warehouse, station, hotel, manufactory, timber or store-yard, carpenter's shop, or block of offices in which fire breaks out the sum of ten pounds sterling for the services of the fire 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 waterworks during the time that such jet shall be playing upon the said premises or upon the neighbouring premises, to prevent the extension of the fire; and on every dwelling-house or other building, not above specified, in which fire breaks out the town council shall be authorised to charge the sum of five pounds sterling for the services of the fire

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 or other building or upon the neighbouring premises to prevent the extension of the fire.

By whom payable.

7. The amounts charged as aforesaid shall be paid by the tenant of the property on which the same shall be charged, or on his default by the owner thereof, and shall be recoverable from either by action in the name of the town council in the court of the resident magistrate or any court of law having jurisdiction.

Expenses incurred may be recovered from interested persons.

8. Whenever the town council has incurred any expenses in saving or removing, or attempting to save or remove, merchandise, furniture or other goods or articles from any fire, or in pulling down or destroying any buildings in order to prevent the spread of the fire, or otherwise in saving, or attempting to save, buildings or property adjacent to a fire, the said town council shall be entitled to recover the amounts so expended from those interested in equitable proportions, whether the said buildings or property be ultimately saved or not.

9. In order to decide on the equitable distribution of such expenses, the town clerk shall ascertain as near as may be the values of the properties dealt with, and divide the outlay accordingly, and the amounts so apportioned shall be paid by the several owners of the properties dealt with, and shall be recoverable from such owners respectively in any competent court after seven days' notice of such apportionment, unless within such seven days they shall intimate to the town clerk their objections to the same, and agree to submit the whole apportionment of expenses to arbitration.

Town Clerk to ascertain value of property dealt with.

10. Should any of such owners object to the distribution as arranged by the town clerk, or dispute his liability to contribute to such expenses, the whole matter shall be referred to arbitration, and for the purposes of any arbitration the provisions of the Lands and Arbitration Clauses Act, 1882, are hereby incorporated.

Arbitration in case of dispute.

11. Any damage occasioned by the fire brigade in the due execution of their duties, and all expenses incurred by them or by the other parties empowered by this Act, in the removal or attempted removal of goods or in operations to save property and extinguish fire, and charged to the owners whether of immovable or movable property under this Act, including the charges mentioned in the eighth section of this Act, shall be deemed to be loss or damage by fire within the meaning of any policy of insurance of such property or goods against fire.

What shall be deemed to be "loss, or damage by fire."

12. The town council may from time to time make, alter and revoke bye-laws or regulations for imposing a tax on all vehicles, wagons, carts and other conveyances drawn by any horse, mule, donkey or ox kept within the municipality, and plying for hire

Power to tax vehicles plying for hire or profit.

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No. 29—1885.

or profit, and for requiring and compelling the owner thereof to take out an annual licence therefor under a penalty in default not exceeding five pounds, and for fixing the sum to be paid in respect of such licence.

Rates, &c., how recovered.

13. All rates levied, penalties inflicted, and amounts due under this Act shall be recoverable in the resident magistrate's court of Cape Town or otherwise as in manner provided by section 45 of Act 44 of 1882, or in any other competent court of law in the colony.

Repugnant sections of Act No. 44 of 1882, repealed.

14. All sections or portions of sections of the Cape Town Municipality Act No. 44 of 1882, in so far as the same are repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Short title.

15. This Act may be cited for all purposes as the "Cape Town Municipality Act, 1882, Amendment Act, 1885."

No. 29—1885.]

[Promulgated 11th August, 1885.

ACT

To Alter and Extend the Provisions of the "Local Works Loans Act, 1882."

Preamble.

WHEREAS it is expedient to alter and extend the Act No. 11 of 1882, commonly called the "Local Works Loans Acts, 1882," and to authorise and empower the Governor to grant loans out of moneys provided for the purposes of the said Act to trustees of public cemeteries appointed under the provisions of the "Cemeteries Act, 1883:" 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:—

"Local authority" includes trustees under "Cemeteries Act, 1883."

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 trustees of any public cemetery duly appointed under the provisions of the "Cemeteries Act, 1883."

Governor may grant loans to such trustees under Local Works Loans Act.

2. The Governor may subject to the provisions of the "Local Works Loans Act, 1882," and out of such funds as Parliament shall have provided or shall hereafter provide for the purposes of the said Act, grant loans to such duly appointed trustees for the purpose of the due exercise of the powers and performance of the functions conferred upon such trustees by the "Cemeteries Act, 1883," especially the seventh section thereof; and every loan so granted shall be deemed and taken to be a loan granted

under the "Local Works Loans Act, 1882," as though it were a loan granted for all or any of the purposes specified in the second section of the last mentioned Act.

No. 30—1885.

3. This Act may be cited as the "Local Works Loans Act Amendment Act (Cemeteries), 1885."

Short Title.

No. 30—1885.]

[Promulgated 11th August, 1885.

ACT

To authorise the proclamation of a certain Main Road.

WHEREAS it is expedient to authorise the proclamation of a certain road in part already constructed and in part to be constructed as a Main Road: 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. Notwithstanding anything to the contrary contained in the second section of the "Roads Act, 1877," or in that or any other law of this Colony, the Governor may, at any time after the passing of this Act, by proclamation in the *Gazette* declare the road described and set forth in the second section of this Act to be a Main Road, within the meaning of the "Public Roads Act, 1858," and of every other law of the Colony, and thereupon the said road throughout the entire length thereof shall be deemed and taken to be a Main Road declared by act of the Legislature.

Governor empowered to proclaim a certain main road.

2. The said road shall run from Port Alfred in the division of Bathurst, to a point near the Round Hill, thence in the direction of the Great Fish River at Kafir Drift, thence in the direction of Peddie and East London, and thence to a point on the Great Kei River near its mouth in the division of Komgha.

Road described.

No. 31—1885.]

[Promulgated 11th August, 1885.

ACT *Repealed by 1889 Act 40.*

To Amend the Fourth Section of the "Roads Act, 1877."

WHEREAS it is expedient to amend the fourth section of the Act No. 11 of 1877, commonly called the "Roads Act, 1877," in relation to the publication in the said section required of the notice therein referred to: 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. Notwithstanding anything to the contrary contained in the fourth section of the "Roads Act, 1877," notice of the intention

What publication of notice sufficient under section 4 of Act No. 11 of 1877.

Q

No. 31—1885.

of any divisional council in any division, to make request to the Governor in manner provided in the said section, shall be deemed and taken to be sufficiently published if such notice shall be published once a month during a period of three months in the Gazette, and also once a week during six weeks in some newspaper published in the division, or, if there be none such, in some newspaper circulating in the division.

Short title.

2. This Act shall be read as one with the "Roads Act, 1877," and may be cited as the "Roads Act Amendment Act, 1885."

Spent.

No. 32—1885.]

[Promulgated 11th August, 1885.

ACT

For applying a Sum not exceeding Four Thousand One Hundred and Ninety-two Pounds and Five Pence Sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

Preamble.

WHEREAS it has been necessary to expend from time to time in the service of this Colony certain sums of money amounting in the whole to four thousand one hundred and ninety-two pounds and five pence sterling, in addition to and beyond the sums voted and authorised by the Legislature to be so expended: and whereas it is expedient to legalise such unauthorised expenditure: 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:—

Revenue charged
with £4,192 0s. 5d.

1. The Public Revenue of this Colony is hereby charged with a sum not exceeding four thousand one hundred and ninety-two pounds 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 day of June, 1884, as described at page 19 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 1883-1884" [G. 1.—'85]; presented to both Houses of Parliament by command of the Governor.

Short Title

2. This Act may be cited as the "Unauthorised Expenditure Act, 1885."

No. 33—1885.]

[Promulgated 11th August, 1885.]

ACT

To Provide for the Alteration and better Definition of Boundaries between adjoining Divisions.

WHEREAS it is expedient to provide for the alteration and better definition of boundaries between adjoining divisions of this Colony: 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. The Act No. 33 of 1868, intituled "An Act to make provision for better defining the boundaries of such divisions of the Colony in which it may be necessary," is hereby repealed.

2. Whenever any two or more divisional councils shall represent to the Governor that the boundaries of their respective divisions, where the same adjoin each other, are inconvenient or are not sufficiently defined, and require to be altered and duly defined, and shall agree upon and properly describe the proposed new boundaries, the Governor may, if he see fit, declare such new boundaries to be the future boundaries of the said divisions; and thenceforth such boundaries shall be the boundaries of such divisions for all purposes.

3. Whenever any dispute or difference shall arise or exist between any two divisional councils of adjoining divisions as to the actual position of the boundary or any portion of the boundary between the said divisions, or in any case where the boundaries between adjoining divisions are inconvenient, and one of the divisional councils of such divisions shall claim that such boundaries shall be altered, such dispute or difference or claim, as the case may be, shall if either council so desire be submitted for decision to arbitration, and thereupon an arbitrator or arbitrators shall be appointed and shall make such survey, search, or inquiry as shall be proper and necessary to enable him or them to decide such dispute, difference or claim.

4. Whenever possible the provisions of "The Lands and Arbitrations Clauses Act, 1882," and especially of the second and third sections of the said Act, shall apply to arbitrations instituted and carried on under the provisions of this Act, save and except that when two arbitrators are appointed by the respective divisional councils, a third arbitrator shall be appointed by the Commissioner of Crown Lands and Public Works.

5. The arbitrator or arbitrators appointed under the provisions of this Act shall determine in detail the definition of the boundary or portion of boundary with regard to which the dispute or difference has arisen or exists, or a claim has been made as aforesaid, and shall draw up a report embodying the decision arrived at, defining or altering such boundary or portion of boundary, and

Preamble.

Act 33 of 1868 repealed.

When Divisional Councils mutually agree as to new boundaries the Governor may declare such boundaries to be the future boundaries of the divisions.

Arbitration for alteration or definition of boundary between adjoining divisions.

Act No. 6 of 1882 to apply to such arbitration.

Arbitrators to report to Governor who may proclaim definition or alteration of boundary.

No. 33—1885.

thereupon the Governor, upon consideration of such report, may, if he see fit, declare such boundary or portion of boundary in accordance with such decision; and thenceforth the boundary or portion of boundary so declared shall for all purposes be deemed and taken to form the boundary between the said divisions.

After the separation of a portion of division certain provisions shall apply

6. When any portion of a division shall, under the operation of this Act, be separated from that division and added to any other division, the following provisions shall apply:—

- (1) In case any rates lawfully levied by the divisional council of the division to which the separated portion belonged shall be due or unpaid at the date of such separation, such rates shall be recoverable by the divisional council of the division to which such portion has been added, as if the same had been assessed by such lastmentioned council; and a certificate of the chairman of such firstmentioned council shall be *prima facie* evidence of the amount of rate due and of the assessment thereof in any action for the recovery of any such rate.
- (2) In case the divisional council of the division to which the separated portion belonged shall, before the date of separation, have lawfully raised any sum of money on loan upon the credit of any rates assessed or to be assessed by such council, or shall have incurred any lawful debt upon the faith of such rates then the divisional council of the division to which such portion has been added shall be liable to pay to the divisional council of the other division an equitable portion of such loan or debt to be agreed upon between the respective divisional councils, or, failing agreement, to be determined by arbitration.
- (3) The civil commissioner of the division to which the separated portion belonged shall make out and transmit to the civil commissioner of the division to which such portion has been added a list of any registered voters resident in such portion, and the list so transmitted shall be added to the list of registered voters for any field-cornetcy in which such separated portion shall be incorporated, or shall be added to the list of such voters of that field-cornetcy if the separated portion shall be constituted a separate field-cornetcy; and the lists of registered voters for such firstmentioned division as reduced, and of such lastmentioned division as increased shall respectively form the lists of registered voters for such divisions.

Short Title.

7. This Act may be cited as the "Adjoining Divisions Boundaries Act, 1885."

No. 34—1885.]

[Promulgated 11th August, 1885.]

ACT

To provide for the Importation of Goods Free of Duty through the Port or Settlement of Walfish Bay.

WHEREAS by Act No. 35 of 1884, commonly called the “Walfish Bay and St. John’s River Territories Annexation Act, 1884,” the port or settlement of Walfish Bay is annexed to the colony: and whereas in consequence of the said annexation there are payable certain customs duties under the provisions of Act No. 13 of 1884, commonly called “The Customs Tariff Amendment Act, 1884,” upon certain goods imported or brought through and into the said port or settlement: and whereas it is expedient to provide for the importation of the said goods through and into the said port or settlement free of all duty: 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. Notwithstanding anything to the contrary contained in the provisions of “The Customs Tariff Amendment Act, 1884,” or in any other law of the colony, there shall not be payable upon any of the goods specified in the Schedule of the said Act the duties therein prescribed, or any duties whatsoever, in respect of the importation or bringing into the said port or settlement of such goods through the said port of Walfish Bay.

No duty on goods imported through Walfish Bay.

2. Whenever any goods, not being the produce of the colony, of any nature or kind whatsoever shall be exported from any port in this colony other than the said port or settlement, and shall be imported or brought through and into the said port or settlement, such goods shall for all purposes be deemed and taken to have been exported from such first-mentioned port to a foreign port, and whenever any such goods shall be imported or brought into this colony from the said port or settlement, such goods shall be deemed and taken to be imported into the colony from a foreign port.

Walfish Bay deemed a foreign port for purposes of export from other colonial ports, and of import into the colony.

3. This Act shall come into operation upon a date to be fixed by the Governor by proclamation in the *Gazette*, and the operation thereof may be by proclamation thereafter suspended from a date to be named in such proclamation, and after the said date the then existing provisions of the law of the colony shall come into and be in force as though this Act had not been passed.

Operation and suspension of Act.

4. This Act may be cited as the “Walfish Bay Customs Act, 1885.”

Short title.

No. 35—1885.]

[Promulgated 11th August, 1885.]

ACT

To Authorise certain Public Bodies to introduce into and promote or to oppose in Parliament certain Private Bills, and to legalise expenses incurred by such Bodies in respect of the introduction and promotion of or the opposition to such Private Bills.

Preamble.

WHEREAS it is expedient and desirable to authorise public bodies empowered to levy rates to introduce into Parliament and there promote private bills for the furtherance of the interests of the ratepayers represented by such public bodies, and to oppose in Parliament private bills inconsistent or conflicting with those interests: and whereas it is furthermore expedient to legalise the necessary expenses incurred by any such body in respect of the introduction and promotion of or opposition to any such private bill: 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:—

Definition of certain terms.

1. "Public Body" shall, for the purposes of this Act, mean any public body empowered to levy rates.

"Local newspaper" shall mean any newspaper circulating in the neighbourhood wherein all or most of the persons reside who are liable to pay rates to such public body.

"Ratepayer" shall mean every person liable to the payment of rates to or qualified to vote in the election of members of such public body.

Public meeting to be convened to consider introducing or opposing private bills.

2. Whenever any public body shall deem it expedient and necessary to introduce into Parliament and there promote any private bill in furtherance of, or to oppose in Parliament any private bill inconsistent or conflicting with, the interests of the general body of ratepayers upon whom such public body is by law empowered to levy rates, it shall be lawful for such public body to summon and convene a public meeting of such ratepayers in manner hereinafter provided, for the purpose of laying before such meeting resolutions in favour of the introduction and promotion of or in favour of opposition to such private bill, as the case may be.

Public meeting, how convened.

3. Every such public meeting shall be summoned and convened to assemble at some convenient time and place and upon a day to be stated in a notice of such meeting, and such notice shall be published not less than four times in any one or more local newspapers, or in default of any such local newspapers in every issue of the *Gazette* during a period of not less than two weeks before the said day, and shall refer to this Act and shall contain

Publication of notice required.

No. 35—1885.

as nearly as may be the words of the resolution or resolutions to be proposed for the consideration of the said meeting, and also a clear general statement of the object and purpose of such meeting.

4. At the time and place and on the day specified in such notice the said meeting shall assemble, and a chairman shall be forthwith elected by a vote of the majority of ratepayers present and voting at such meeting by show of hands, but thereafter the said meeting may by resolution of the majority of ratepayers present and voting be adjourned, for any period not longer than one week, to re-assemble at such time and place and on such day as by such resolution shall be determined.

5. At such meeting, or at such adjourned meeting, as the case may be, the resolution or resolutions published in the aforesaid notice shall be submitted to the ratepayers thereat assembled, and if, by a vote of a majority of two-thirds of the ratepayers then present and voting, any such resolution to introduce and promote or to oppose any private bill shall be carried, the public body which has convened the meeting shall be deemed and taken for all legal intents and purposes to be authorised to introduce and promote or to oppose such private bill.

6. The voting at such meeting on the resolutions published in such notice as aforesaid shall in the first place be by show of hands to be declared by the chairman, and the declaration of the chairman shall be final and conclusive, unless not less than twenty ratepayers present shall demand that the voting shall be by signature, and whenever any such demand shall be made the voting on the resolution in question shall be determined by signatures to be affixed by each ratepayer signing his name in full upon one of certain lists to be ready for the purpose at the said meeting, and such lists shall be two in number for each resolution, and the signatures to the one list shall be in affirmation and to the other in negation of the resolution in question.

7. The said lists shall, at a place or places to be notified from the chair at such meeting, lie open on a day to be named by the chairman, not being less than seven nor more than fourteen days from the date of meeting, and between the hours of 10 a.m. and 4 p.m. on such day, and may be signed by any ratepayer during the said period and hours.

8. Every such list shall, after the termination of such period, be scrutinised by the chairman elected by the meeting, together with such assistants as such public body may appoint, and the result of the voting shall be declared by the chairman by advertisement to be published at least twice in one or more local newspapers, or in the *Government Gazette*, at the expense of the ordinary revenue of the said public body.

9. Whenever any such published resolution shall be carried in manner aforesaid being not less than two-thirds of the total number of ratepayers voting, in favour of the introduction and

Meeting assembled elects chairman, but may adjourn.

Resolution carried by two-thirds of meeting to be authority to public body to introduce or oppose bill.

Voting by show of hands, or upon demand by signature of list.

Lists to lie open for signature by ratepayers on a day to be named by chairman.

Scrutiny of lists by chairman; result to be published at expense of public body

When resolution passed costs, &c., of introducing or opposing private bill constitute debt of public body, payable out of rates.

No. 36—1885.

promotion, or in favour of opposition to any such private bill, all necessary costs, charges and expenses by such public body incurred in and about the convening of such meeting and the introduction and promotion of or opposition to such private bill, shall be deemed and taken to constitute a just debt and liability against such public body within the meaning of the "Public Bodies' Debts Act, 1867," and shall be payable out of the ordinary revenue derived by such public body from rates levied on the ratepayers, anything to the contrary contained in any law of the colony notwithstanding.

Provisions of Act to apply to private bills introduced or opposed during present session.

10. If at any public meeting hereafter summoned, convened and assembled in manner and by such majority as is in this Act provided, a resolution shall be passed in manner hereinbefore set forth, ratifying the action and conduct of any public body in introducing and promoting or in opposing any private bill during the present session of Parliament, such resolution shall for all legal intents and purposes be deemed and taken to authorise such introduction and promotion of or such opposition to such private bill, and to render legal all necessary costs, charges, and expenses incurred in respect of such introduction and promotion or opposition, as if this Act had been passed and such resolution had been arrived at under the provisions of this Act, before the said introduction and promotion or opposition had been undertaken by such public body.

Act not to apply to municipalities under Act of Incorporation

11. Nothing in this Act contained shall apply to any municipality acting under an Act of Incorporation.

Short title.

12. This Act may be cited as the "Public Bodies' Private Bill Act, 1885."

Spent

No. 36—1885.]

[Promulgated 11th August, 1885.

ACT

To Authorise the application of certain Unexpended Balances of Sums appropriated for the Construction and Equipment of certain Railways and other works connected therewith to meet deficiencies in the Appropriations for the Construction and Equipment of certain other Railways and works.

Preamble.

WHEREAS it is desirable that provision should be made for supplementing the appropriations for the construction and equipment of certain railways and for the execution of certain works and services connected with the railway system generally: And whereas the provision made for the construction and equipment of certain other railways has proved more than suffi-

cient for the several purposes mentioned: And whereas it is desirable that the Governor should be authorised to apply such surplus balances to meet the deficiencies on other appropriations: 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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1. It shall be lawful for the Governor to apply to the purposes of completing, improving, and equipping any of the railways or works connected therewith, which have already received the sanction of Parliament, in such proportion as may be found necessary and expedient, the balances which may remain over and above the sums expended out of the moneys authorised to be applied by Parliament for the construction of the following lines and works:

Certain unexpended balances to be applied as Governor may direct to Railway Works authorised by Parliament.

Worcester to Beaufort West Railway.

Beaufort West to Hope Town Railway.

Cradoek to Colesberg Railway.

Nauw Poort to De Aar Railway.

East London to Queen's Town Railway.

Queen's Town to Aliwal North Railway.

Additional works under Act 20 of 1881, Act 26 of 1878, and Act 30 of 1882.

2. This Act may be cited as the "Railway Construction Balances Act."

Short title.

No. 37—1885.]

[Promulgated 11th August, 1885.

ACT

To Relieve certain Agricultural Immigrants from the Payment of Quitrent under the "Agricultural Immigrants Land Act, 1877."

WHEREAS certain persons have come into this Colony from Germany and elsewhere in Europe as agricultural immigrants under agreements made and executed between them and one William Berg, of Cape Town, or his agents, being thereto induced by the promise, and immigrating for the purpose of receiving in this Colony allotments of land under certain conditions: and whereas, in many cases, the said persons having no notice or knowledge of the provisions of the colonial law, arrived in this Colony and received allotments of land from Government as agricultural immigrants, but were wholly ignorant of the provisions of the sixth sub-section of the third section of the "Agricultural Immigrants Land Act, 1877," imposing a perpetual quitrent in respect of such allotments, and were misled into the belief that they would be entitled, after paying yearly for ten years one shilling per acre for the land so allotted to them, to receive a

Preamble.

No. 38—1885.

grant thereof in perpetuity : and whereas it is expedient under the aforesaid circumstances to relieve such immigrants from the payment of quitrent : 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 relieve from quitrent immigrants having no notice of its being payable.

1. Whenever any person shall, before the taking effect of this Act, have immigrated into the Colony from Germany or elsewhere in Europe as an agricultural immigrant under any agreement made and executed between such person and one William Berg, of Cape Town, or his agents, with the purpose and object of obtaining an allotment of land from the Government of this Colony as an agricultural immigrant, and shall have obtained such allotment, and whenever such person, upon application to the Commissioner of Crown Lands and Public Works, shall produce satisfactory proof that before arriving in this Colony he was in ignorance of the provisions of the sixth sub-section of the third section of the "Agricultural Immigrants Land Act, 1877," imposing a perpetual quitrent upon the land allotted to him, it shall be lawful for the Governor, so soon as such person shall have made the tenth annual payment of rent for and in respect of any land which may have been assigned or allotted to him, and shall have paid the survey expenses and other expenses of title, to issue to such person a grant of such land to be held by him in perpetuity free of quitrent, but subject to every other condition now attaching to quitrent grants in this Colony ; anything contained in the said Act or in any other statutory enactment to the contrary notwithstanding.

Short Title.

2. This Act may be cited as "The Agricultural Immigrants Relief Act, 1885."

No. 38—1885.]

[Promulgated 11th August, 1885.

ACT

To Authorise the Raising of Money for certain Public Purposes.

Preamble.

WHEREAS it is expedient to authorise the raising of a sum of money for the construction of public works and for other purposes : 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 empowered to raise certain sum for purposes specified in schedule.

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 one hundred and ninety-five thousand two hundred pounds, to be applied to the several purposes mentioned in the Schedule to this Act annexed.

Short title.

2. This Act may be cited as "The Public Works Loan Act, 1885."

SCHEDULE.

No. 39—1885.
Schedule.

	£	s.	d.
1. For the purposes of the "Irrigation Act, 1877," and the "Municipalities Irrigation Works Loans Act, 1879" ..	25,000	0	0
2. For the purposes of the "Local Works Loans Act, 1882"	50,000	0	0
3. For Works and Buildings:—			
Harbour Works:			
Table Bay	£50,000	0	0
Port Elizabeth	21,000	0	0
East London	15,000	0	0
	£86,000	0	0
Public Offices at Port Elizabeth	16,000	0	0
	102,000	0	0
4. Roads:			
Meiring's Poort	£5,000	0	0
Caledon Kloof	300	0	0
Old Katberg Road	350	0	0
Van Rhy'n's Pass, Calvinia	400	0	0
Clanwilliam, Troe Troe, and Thorn Bay	500	0	0
Garies and Stinkfontein, Namaqualand	500	0	0
Peddie to Great Kei River Mouth	2,650	0	0
	9,700	0	0
5. Bridges:			
Breede River Bridge (Robertson)	£2,500	0	0
Berg River Bridge (Vleeschbank)	2,500	0	0
Orange River Bridges	3,300	0	0
Gilfillan Bridge	200	0	0
	8,500	0	0
Total	195,200	0	0

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[*

ACT Repealed by 1919 Act 36.

For the better Prevention of Certain Contagious Diseases.

WHEREAS it is desirable to prevent, as far as may be, the spread of certain contagious diseases: 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.

PRELIMINARY.

1. This Act may be cited as "The Contagious Diseases Prevention Act, 1885."

Short title.

2. In this Act the term "contagious disease" shall be taken to mean any venereal disease, including gonorrhœa.

Definition of contagious disease.

* Not Promulgated when this Edition was passing through the Press.

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EXTENT OF ACT.

Local application of Act by proclamation.

3. The places, districts, or areas to which Part I of this Act shall apply, shall be the places, districts, or areas mentioned in the first Schedule to this Act, and such other places, districts, or areas as the Governor shall, from time to time, declare by proclamation to be published in the Gazette.

Power to rescind, &c., such proclamation.

4. The Governor shall have the power to rescind any such proclamation as in the preceding section is mentioned, and the limits of every place, district, or area, whether mentioned in the said Schedule or declared by such proclamation as aforesaid, may be extended, curtailed, or otherwise altered, from time to time by like proclamation to be published in like manner.

Application of part II.

5. Part II of this Act shall apply to the several districts of the Colony.

PART I.

MEDICAL INSPECTORS AND HOSPITALS.

Appointment of medical inspector.

6. It shall be lawful for the Governor to appoint some duly qualified medical practitioner or practitioners to be medical inspector or inspectors of contagious diseases for each of the places, districts, or areas within which Part I of this Act shall be in force.

Provision for hospital accommodation.

7. The Governor may from time to time provide any buildings or parts of buildings, or set apart any ward or wards of any hospital as and for hospitals for the purposes of Part I of this Act, and every such hospital shall be placed under the control or management of such person or persons as to the Governor may from time to time seem fit.

Hospital regulations made by medical inspector.

8. The medical inspector or inspectors of the place, district, or area within which any hospital as aforesaid shall be situated, shall make regulations for the management and government of such hospital and the conduct of the inmates; provided such regulations be not inconsistent with the provisions of Part I of this Act, and may from time to time alter any such regulations, but all such regulations and alterations thereof shall be subject to the approval of the Governor.

Copy of regulations good evidence.

9. A printed copy of regulations purporting to be regulations of any hospital as aforesaid, or a written copy thereof, provided such written copy be signed by the medical inspector or inspectors of the place, district, or area aforesaid, shall be evidence of the regulations of such hospital and of the due making and approval thereof.

PERIODICAL MEDICAL EXAMINATIONS.

Process to compel appearance of reputed prostitute to undergo inquiry, upon sworn statement.

10. Where an information or statement in writing on oath is laid before any resident magistrate having jurisdiction in any place, district, or area wherein Part I of this Act shall be in force, to the effect that the party making such information or statement has good cause to believe (and giving his reasons for such belief)

No. 39—1885.

that a female therein named is a common prostitute, and either is resident within such place, district, or area as aforesaid, or being resident outside such place, district, or area has within fourteen days before the making of such information or statement been within such place, district or area as aforesaid for the purposes of prostitution, the said resident magistrate may if he thinks fit issue a notice thereof addressed to such female fixing a time and place for her attendance to answer to what is contained in such information or statement, which notice he shall cause to be served upon her.

11. If the female on whom such a notice as aforesaid is served neglects or refuses to appear herself or by some person on her behalf at the time and place appointed in the notice or at some other time and place appointed by adjournment, and it is shown on oath to the said resident magistrate that the notice aforesaid was served on her a reasonable time before the time appointed for her appearance, or that reasonable notice of such adjournment was given to her as the case may be, she may be arrested by warrant of the said resident magistrate in order that she may be brought before him to answer as aforesaid.

Arrest for default of appearance of reputed prostitute after proper notice.

12. At the time and place mentioned in the said notice, or at some other time and place appointed by adjournment, in case the female shall appear herself, or by some one on her behalf, or as soon as conveniently may be, in case she shall have been arrested upon warrant as aforesaid, the said resident magistrate shall investigate the truth of the said information or statement, and on oath being made before him, substantiating to his satisfaction what is contained in the said information or statement, he may, if he thinks fit, order that the said female be subjected to a periodical medical examination by any medical inspector or inspectors appointed under the sixth section hereof, for the purpose of ascertaining, at the time of each such examination, whether she is affected with a contagious disease, and thereupon she shall be subjected to such periodical medical examination, and shall be bound to undergo the same, and the said order shall be a sufficient warrant for such medical inspector or inspectors as aforesaid to conduct such examination accordingly.

Magistrate if satisfied of truth of sworn statement may order periodical medical examination of female.

Such order to operate as warrant to medical inspector.

13. The order aforesaid shall specify the time and place at which the female aforesaid shall attend for the first examination, and a copy thereof shall be served on the female.

Form and service of order.

14. Any female in any place, district, or area to which Part I of this Act applies may voluntarily, by a submission in writing, signed by her in the presence of any resident magistrate or any medical inspector for such place, district, or area, and attested by such resident magistrate or medical inspector, subject herself to a periodical medical examination as hereby provided, and the said female shall thereupon become subject to the provisions of Part I of this Act in the same manner as if an order for such examination had been duly made by a resident magistrate as aforesaid.

Voluntary submission of female to examination.

T

No. 39—1885.

Endorsement on written submission of time and place of examination.

Notice to female.

Medical inspector to appoint times and places for subsequent examinations, with notice to female.

Penalty on female not submitting herself to examination.

Order for examination to continue in force notwithstanding punishment for disobedience.

Female found affected with C. D. may be detained in hospital upon medical certificate.

Arrest for medical treatment of female not proceeding to hospital on such certificate.

15. The resident magistrate or medical inspector in whose presence the said submission shall be signed shall endorse upon the said submission the time and place at which the female shall attend for the first examination, and a copy of such endorsement shall be served on the female.

16. The medical inspector or inspectors aforesaid having regard to the circumstances of each case shall at the first examination of each female examined by him or them, and afterwards from time to time as occasion shall require, prescribe the times and places at which she is required to attend again for examination, and he or they shall from time to time give or cause to be given to each such female notice of the times and places aforesaid.

17. If any female subjected to periodical medical examination, whether by order of a resident magistrate or upon voluntary submission as aforesaid, at any time temporarily absent herself in order to avoid submitting herself to such examination on any occasion to which she ought so to submit herself, or refuses or wilfully neglects to submit herself to such examination on any such occasion, then and in every such case such female shall be guilty of an offence against Part I of this Act, and on conviction before the resident magistrate of the district within which such examination should have taken place or before the resident magistrate of the district wherein she may be found, be liable to imprisonment with or without hard labour and with or without spare diet in the case of the first offence for any term not exceeding one month, and in case of a second or any subsequent offence for any term not exceeding three months with or without hard labour and with or without spare diet.

18. If any such female is convicted of and imprisoned for the offence of absenting herself or of refusing or neglecting to submit herself to examination as aforesaid, the order subjecting her to periodical medical examination shall be in force after and notwithstanding her imprisonment.

DETENTION IN HOSPITAL.

19. If, upon any medical examination as aforesaid, the female examined is found to be affected with a contagious disease, she shall thereupon be liable to be detained in a hospital, subject and according to the provisions of Part I of this Act, and the medical inspector or inspectors by whom such examination shall have been made shall sign a certificate to the effect that she is affected with a contagious disease, naming the hospital in which she is to be placed, and he or they shall cause a duplicate of such certificate to be delivered to the female.

20. Any female to whom any such certificate as in the preceding section mentioned relates, may, if she think fit, proceed to the hospital named in that certificate, and place herself there for medical treatment; but if, after the said duplicate certificate is delivered

to her she neglects, or refuses forthwith to do so, she may be apprehended by any police constable, and conveyed to that hospital, and placed there for medical treatment, and the certificate of the medical inspector or inspectors as aforesaid shall be a sufficient warrant or authority to him for so doing.

21. If any female found to be affected with a contagious disease as in the nineteenth section mentioned, shall not willingly submit to proceed to hospital as aforesaid, she shall be at liberty before apprehension to appeal to and after apprehension to claim to be taken before the resident magistrate of the district wherein she may reside or practise prostitution, who shall inquire into the matter and hear the objection of such female and take the evidence on oath of the medical inspector or inspectors, and of any other medical practitioners who may have examined the female, and on determination of the matter either cancel the order of detention or declare that the same shall have full force and effect.

22. Where a female certified by any medical inspector or inspectors to be affected with a contagious disease, places herself, or is placed as aforesaid, in a hospital for medical treatment, she shall be detained there for that purpose until discharged by the medical inspector or inspectors of the place, district, or area within which the hospital shall be by writing under his or their hand.

23. The resident magistrate of any district wherein any hospital may be, may, if in any case it appears to him expedient, by order signed by him, direct the transfer of any female detained in such hospital for medical treatment from that hospital to another named in the order of transfer;

24. No female shall be detained under any one certificate for a longer period than six months.

25. If any female detained in any hospital considers herself entitled to be discharged therefrom, and such discharge is refused, such female shall on her request be conveyed before the resident magistrate of the district wherein the hospital may be, who if he is satisfied upon reasonable evidence, that she is free from a contagious disease shall discharge her from such hospital.

26. Every female conveyed or transferred under this Act to any hospital shall, while being so conveyed or transferred, and also while detained there, be deemed to be legally in the custody of the person conveying or transferring or detaining her, notwithstanding that she may be for that purpose removed out of one into another jurisdiction.

27. If any female who shall have been admitted into or shall be detained in any hospital under Part I of this Act, shall make or attempt to make her escape therefrom without being duly discharged, or if any such female shall refuse or neglect to conform to the regulations of such hospital during the period for which she shall be lawfully detained therein, she shall be liable on conviction before the resident magistrate of the district wherein such hospital

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Appeal by female to magistrate against certificate ordering detention.

Female in hospital to be detained till discharged by medical inspector.

Transfer of female from one hospital to another.

Limit of period of detention.

Detained female may claim inquiry by magistrate, who may discharge her.

Legal custody of female conveyed or transferred to or detained in hospital.

Penalty on female escaping from hospital or not conforming to regulations.

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may be, to imprisonment with or without hard labour and with or without spare diet, for any period not exceeding one month, and the execution of such sentence of imprisonment may at the said resident magistrate's discretion be suspended until such female shall be lawfully discharged from the said hospital.

Penalty on female leaving hospital uncured and practising prostitution without certificate of freedom from C. D. by medical inspector.

28. If, on any female leaving any hospital, a notice in writing is given to her by the medical inspector or inspectors of the place, district, or area within which the hospital may be, to the effect that she is still affected with a contagious disease, and she is afterwards in any place for the purpose of prostitution while still so affected, she shall be guilty of an offence under Part I of this Act, and on conviction before the resident magistrate of the district wherein she may reside or practise prostitution, shall be liable for each offence to imprisonment, with or without hard labour, and with or without spare diet, for any period not exceeding one month.

RELIEF FROM EXAMINATION.

Application by female for relief from examination.

29. If any female, subject to a periodical medical examination under this Act (either on her own submission, or under the order of a resident magistrate) and not being under detention in a hospital as hereinbefore provided, shall desire to be relieved from such examination, she may apply in writing in that behalf to the resident magistrate of the district wherein she may be then residing, or to the resident magistrate of the district wherein she was practising prostitution at the time when she was subjected to such examination as aforesaid; and such resident magistrate shall appoint a time and place for the hearing of such application, and shall cause to be served on such female a notice of such appointment.

Grounds for relief from examination.

30. If on the hearing of the application in the last section mentioned it is shown to the satisfaction of the resident magistrate that the applicant has ceased to be a common prostitute, or if the applicant with the approval of the said resident magistrate shall enter into a recognizance with or without sureties as to the said resident magistrate shall seem meet for her good behaviour during three calendar months thereafter, such resident magistrate may order that she be relieved from subjection to periodical examination as aforesaid.

Recognizance.

Forfeiture of recognizance.

31. Every such recognizance shall be deemed to be forfeited if at any time during the term for which it shall be entered into the female to whom it relates shall be within the limits of any district, place, or area within which Part I of this Act shall be in force in any public thoroughfare, street, or place for the purpose of prostitution, or otherwise within such limits shall conduct herself as a common prostitute.

Consequences of practising prostitution after forfeiture of recognizance.

32. If upon any such recognizance as aforesaid becoming forfeited as aforesaid, or upon the expiration of the term thereof, the female to whom it relates shall within the limits in the last

preceding section mentioned be in any public thoroughfare, street, or place for the purpose of prostitution, or shall otherwise within such limits conduct herself as a common prostitute, she shall be liable to be dealt with under Part I of this Act as if she had not been relieved from examination as aforesaid, and any order relieving her from such examination shall be deemed to be cancelled.

PENALTIES FOR HARBOURING, &c.

33. If any person being the owner or occupier of any house, room, or place, within the limits of any district, place or area, to which Part I of this Act shall apply, or being in charge thereof, or a manager or assistant in the management or charge thereof, having reasonable cause to believe any female to be a common prostitute and to be affected with a contagious disease, shall induce or suffer her to resort to or be in that house, room or place, for the purpose of prostitution, he shall be guilty of an offence against Part I of this Act, and shall be liable on conviction before the resident magistrate of the district, to be imprisoned with or without hard labour for any period not exceeding three months, or to pay a fine not exceeding twenty pounds, or in default of payment to be imprisoned with or without hard labour for a period not exceeding three months unless such fine be sooner paid: Provided, always, that a conviction under this section shall not exempt the offender from any penal or other consequences to which he may be liable for keeping or being concerned in keeping a disorderly house, or a brothel, or for the nuisance thereby occasioned.

Penalties for harbouring diseased common prostitute.

PROCEDURE, &c.

34. Every resident magistrate in entertaining any case or making any investigation under Part I of this Act, shall be at liberty, unless the female otherwise desires, to order that no person have access to or be or remain in the room or place in which he may sit for the purposes of such case or investigation without his consent or permission, but nothing herein contained shall be taken or construed to have the effect of limiting any other power which such resident magistrate may have of ordering such room or place to be cleared, or of directing that any person or persons be removed from such room or place.

Procedure: powers of magistrate.

MISCELLANEOUS, &c.

35. Every medical inspector shall keep a record of the case of every female examined by him under Part I of this Act, and such record shall at all times be open to the inspection of the resident magistrate, and of any other person who may be authorised thereto by the Governor.

Record to be kept by medical inspectors.

36. If it shall appear to any resident magistrate, before whom any female shall appear personally, or by some person in her behalf, to answer to what is contained in any information or

Penalty for statement against female without reasonable cause.

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statement laid before the said resident magistrate under Part I of this Act, that the person making such information or statement did so without reasonable or probable cause, the said resident magistrate shall have the power to impose on such person a penalty of not exceeding twenty pounds, and in default of payment, to order him to be imprisoned, with or without hard labour, for a period not exceeding three months, unless such penalty be sooner paid.

Penalties for false statement and rights of action to female reserved.

37. Nothing in the last section contained shall have the effect of relieving the person making such information or statement from any of the pains or penalties to which the law would otherwise subject him for anything done or committed in and about the making of such information or statement, or of depriving any female of any right of action which she otherwise may have by reason of the making of such information or statement.

PART II.

PROVISIONS RELATING TO AFFECTED PERSONS OTHER THAN THOSE REFERRED TO IN

PART I.

Magistrate after inquiry upon report by medical inspector or district surgeon may authorise placing under medical treatment any person.

38. If any medical inspector under Part I of this Act shall have good ground to believe that any person whether male or female within the place, district, or area, for which he may be medical inspector, is affected by contagious disease to such an extent as to render the spread of such disease probable, or if the district surgeon of any district wherein Part I of this Act shall not be in force, shall have good ground to believe that any person within his district is so affected as aforesaid, it shall be the duty of such medical inspector or district surgeon, in case such person is not under medical treatment by some duly qualified medical practitioner, to report that fact to the resident magistrate, who shall thereupon make inquiry into the circumstances, and if upon such inquiry such resident magistrate shall deem fit so to do, it shall and may be lawful for him to authorise the said medical inspector or district surgeon to require the person so affected to place himself or herself under medical treatment by the said medical inspector or district surgeon, or some other duly qualified medical practitioner to be selected by such affected person, and to attend for that purpose at the time and place from time to time fixed by the said medical inspector or district surgeon or duly qualified practitioner until released from such attendance by the said medical inspector or district surgeon or duly qualified practitioner.

Inquiry private. Results not to be made public.

39. The inquiry in the last preceding section mentioned shall be held by the said resident magistrate privately, and the result of any such inquiry and the contents of any report, certificate, or notice made or given by any medical inspector or district surgeon, shall not be communicated or published by any person unless with

the consent of such affected person to any person, save and except the said resident magistrate, medical inspector, district surgeon, or affected person, or parents or guardian of such affected person: Provided that notwithstanding anything herein contained the result of such inquiry, and the contents of any report, certificate, or notice, as aforesaid, may be disclosed and proved for the purposes of any legal proceeding in any court having jurisdiction.

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40. If any person shall contravene the provisions of the last preceding section by disclosing or publishing, without such consent, as therein mentioned, to any person other than those in the last preceding section mentioned, the result of any inquiry or the contents of any report, certificate, or notice, as aforesaid, he shall be liable upon conviction before the resident magistrate of the district, to a fine of not exceeding twenty pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding fourteen days unless such fine be sooner paid.

Penalty for publication of results of inquiry.

41. If any person duly required by any medical inspector or district surgeon, as in the thirty-eighth section mentioned, to place himself or herself under medical treatment, shall neglect or refuse to attend for that purpose at any time or place fixed by the said medical inspector, or district surgeon, or medical practitioner, such person shall be liable to a penalty of not exceeding five pounds, 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.

Penalty for not attending as required for medical treatment.

PART III.

FORMS, NOTICES AND GENERAL PROVISIONS.

42. Every notice, order, or other instrument by this Act required to be served on any person shall be served by delivery thereof to such person for him or her, at his or her last known place of abode, or by delivery thereof to him or her personally.

Service of notices, &c.

43. The forms of certificates, orders, and other instruments given in the second Schedule to this Act, or forms to the like effect, with such variations and additions as circumstances require, may be used for the purposes therein indicated, and according to the directions therein contained, and instruments in these forms shall (as regards the form thereof) be valid and sufficient.

Forms in Schedule 2 sufficient.

44. In any proceeding under this Act any notice, order, certificate, copy of regulations, or other instrument purporting to be signed by a resident magistrate, inspector or inspectors, or district surgeon shall, on production, be received in evidence, and shall be presumed to have been duly signed by the person, and in the character by whom, and in which it purports to be signed, until the contrary is shown.

Signed notices, &c., good evidence, and presumed to be duly signed.

45. This Act shall not have the effect of legalising prostitution or of exempting any person engaged in or practising the same from

Prostitution not legalised. Retention of colonial law.

No. 39—1885.

such pains and penalties as may by the existing law of the Colony attach thereto.

Schedule I.

SCHEDULES.

THE FIRST SCHEDULE.

Name of Places, Districts, or Areas.

1. The Cape District; including Cape Town.
2. The district of Simon's Town.
3. The district of Port Elizabeth.
4. The district of King William's Town.
5. The district of East London.

Schedule II.

THE SECOND SCHEDULE.

Forms.

Form (A.)

(A.)

Notice for attendance of Female.

To A.B., of _____.

Take notice that an information or statement upon oath, a copy whereof is annexed hereto, has been laid before me, and that in accordance with the provisions of the Contagious Diseases Prevention Act, 1885, the truth thereof will be inquired into before me at _____, on the _____ day of _____ at _____ o'clock in the _____ noon.

You are, therefore, to appear, yourself or by some person on your behalf, before me at that place and time, to answer to what is contained in the said information or statement.

If you do not so appear you are liable to be arrested and brought before me in custody.

If you prefer it you may by a submission in writing, signed by you in the presence of a resident magistrate or of a medical inspector under the said Act for the place, district or area of _____, and attested by him, subject yourself to a periodical examination by a medical inspector or inspectors appointed under the said Act. If you do so before the time above appointed for your appearance, and give notice thereof at my office at _____, it will not be necessary for you to appear before me.

Dated this _____ day of _____.

(Signed) _____,

Resident Magistrate of _____.

(B.)

Order subjecting Female to Examination.

In pursuance of the Contagious Diseases Prevention Act, 1885, I _____, resident magistrate for the district of _____, do order that _____, of _____, be subject to a periodical medical examination by the medical inspector or inspectors for the time being appointed under that Act, for the place, district, or area of _____, for the purpose of ascertaining at such examination whether she is affected with a contagious disease within the meaning of the said Act, and that she attend for the first examination at _____, on the _____ day of _____, at _____ o'clock in the _____ noon.

(Signed) _____,

Resident Magistrate of _____.

No. 39—1885.

Form (B.)

(C.)

Voluntary Submission to Examination.

The Contagious Diseases Prevention Act, 1885.

I, A.B., of _____, in pursuance of the abovementioned Act, by this submission, voluntarily subject myself to a periodical medical examination by the medical inspector or inspectors for _____.

Dated this _____ day of _____, 18—.

(Signed) _____.

Attested (Resident Magistrate or medical inspector under X.Y the said Act for _____).

(D.)

Form (C.)

Form (D.)

Notice by Medical Inspector to Females of Times, &c., of Examination.

To A.B., of _____

Take notice, that in pursuance of the Contagious Diseases Prevention Act, 1885, you are required to attend for medical examination as follows:

_____ (here state times and places of examination).

Dated this _____ day of _____, 18—.

(Signed) _____ E.F.,

Medical Inspector for _____.

(E.)

Form (E.)

Certificate of Medical Inspector.

In pursuance of the Contagious Diseases Prevention Act, 1885, I hereby certify that I have this day examined A. B., _____ of _____ and that she is affected with a contagious disease within the meaning of Part I of that Act; and the hospital in which she is to be placed under Part I of the said Act is the _____ hospital.

Dated this _____ day of _____, 18—.

(Signed) _____ E. F.,

Medical Inspector for _____.

W

No. 39—1885.
Form (F.)

(F.)

Order by Resident Magistrate for Transfer.

By virtue of the power in this behalf vested in me by the Contagious Diseases Prevention Act, 1885, I hereby order that A.B., _____ of _____, now detained under Part I of that Act in the hospital of _____, for medical treatment, be transferred thence to the hospital of _____.

Dated this _____ day of _____, 18—.

(Signed)

M. N.,

Resident Magistrate of _____.

Form (G.)

(G.)

Notice to Female leaving Hospital who may be still affected.

The Contagious Diseases Prevention Act, 1885.

To A.B.

As you are now leaving this hospital, I hereby, in pursuance of the above-mentioned Act, give you notice that you are still affected with a contagious disease.

Dated this _____ day of _____.

(Signed) G. H.,

Medical Inspector for the district of _____.

NOTE.—The abovementioned Act provides as follows:—

If on any female leaving any hospital a notice in writing is given to her by the medical inspector or inspectors of the place, district, or area within which the hospital may be, to the effect that she is still affected with a contagious disease, and she is afterwards in any place for the purpose of prostitution, while still so affected, she shall be guilty of an offence under Part I of this Act, and on conviction before the resident magistrate of the district wherein she may reside or practise prostitution, shall be liable for each offence to imprisonment, with or without hard labour, and with or without spare diet, for any period not exceeding one month.

(H.)

Form (H.)

Application to be relieved from Examination.

To L.M., Esq., Resident Magistrate of _____.

I, A.B., _____ of _____, being in pursuance of the Contagious Diseases Prevention Act, 1885, subject to a periodical medical examination on my own submission [or under the order of L.M., Esq., as the case may be], dated the _____ day of _____, do hereby apply to be relieved therefrom.

Dated this _____ day of _____, 18—.

(Signed) A. B.

(I.)

Report to Resident Magistrate by Medical Inspector or District Surgeon, under section 38 of the Contagious Diseases Prevention Act, 1885.

No. 40—1885—
Form (I.)

To L.M., Esq., Resident Magistrate of _____.

I, A.B. [Medical Inspector or District Surgeon of _____, as the case may be], do hereby report that C.D., of _____, is affected by contagious disease under such circumstances as to cause the spread of such disease probable, and that [he or she] is not under medical treatment by any duly qualified medical practitioner. I beg to request that you will have due inquiry made accordingly, and, if you should so think fit, that thereupon authority be given to me to require the said C.D. to place [himself or herself] under medical treatment by some duly qualified person.

Dated this _____ day of _____.

(Signed) A.B.

(J.)

Notice by Medical Inspector or District Surgeon to affected person requiring such person to place himself or herself under medical treatment under section 38 of the Contagious Diseases Prevention Act, 1885.

Form (J.)

To C.D., of _____.

Being duly authorised by the resident magistrate of _____, I hereby require you to place yourself under medical treatment by me or by some duly qualified medical practitioner to be selected by you. You are required to attend for such treatment at _____ on _____.

Dated this _____ day of _____, 18—.

(Signed) X.Y.

Act No. 40—1885.] [Promulgated 11th August, 1885.

ACT

To Amend the Law relating to the Allotment of Agricultural Lands.

WHEREAS it is expedient 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:—

Preamble.

1. The second section of the "Agricultural Lands Act, 1882," shall be read as if the words "and not less than ten morgen in extent" therein appearing were omitted therefrom, and the words "and not less than four morgen in extent" inserted in lieu of the words so omitted.

Section 2 of Act No. 37 of 1882 amended.

2. The Governor may remove from the Land Board mentioned in section five of the said Act No. 37 of 1882, any member appointed thereto, and appoint another member in the place of the one so removed.

Members of Land Board may be changed.

No. 41—1885.

Governor may
with consent of Par-
liament assign waste
lands as commonage.
Short Title.

3. The Governor may from time to time with the consent of Parliament assign waste lands not being arable land as commonage for the holders of allotments under Act 37 of 1882.

4. This Act may be cited as the "Agricultural Lands Amendment Act, 1885."

Act No. 41—1885.] [Promulgated 11th August, 1885.

ACT

To Amend the "Public Health Act, 1883."

Repealed by
1897 Act 23.
Preamble.

WHEREAS it is expedient in certain respects to amend the Act No. 4 of 1883, commonly called the "Public Health Act, 1883": 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:—

Section 3 of Act 4
of 1883, repealed.

Governor may
make advances to
local authority.

Half the amount
expended for certain
purposes of Act 4 of
1883 to be paid by
Treasury.

Rate on huts and
dwellings to be lev-
ied in proportion of
1s. for each hut for
every farthing in
the £.

How to be col-
lected.

1. The third section of the said Act is hereby repealed.

2. 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 said Act such sum as he may deem desirable: and one-half of such amount as shall be satisfactorily proved to have been expended by any local authority for the purposes of preventing the spread of or suppressing contagious or infectious disease, or for quarantine purposes, shall be paid out of the public treasury.

3. As often as any local authority, as defined by the second section of "The Public Health Act, 1883," shall apply to the divisional council of any division to levy a rate upon the rateable property within the area in which such local authority has been appointed to act in terms of the fifth section of the said Act, it shall be lawful for the divisional council, in addition to levying the rates in the said section mentioned, to levy a rate upon all huts or dwellings within such area erected upon Crown land not liable otherwise to be rated, such rate to be in the proportion of one shilling for each hut or dwelling for every farthing in the pound levied upon the assessed owner of rateable property.

4. The rate in the last preceding section mentioned shall be collected by the Inspectors of Native Locations (if any) within the said area, or such other officer as the Governor may appoint.

No. 42—1885.]

[*

ACT

To Define and Regulate the Civil Service of the Colony.

WHEREAS it is expedient to define the Civil Service of the Colony, and to provide for the framing of rules regulating admission thereto, leave of absence, the maintenance of discipline, superannuation, security for the efficient discharge of duty, and other matters connected therewith: 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.

CIVIL SERVICE DEFINED.

1. The Civil Service of the Colony shall consist of all persons holding any office mentioned in the Schedule to this Act, excepting persons holding office on probation, and persons below the rank of third class clerks who shall not have had ten years continuous service, as in the Schedule provided, and of all persons holding offices of like rank which the Governor may from time to time direct to be placed in such Schedule, not being persons holding offices mentioned in the next succeeding section hereof: Provided

Civil Service defined.

- (1) That such persons are not remunerated solely by fees or allowances.
- (2) 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 persons to whom superannuation allowances may be granted under the provisions of the thirty-seventh section hereof.

2. Judges of the Supreme Court and their clerks, private secretaries to the Governor or aides-de-camp to the Governor, and officers of either House of Parliament shall not, for the purposes of this Act, be deemed to be in the Civil Service of the Colony.

Who not to be deemed Civil Servants under this Act.

ADMISSION.

3. No person shall be accepted as a candidate for the Civil Service of the Colony

Admission to Civil Service.

- (1) Unless he is over seventeen and under twenty-five years of age.
- (2) Unless he is free from any physical defect or disease which would be likely to interfere with the proper discharge of his duties.
- (3) Unless he is of good character and free from any legal disability:

Provided that any person who has been employed in the permanent civil service, and whose services have been dispensed with by

*Not promulgated when this Edition was passing through the Press.

Repealed by Act 32 of 1955

No. 42—1885. • reason of the reduction of establishments, may be re-employed without reference to the provisions of this Act: Provided further that judge's clerks who shall be such at the date of the taking effect of this Act, shall be eligible as candidates for the Civil Service even if their age shall exceed twenty-five years.

Civil Service Examination.

4. All candidates for admission into the Civil Service of the Colony shall be required to pass an examination (to be styled the Civil Service Examination) in such subjects as the Governor shall from time to time prescribe: Provided that the Governor may, by the regulations to be framed under the eighth section hereof, exempt candidates who are graduates of any university of recognised standing, 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.

Official lists of passed candidates to be kept in Colonial Office.

5. Official lists of candidates who have passed the Civil Service Examination shall be kept in the office of the Colonial Secretary, 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 appointment on probation name to be removed from list.

6. As soon as any candidate shall have attained the age of twenty-five years, or shall have been appointed on probation, his name shall be removed from such official lists.

Civil Service Law Examination.

7. The Council of the University of the Cape of Good Hope is required to hold from time to time a Civil Service Law Examination in the following subjects:—

- (1) Elements of Dutch law.
- (2) Elements of English law.
- (3) Selections from colonial statute law, including
 - (a) The law of evidence.
 - (b) Procedure in criminal cases.
 - (c) Procedure in civil cases.

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.

Governor to frame regulations for examinations.

8. The Governor shall from time to time appoint the persons by whom the examinations mentioned in the fourth section hereof shall be held, and shall frame rules and regulations for the conduct of such examinations, the times and places for holding them, and for establishing the standards of qualification to be applied to candidates.

Who eligible for law examination.

9. All persons in the Civil Service of the Colony, whether serving on probation or on the fixed establishment, and all persons whose names appear in the official lists of candidates, shall be eligible as candidates for the Civil Service Law Examination.

List of those who have passed to be kept.

10. Lists of candidates who have passed the Civil Service Law Examination shall be kept in the office of the Colonial Secretary, and in these lists shall be included the names of persons in the

Civil Service of the Colony who, having passed any existing Law Examination of the University of the Cape of Good Hope, may have requested that their names should be included in such lists.

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11. Such lists shall further show the percentage of the maximum number of marks which the persons named therein shall have obtained in the Law Examination or Examinations which they shall have passed.

Lists to show numbers of marks.

12. Whenever it becomes necessary to admit a person into the Civil Service, the ministerial head of the department in which the appointment is to be made shall select from the official lists of candidates the person in his opinion best fitted to fill the office, and shall submit the name of such person to the Governor for appointment on probation; provided that 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 six months, and until he shall have satisfied the ministerial head of his department of his fitness to be permanently employed in that department, and that his conduct and diligence during probation have been uniformly satisfactory.

How appointments to be made.

six months probation before being placed on fixed establishment.

13. Whenever the permanent head of a ministerial department, in which it is necessary to fill any office, reports that, for reasons set forth in such report, the qualifications requisite for such office 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 in the Civil Service of the Colony, it shall be lawful for the Governor, on the recommendation of the ministerial head of the department, to appoint to such office such other person possessed of such qualifications, as shall be deemed best fitted to fill the vacancy, and to dispense wholly or partially with the 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. The Governor shall, within thirty days after the meeting of Parliament in each year, cause to be laid on the table of both Houses a return of all appointments made under the provisions of this section up to the date of the preparation of such return.

Cases in which a minister may appoint a person who has not passed Civil Service Examination.

Return of all appointments made under this section to be laid before Parliament.

14. From and after the first day of January, 1887, it shall not be lawful permanently to appoint to any office of Resident Magistrate, or Assistant Resident Magistrate, any person who, at that date, shall not have served ten years or upwards in the Civil Service of the Colony, unless his name shall appear in the lists of candidates mentioned in section ten: Provided always that no such appointment shall be made unless any such person to be so appointed shall possess a sufficient knowledge of the Dutch language.

No magistrate to be appointed after 1st January, 1886, unless after 10 years service or Civil Service Law Examination.

No. 42—1885.

GENERAL.

Governor may frame rules for the Civil Service.

15. It shall be lawful for the Governor to frame or approve of rules for the Civil Service, not inconsistent with the provisions of this Act, specifying the duties of officers, the hours of attendance, the conditions on which leave of absence and superannuation allowances may be granted, and regulating the maintenance of discipline and other matters connected with the discharge of the public duties of all officers in the service; and from time to time alter and amend such rules as circumstances may require.

Suspension, reduction, or dismissal for breach of rules.

16. If any officer be guilty of any breach of such rules, the minister of any department may suspend such officer pending examination by order of the Governor, and the Governor may, according to the nature of the offence, reduce him to a lower rank in the public service, or to a lower salary, or, with the consent of the Executive Council, dismiss him from the public service.

Drunkenness.

17. No person who is proved to the satisfaction of the Governor to be habitually using intoxicating beverages to excess shall be appointed to or retained in the public service.

Conviction of crime.

18. If any officer is convicted of any crime, and sentenced to imprisonment without the option of a fine, or become insolvent, he shall be deemed to have forfeited his office, and thereupon cease to perform his duties or receive his salary.

Pecuniary embarrassment.

19. When any officer has forfeited his office by reason of pecuniary embarrassment as aforesaid, if he prove to the satisfaction of the Governor that such embarrassment has not been caused or attended by any fraud, extravagance, or dishonourable conduct, the Governor may reinstate such officer in his former position, but no uncertificated insolvent shall be so reinstated.

SUPERANNUATION.

Superannuation.—
Allowances thereon.

20. It shall be lawful for the Governor, if to him it shall appear expedient, to call upon any person on the fixed establishment of the Civil Service of this Colony who shall have attained the age of sixty 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, and some other person may be duly appointed to fill the same.

Rates of such allowances.

21. 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 on the fixed establishment of the Civil Service of the Colony, and for whom provision shall not otherwise have been made by Act of Parliament, or who may not be specially excepted by the authority of Parliament, shall be as follows :—

To any person who shall have served ten years and upwards, and under eleven years, an annual allowance of ten-sixtieths of such salary and emoluments ;

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And, in like manner, a further addition to the annual allowance 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.

22. Except as is hereinafter provided, it shall not be lawful to grant superannuation allowance under the provisions of this Act to any person who shall be under sixty 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.

No allowance to officers under 60 except in cases of illness, &c.

23. It shall be lawful for the Governor to grant to any person who, being the holder of an office in respect of which a superannuation allowance may be granted, is compelled, before the completion of ten years' service, to quit the public service by reason of severe bodily injury, occasioned, without his own default, in the discharge of his public duty, a gratuity not exceeding three months' pay for each year of service, or a superannuation allowance not exceeding ten-sixtieths of the annual salary and emoluments of his office.

Gratuities in case of bodily injury while on duty.

24. It shall be lawful for the Governor to grant to any person who, being the holder of an office in respect of which a superannuation allowance may be granted, is constrained, from 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 as that no such gratuity shall exceed the amount of one month's pay for each year of service.

Allowance to officers incapacitated by infirmity.

25. Should any person, being the holder of an office in respect of which a superannuation allowance may be granted, die from bodily injury, occasioned, without his own default, in the discharge of his public duty, it shall be lawful for the Governor to grant to the widow or minor children of such person, or to his parents, if dependent on him for their maintenance, a gratuity not exceeding one month's pay for each year of service.

Allowance to widows and children of officers dying from injuries while on duty.

26. It shall be lawful for the Governor to grant to any person retiring or removed from the public 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 under the scale provided in this Act:—

Allowances on abolition of office.

If to persons who shall have served twenty years and upwards, ten years were added to their actual service;

If to persons who shall have served under twenty years and not less than fifteen years, seven years were added to their actual service.

Y

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If to persons who shall have served under fifteen years and not less than ten years, five years were added to their actual service;

If to persons who shall have served under ten years and not less than five years, three-sixtieths were added to as many sixtieths of the salary and emoluments of the office as the person has served a complete number of years;

If to persons who shall have served under five years, one-sixtieth were added to as many sixtieths of the salary and emoluments of the office as the person has served a complete number of years:

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.

Person enjoying allowances under 60 may be called on to serve again.

27. Every person to whom a superannuation or compensation allowance shall have been granted before he shall have attained the age of sixty years, shall, until he has attained that age, be liable to be called upon to resume his duties in his former office, or to fill any public office or situation in the Colony for which he is qualified; and if he shall decline, when 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.

Allowance to cease on appointment to office of a value equal thereto.

28. 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 office in any public department in this Colony or elsewhere, such allowance or compensation shall cease to be paid for any period subsequent to such appointment, if the annual amount of the salary and emoluments of the office to which he shall be appointed 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 of his new appointment, shall be equal to that of his former office.

Calculation of term of service of officers reappointed under section 24.

29. It shall be lawful for the Governor, on the ultimate retirement of any person who may have been re-employed under the twenty-fourth 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, precisely as if such periods had formed continuous service.

Special cases in which larger allowances may be granted.

30. It shall be lawful for the Governor to grant to a person any 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 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 both Houses of Parliament before it be granted, and it shall be lawful for the Governor to grant to any person any such allowance of 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.

31. 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 for 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 twenty-fourth 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.

How superannuation allowances are to be calculated.

32. 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 superannuation or compensation allowance, the term salary and emoluments shall be taken to include house rent or house allowance, or the annual value of quarters in any buildings belonging to 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; the net amount of fees to an extent not exceeding one-fourth of such salary; the value of rations; 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 allowance for horse keep, or travelling, or stationery, or any

Continuous services required in calculation of allowances.

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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 personally defrayed by the officer.

No leave of absence beyond one month to officers about to retire on pension.

33. It shall not be lawful to grant leave of absence for any period exceeding one month to any person who purposes to retire 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 such leave commenced: Provided 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 of continuing to serve for six months thereafter, and that such infirmity is likely to be permanent, it shall be lawful for the Governor, should he see fit, to direct that the period of service of such person shall be reckoned up to the date of his ultimate retirement.

Exceptions.

No pension to officers paid by fees.

34. Except in so far as it is otherwise by law provided, it shall not be lawful to grant any superannuation allowance to any person who is paid entirely by fees or allowances.

Fractional part of year not to count.

35. 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.

36. It shall not be lawful to grant a superannuation 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.

37. For the purpose of calculating any superannuation or compensation allowance, absence on leave on full or half-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 absence on leave without salary shall not be reckoned in the period of service.

When pension awarded may be stopped.

38. After a pension or superannuation allowance has been awarded to any person, the same may thereafter be rescinded, in case it shall appear that during his tenure of office he was guilty of any such grave offence as would have led to his dismissal.

Pensions of persons transferred to or from the Civil Service.

39. Should any person, serving 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, 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.

40. Except as hereinafter is excepted, it shall not be lawful to grant any superannuation allowance to any person holding an office, the duties of which are not such as to require that the holder should give his whole time to the public service; but nothing herein contained shall prevent the Governor from granting a retiring allowance, 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 see fit to direct: Provided that no such direction 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; or shall extend or apply to any holder of an office unless made not later than twelve months after the date of the appointment of such holder.

Pensions only to persons whose duties occupy their whole time.

Exceptions.

41. 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 existing superannuation regulations of any person who may at the time of the taking effect of this Act be on the fixed establishment of the Public Service.

Pension to be calculated on actual service.

SECURITY.

42. It shall be the duty of the Treasurer of the Colony to fix and determine the amount of security to be given by the holder of every office in the public 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, showing the amount so fixed in respect of such offices, and from time to time to amend such schedule as circum-

Security to be given by public officers.

No. 12—1885.

stances 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 ministerial head of the department in which such office may happen to be.

“Public Service
Guarantee Fund.”

43. In order to provide proper security for the faithful and punctual discharge of the duties of the holders of offices from whom security is required, and to enable the practice heretofore followed of obtaining the guarantee of private persons, or of a public company to be discontinued, a fund shall be created to be styled the “Public Service Guarantee Fund,” which shall provide such security for all persons who shall contribute thereto under the provisions of sections forty-two to forty-six hereof, both inclusive.

Payments thereto
to be lodged in
Treasury.

44. All contributions or other moneys payable to the said fund shall be lodged in the Treasury and shall be accounted for by the Paymaster-General of the Colony.

Deductions in case
of officers not
hitherto called on to
give security.

45. Whenever any person who has not previously contributed to the Public Service Guarantee Fund, in respect of any appointment previously 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 con-
tributions to fund
where a less or
greater security for
new office required.

46. Should any person hereafter appointed to any such office have contributed to such fund in respect of an office previously held by him, then, in case the amount of security required in respect of his new office shall be either less than or equal to that required in respect of such former office, 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 termination of the period for which he shall have already contributed, or if such period shall have already terminated, then from the date of his entering on the discharge of the duties of such new office; and in case the amount of security required in respect of his new office shall be greater than that required in respect of his former office, a deduction at the rate of one-eighth per cent. on the increase in the amount for which the security is required shall be made on account of such fund from the first payment of salary in respect of such new office, and such person shall further contribute to such fund at the rate of one-eighth per cent. per annum on such higher amount of security from the date of his entering on the discharge of the duties of such new office: Provided that if the period for which he shall have previously contributed shall not have

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expired, a portion of such previous contribution, proportionate to such unexpired period, shall be deducted from the first contribution required by this section.

47. Any person who at the time of taking effect of this Act holds an office in respect of which security has been given, shall from and after the 31st March, 1886, contribute to the said fund as if then first appointed to such office, and on his so doing his sureties shall be relieved from all responsibility in respect of his subsequent transactions: Provided that any person may, should he desire, so contribute at any time before that date.

Case of officers already under security.

48. Every person who at the date of the taking effect of this Act holds an office in the public service of the Colony in respect of which, in the opinion of the Treasurer of the Colony, security should be given, but who has not been required to give, or, if so required, has not given, any security, shall contribute to the Public Service Guarantee Fund, as if he had been first appointed to such office at such date.

Cases in which security not hitherto required.

49. 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 deduction not be made as prescribed in this Act, the amount shall be forthwith recovered from the person in default.

First contribution to fund regulated.

50. The rates of initial deduction and annual contribution, set forth or referred to in the sections of this Act, from the forty-second to the forty-sixth inclusive, 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 such sections, as if the same had been originally inserted therein.

Initial deductions may be altered by Parliament.

51. 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 from him, in such manner as the Governor 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 of the Colony, to pay out of the aforesaid fund such sum as shall be sufficient to make good the amount of loss sustained by the said 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

Recovery from person who has rendered the fund liable to pay for his default.

No. 42—1885.

any) still remaining due to the revenue, and secondly, to the reimbursement of such fund.

Interest at 4 per cent. on quarterly balance of fund.

52. It shall be lawful for the Governor to cause interest to be paid from and out of the public revenue, at the rate of four per cent. per annum, on the balance at the close of each quarter to the credit of the fund in the books of the Paymaster-General.

Power to invest balance.

53. It shall be lawful for the Treasurer of the Colony to invest any portion of the balance to the credit of the 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.

54. A statement of all moneys received and disbursed under the provisions of the fortieth to the fiftieth sections of this Act inclusive, 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.

55. At the end of every period of five years, the first period being reckoned from the taking effect of this Act, a complete statement of all moneys received and disbursed under the provisions of the fortieth to the fiftieth sections of this Act inclusive, and of the position of the Public Service Guarantee Fund, together with all such further particulars connected therewith, as may be required for a full investigation into the working and condition of the said fund, shall be prepared by the Assistant Treasurer, and laid before both Houses of Parliament, during the first session after the expiration of every such period.

MISCELLANEOUS.

All departments to be considered as one service.

56. 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, whenever the interests of the service may require it; and when so transferred or removed, except at his own request, the actual reasonable travelling expenses of himself and family shall be paid on production of proper vouchers: Provided that no person, unless disgraced, shall be transferred without his own consent to an office of a lower grade or one to which a lower salary, inclusive of house rent but exclusive of local allowances, is attached.

Resignation of office has to be made.

57. 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 ministerial head of his department may require; and any such officer leaving the service without having given such notice shall forfeit such sum, not exceeding three months' salary, as the Governor may determine.

Appointment of officers not mentioned in schedule.

58. The ministerial head of any department may appoint to such department such officers not mentioned in the Schedule to

this Act as may be necessary for the efficient conduct of the public service; provided always that due provision shall have been made by Parliament for the salaries of the persons so to be appointed. And when any such person shall have been employed on a monthly or annual salary for at least ten years, it shall be lawful for the Governor to assign him such pension as he would be entitled to if he were an officer on the fixed establishment of the Civil Service, subject to the same regulations as are in this Act provided for with respect to pensions. If at any time the ministerial head of a department shall deem it expedient in the interests of the public service to dispense with the services of any person employed in such department under the provisions of this section, not being a person on the fixed establishment, he shall be at liberty to do so; and if such person shall have served for a less period than ten years, it shall be lawful to pay him by way of gratuity any sum not exceeding one month's salary for every year of the period during which he shall have served continuously, and in such case no pension shall be assigned to such person: Provided always that no person dismissed for misconduct shall receive any pension or gratuity.

No. 42—1885.

May receive pension.

Services may be dispensed with.

May be paid a gratuity.

59. If any officer on the fixed establishment shall be employed to fill any office in the public service not mentioned in the Schedule to this Act such employment shall not be construed to his prejudice.

Civil servants not to be prejudiced by employment in office not mentioned in schedule.

60. The Act No. 4 of 1878, entitled "An Act for the Better Regulation of the Public Service of the Colony," is hereby repealed.

Act No. 4 of 1878 repealed.

61. Nothing in this Act contained shall entitle any civil servant to claim exemption from the operation of any Act that may be passed hereafter, requiring annual deductions from the salaries of civil servants for the purpose of establishing a pension fund.

Civil servants not exempt from deductions on salaries for pension fund.

62. This Act may be cited as the "Civil Service Act, 1885."

Short title.

SCHEDULE.

Under-Colonial Secretary.
 Assistant Treasurer of the Colony.
 Secretary to the Law Department.
 Assistant Commissioner of Crown Lands.
 Under Secretary for Native Affairs
 Secretary for Lands and Mines.
 Civil Commissioners.
 Resident Magistrates.
 Controller and Auditor-General.
 Clerk to the Executive Council.
 Registrar of Deeds.
 Controller and Accounting Officer, Ordnance Department.
 Superintendent-General of Education.
 Postmaster-General.
 Commissary of Ordnance.

Schedule.

AA

No. 43—1885.

Collector and Sub-Collectors of Customs.
 Solicitor-General.
 Crown Prosecutor.
 Masters and Registrars of Superior Courts.
 High Sheriff.
 General Manager of Railways.
 Hydraulic Engineer.
 Surveyor-General.
 Chief Inspector of Public Works.
 Special Magistrate Northern Border.
 Chief Magistrates of Native Territories.
 Officers of and above the rank of 3rd Class Clerks in the departments of the foregoing, and all other employés in the department of the General Manager of Railways and the Postmaster-General, including the Telegraph Department, who shall have had ten years continuous service, and who shall have received a certificate of efficiency and good conduct from the head of their department.
 Surgeons Superintendent and Resident Surgeons of Hospitals and Lunatic Asylums, and Assistant ditto.
 Deputy Inspectors of Colleges and Schools.
 Chief Inspector of Excise.
 Interpreters of Superior Courts.
 Superintendents of Convict Stations and Resident Chaplains.
 Port Captains, Port Officers, and Harbour Masters at the Principal Ports.
 Conservators of Forests.
 Veterinary Surgeon.
 Inspectors and Assistant Inspectors of Roads.
 Keeper of the Archives.

Act No. 43—1885.] [Promulgated 11th August, 1885.

ACT

To Amend the Law relating to the Courts of Resident Magistrate.

Preamble.

WHEREAS it is expedient to amend the law relating to the Courts of Resident Magistrate: 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. As often as any preparatory examination taken against any prisoner for any crime or offence shall have been transmitted to the Attorney-General for his consideration, and the Attorney-General shall be of opinion that the evidence taken at such preparatory examination is such as to require that the prisoner shall be put on his trial, and be of opinion also that the exercise of the jurisdiction conferred by this Act will satisfy the ends of justice,

In cases remitted by the Attorney-General, Magistrates may sentence to one year's imprisonment with or without hard labour; or 3 months with spare diet and with or without hard labour, or to thirty-six lashes in cases of previous conviction within three years.

then and in that case it shall be lawful for the Attorney-General to remit the case for trial to the court of the resident magistrate by whom the preparatory examination was taken, and such court shall thereupon proceed to try the same in manner and form as in the twenty-ninth section of the "Criminal Law Amendment Act, 1861," prescribed; and in case the prisoner shall be convicted, such court may sentence him to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for any period not exceeding one year, or to imprisonment with spare diet and with or without hard labour for any period not exceeding three months, or by corporal punishment in any number of lashes not exceeding thirty-six, or to both such fine and such imprisonment or to such imprisonment and such corporal punishment: Provided that the punishment of corporal punishment shall not be inflicted except in case of a second or subsequent conviction of some crime or offence within the space of three years.

2. The provisions of the forty-third, forty-seventh, forty-eighth, and forty-ninth sections of the Act No. 20 of 1856, intituled "An Act for amending and consolidating the Laws relative to the Courts of Resident Magistrates," shall extend and apply to all cases of convictions under this Act.

3. The powers by this Act conferred upon the Attorney-General may be exercised by the Solicitor-General and the Crown Prosecutor within their respective jurisdictions.

4. Nothing herein contained shall be taken to affect the provisions of the Acts Nos. 12 of 1860, and 17 of 1867, intituled respectively "An Act for increasing the jurisdiction of the Courts of Resident Magistrate in Criminal Cases, in which the persons accused admit their guilt," and "An Act to amend the Criminal Law in regard to Thefts of Stock." Provided that the resident magistrate may punish any prisoner convicted under Act 12 of 1860 by fine not exceeding one hundred pounds or by imprisonment with or without hard labour for any period not exceeding two years, or by corporal punishment not exceeding thirty-six lashes, or by both such fine and such imprisonment or both by such imprisonment and corporal punishment.

5. Notwithstanding anything contained in the first, second and fourth sub-sections of the eighth section of the Act No. 20 of 1856, intituled "An Act for Amending and Consolidating the Laws relative to the Courts of Resident Magistrates," or in the second section of the Act No. 21 of 1876, intituled "An Act to Amend the Law relating to the Jurisdiction and Powers of Resident Magistrates," and also notwithstanding the provisions of any rule, order, or regulation of any such courts, or of any other Act of Parliament contrary to or inconsistent with the provisions of this section, the jurisdiction of every resident magistrate is hereby extended.

No. 43—1895.

Forty-third, forty-seventh, forty-eighth and forty-ninth sections of Act 20 of 1856 to apply.

Solicitor - General and Crown Prosecutor to have same powers as Attorney-General.

Acts 12 of 1860, & 17 of 1867, not affected.

Magistrate may impose fine of £100 or imprisonment of 2 years, or 36 lashes.

Jurisdiction extended in civil cases.

No. 43—1885.

- (a) To all cases founded upon any bill of exchange, promissory note, good-fors, or other written acknowledgment of debt commonly called a liquid document, in which the sum demanded shall not exceed two hundred and fifty pounds sterling.
- (b) To all cases commonly called illiquid for the recovery of the price of any merchandize, goods, or other movable property, when the amount demanded shall not exceed one hundred pounds sterling.

Provided that as often as any action or suit shall be brought upon any liquid document for any sum exceeding one hundred pounds, as aforesaid, the resident magistrate shall have jurisdiction to try any plea of set-off or compensation, or any cross case or claim in reconvention not exceeding the amount demanded by the plaintiff in his summons, whether the plaintiff shall or shall not succeed in proving the amount so demanded to be due.

Provisions of section 3 of Act 21 of 1876 to apply save as to return day of summons.

6. All and sundry the provisions of the third section of Act No. 21 of 1876, with regard to cases founded upon certain written acknowledgments of debt shall extend and apply and are hereby extended and applied to all cases, liquid or illiquid, in which the sum, thing, matter, debt, or damage demanded or in dispute shall exceed in amount or value the sum of forty pounds sterling: Provided, however, that in regard to liquid cases which shall be removed into any superior court under the said section, the return day of the summons shall not be the date of the order of removal, but such convenient day, being a day on which such superior court shall sit for the hearing of provisional cases, as the magistrate shall in such order fix and appoint.

In cases of appeal, or review, magistrate to forward statement of facts and reasons.

7. Where the judgment of any court of resident 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 magistrate by whom such judgment was granted shall deliver to the clerk of the court, for transmission to the registrar of the court for hearing the appeal or review, a statement of the facts which he shall find to have been proved, and his reasons for the judgment pronounced.

Enrolled agents.

8. From and after the taking effect of this Act, no person in any district where not less than two attorneys are in practice, shall be admitted and enrolled as an agent in the court of any resident magistrate, anything in the thirty-sixth section of the Act No. 20, 1856, notwithstanding, provided that all agents heretofore admitted and enrolled as agents shall continue as such, as if this Act had not been passed.

Repeal of sections 2 and 3 of Ordinance 13 of 1874 of Griqualand West. Short title.

9. The second and third sections of the Ordinance of Griqualand West, numbered 13 of 1874, are hereby repealed.

10. This Act may be cited as "The Magistrates' Jurisdiction Act, 1885."

Act No. 44—1885.] [Promulgated 11th August, 1885.

ACT

To Amend the Law regulating the Sale of Intoxicating Liquors.

WHEREAS it is expedient in certain respects to amend the provisions of the law regulating the sale of intoxicating liquors: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble

1. For the purposes of this Act the words "the said Act" shall be taken to mean the "Liquor Licensing Act, 1883;" and so much of the thirty-ninth section of the said Act and of the second schedule thereto as relates to the granting of Sunday privileges, and so much of the provisions of the said Act as may be repugnant to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

Meaning of words "said Act" and parts repealed.

2. The second section of the said Act, providing for certain exemptions from the operation of the Act, shall be read and construed as if the following had been inserted and formed a part thereof:—

Exemption from operation of the Act.

(7.) Any person appointed by the President of the Legislative Council and the Speaker of the House of Assembly, as Caterer of the refreshment rooms of the Houses of Parliament, who shall sell any spirituous or other liquors, subject to such rules and conditions as may be laid down by the Joint Refreshment Room Committee of the Council and Assembly respectively.

3. The licensing court may, in respect of any "bottle licences" granted, fix the hours during which sales under such licences may take place, not being earlier than six o'clock in the morning nor later than eight o'clock at night on any day other than Sunday, Christmas Day, and Good Friday. Under any "bottle licence" liquors may be sold in bulk in any cask or other vessel, in quantities not less than seven gallons.

Bottle licences; hours for sale between 6 a.m. and 8 p.m.

4. All club licences then current shall cease and determine upon the thirtieth day of September, 1885, and in case of licences issued for a longer period, there shall be refunded to the licensees a proportionate amount of the sums paid for or in respect of such licences; and no club licence shall be issued under the said Act, nor if issued shall be renewed, unless the applicant shall produce a certificate from the resident magistrate of the district, which shall be issued subject to any regulations made by the Governor, and shall state that it has been made to appear to his satisfaction that the club in respect of which a licence is sought has been established as a *bonâ fide* club, and is a fit and proper club to receive a club licence: Provided that the granting of such certificate by any

All club licences terminate on 30th September, 1885.

Renewals subject to certificate by Magistrate and regulations made by Governor.

BB

No. 44—1885.

No Club licence to
Diamond Mining
Companies.Penalty for con-
travention of club
licence.Amendment of
Section 19.

Of section 39.

Provision for carry-
ing on business in
licensed premises for
remainder of term
of licence, under
certain circum-
stances.

resident magistrate shall not be held or considered a bar to any enquiry as to whether any such club is or is not a *bonâ fide* club: Provided, further, that no club licence shall be granted to any diamond mining company or their employés, within the mining areas of Kimberley, De Beer's, Du Toit's Pan, or Bultfontein.

5. Any person who, under colour of a club licence, shall sell liquor to any person not being a member of such club; or any licensed person who shall contravene any condition of his licence, or who shall sell liquor to any person to whom he is not authorised by his licence to sell, shall be liable upon conviction to the penalties prescribed by the seventy-fifth section of the said Act.

6. From the nineteenth section of the said Act the word "eight" shall be expunged and the word "twenty-one" inserted instead of the said word "eight."

7. The licensing court may, if it shall be satisfied of its being for the benefit and convenience of the public so to do, at any licensing meeting grant to the holder of any retail licence authority to keep open his licensed house during such hours of Christmas Day or Good Friday as such court shall think fit.

8. The resident magistrate and any two members of the licensing court may, either upon or without production of the licence, authorise any person whom they shall consider entitled to the benefit of any licence (other than a wholesale licence or club licence) to carry on the business in the licensed premises for the remainder of the term for which the licence was granted in any of the following cases:

- (1) Whenever any person to whom the licence was granted absconds or abandons the licensed premises.
- (2) If, during the currency of any licence, the holder is ejected from, or ceases to occupy, the licensed premises or his tenancy thereof is determined by effluxion of time, or by notice to quit, or by any other means except insolvency, and he neglects or refuses to transfer the licence to the person claiming to be entitled to the benefit of the licence as owner or lessor of the licensed premises.
- (3) When, in pursuance of any contract or agreement between the parties, the licensed person has agreed to transfer the licence to the person claiming to be entitled, and unjustly refuses or neglects to do so.
- (4) When any licensed person (not being the owner or lessor of the licensed premises) becomes personally disqualified, or has his licence forfeited, and such owner or lessor has not been privy to, nor a consenting party to, the act or default of his tenant, and has the legal right to eject the tenant from such premises, or such tenant agrees to vacate the licensed premises:

Provided that (except in any case where the licensed person shall have absconded) the licensed person shall have served upon him

notice in writing of the intention to apply for the authority sought, stating the grounds upon which the application is made, and the time and place where it will be considered, at least two days before the time therein fixed.

9. In any case in which the holder of any licence who shall not be the owner of the licensed premises shall make application under the said Act for the removal of his licence from the licensed premises to any other premises or for the transfer or temporary transfer of the licence from such holder to any other person, such application shall not be considered unless proof be given that at least two days' notice in writing has been given to the owner of the premises or lessor of the applicant when the lessor is not the owner, stating the nature of the intended application, and the time and place when it will be considered.

Transfer of licences.

10. Upon application and upon production of a certificate signed by any field-officer commanding in either the Cape Mounted Riflemen or the Cape Infantry, it shall be lawful for any resident magistrate without claiming the payment of any sum of money, to grant to the applicant producing such certificate a licence to be called a regimental canteen licence, and thereupon the person applying shall be entitled and authorised at any time or place during the period specified in such certificate to sell in any quantity any intoxicating liquors to any member of the force in which the said field officer holds command, but to no other person whatsoever: Provided that every certificate shall specify and set forth

Licence for Regimental Canteen upon certificate of Commanding Officer of certain defence forces.

Details of certificate.

- (1) The name of the applicant;
- (2) That the applicant is a fit and proper person to receive and hold the licence required;
- (3) The period during which the licence is recommended to be granted to the applicant;

and provided, further, that any person holding such regimental canteen licence who shall sell intoxicating liquor to any person not being a member of the said force, shall be liable on conviction to the penalties prescribed in the seventy-fifth section of the said Act as though he were convicted of dealing in or disposing of intoxicating liquors without a licence. Any such regimental canteen licence may at any time be cancelled by the resident magistrate on the recommendation of such field-officer as aforesaid.

Penalty for sale to person not member of force.

11. Any person who shall at any time be lawfully managing, superintending or conducting the business of the holder of any licence under the said Act or this Act shall be subject and liable to the same duties, obligations and penalties as such holder: provided that nothing herein contained shall be taken to relieve such holder from any duties, obligations or penalties to which he may by law be subject or liable.

Manager of licensed business subject to same penalties as holder of licence.

12. For the purposes of the twenty-third section of the said Act the several districts of the Cape Town Municipality, defined

Wards in Cape Town.

No. 45—1885.

in pursuance of the fifth section of the Cape Town Municipality Act 1882, shall be deemed and taken to be wards of the said municipality.

Farmers may sell their own produce in quantities of not less than eight gallons.

13. Nothing in the Liquor Licensing Act, 1883, shall apply to any person engaged in agriculture who may sell upon the property occupied by him intoxicating liquors in quantities of not less than eight gallons at one time, such liquor being the produce of grapes or other fruits respectively of his own growth or procured by him or shall remove such spirits from the place of distillation for the purpose of trading and who shall sell such spirits in quantities not less than eight gallons elsewhere than on his farm, or in any public market, or to any licensed dealer: Provided that such liquors shall be distilled or made upon his farm premises, and shall not be drunk on or consumed on such premises except by persons in his employ.

Sunday privileges to be continued during currency of existing licences.

14. Notwithstanding anything contained in this Act, any licensed person who shall have been granted Sunday privileges, and shall have paid the sum prescribed by the said Act in respect thereof, shall be entitled to such privileges during the currency of his licence.

Title.

15. This Act shall be read as one with the "Liquor Licensing Act, 1883," and may be cited as the "Liquor Licensing Act Amendment Act, 1885."

No. 45—1885.]

[Promulgated 11th August, 1885.

ACT

Spent

To apply a Sum of Money for the Service of the Year ending the 30th day of June, 1886.

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 revenue to be charged with £1,867,298.

1. The public revenue of the Colony is hereby charged towards the service of the year ending the 30th day of June, 1886, with a sum of one million eight hundred and sixty-seven thousand two hundred and ninety-eight pounds sterling, in addition to the sum of two hundred thousand pounds sterling provided for by the Act No. 5 of 1885.

How to be applied.

2. The money granted by this Act shall be applied to the purposes and services expressed in the schedule annexed hereto, and more particularly specified and set forth in the estimates and supplementary estimates of the expenditure for the year ending 30th June, 1886, with the notes to such estimates, submitted to and approved by Parliament.

Not to be applied except as granted.

3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to

which the said amounts have been granted respectively by this Act, and the aforesaid schedule, estimates, and supplementary estimates.

4. This Act may be cited for all purposes as the "Appropriation Act, 1885."

No. 45—1885.

Short Title.

SCHEDULE.

Schedule.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Ministerial Department of Colonial Secretary ..	543,385	516,875	1,060,260	940,108
II. Ministerial Department of Treasurer of the Colony	55,563	1,245,582	1,301,145	23,526
III. Ministerial Department of Attorney-General ..	53,227	22,800	76,027	62,472
IV. Ministerial Department of Commissioner of Crown Lands and Public Works	58,483	937,905	996,388	989,698
V. Ministerial Department of Secretary for Native Affairs	62,684	6,097	68,781	51,494
Grand Totals ..	773,342	2,729,259	3,502,601	2,067,298
Less amount provided for by Act No. 5 of 1885 ..				200,000
Total required to be voted ..			£	1,867,298

Act No. 46—1885.] [Promulgated 14th August, 1885.

Repealed by 1916 Act-22.

ACT

To Facilitate the Removal of Wrecks obstructing Navigation, and to amend in certain respects the Port Regulations enacted by Act No. 16 of 1857.

Preamble.

WHEREAS it is desirable to amend the law relating to the removal of ships or vessels or the hulls or remains of ships or vessels stranded or abandoned in harbours or tidal waters, and also to amend the law relating to the recovery and disposal of anchors and chains or cables parted with by vessels within harbours or tidal waters: 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:—

Laws repealed.

1. The Ordinance No. 1 of 1847, intituled an Ordinance for removing vessels stranded in the Ports and Harbours of this Colony, and the Stranded and Sunken Vessels Act No. 21 of 1872, and the thirty-second, thirty-third, thirty-fourth and thirty-fifth sections of Act No. 16 of 1857, together with the schedule B to the said Act, shall be and the same are hereby repealed.

2. In this Act,

Meaning of term "harbour."

The term "harbour" includes harbours and ports properly so-called, whether natural or artificial, roadsteads and anchorages of every description, estuaries, navigable rivers, piers, jetties, and other works, in or at which ships or vessels can obtain shelter or ship and unship goods or passengers;

"Tidal water."

The term "tidal water" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides and not being a harbour.

"Harbour authority."

The term "harbour authority" means

(a) At Port Elizabeth—the Port Elizabeth Harbour Board,

and in respect of all other harbours or tidal waters.

(b) The port captain, in case there be such an officer, having authority over the place where any vessel is sunk, stranded, or abandoned;

(c) In case there be no port captain, all persons or bodies of persons corporate or incorporate entrusted with the duty or invested with the power of constructing, improving, managing, regulating, maintaining, or protecting any harbour, or of managing, protecting, or regulating the navigation of any tidal water, and

(d) In case there be no port captain, or person or body as aforesaid, the civil commissioner having authority over the territorial waters washing the division in which he is civil commissioner.

3. When any vessel is sunk, stranded or abandoned in any harbour, or tidal water, or in or near any approach thereto, in such manner as in the opinion of the harbour authority to be or likely to become an obstruction or danger to navigation in that harbour or water or in any approach thereto, it shall and may be lawful for such harbour authority to 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 to light or buoy, or cause to be lighted or buoyed any such vessel or part until the raising, removal, or destruction thereof, and to 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 Act, and out of the proceeds to re-imburse such harbour authority for the expenses incurred under this Act including the expenses of sale, and to hold the surplus, if any, of such proceeds in trust for the persons entitled thereto: Provided as follows:—

(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 Act, 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.

(2) At any time before any property is sold under this Act, the owner thereof shall be entitled to have the same delivered to him on making payment of the expenditure incurred by the said harbour authority.

4. At any time after the said harbour authority shall have taken possession of any vessel which as is mentioned in the last preceding section shall have been sunk, stranded or abandoned, the owner, master, or agent of, or other person interested in the said vessel, may give notice to such harbour authority, of his intention forthwith to raise and 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 harbour authority the amount of expenses incurred by such authority, and give security to such harbour authority in such amount and with such surety or sureties as the said harbour authority 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 harbour authority receiving such security, the powers hereinbefore conferred upon such authority 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 and determined by such harbour authority, but in the event of such failure the powers conferred by this Act shall

No. 46—1885.

Powers of harbour authority in respect of vessel sunk, &c., and dangerous to navigation.

Power of Sale.

Notice of sale.

Owner may claim delivery in payment of expenses.

Interested person may give notice of intention to raise, &c. sunk vessel.

Security to be given.

Powers of harbour authority stayed pending due and proper raising, &c. of vessel by interested person.

- No. 46—1885.
- Scope of provisions of Act.
- Proceeds of sale a common fund.
- Deficiency of proceeds to meet reasonable expenses paid by Colonial Treasury
- Powers of harbour authority as to anchors, &c., lost in harbour, &c.
- Salvage how calculated.
- Penalty on unauthorised person for attempting to recover anchors, &c.
- Master of vessel may recover anchor, &c., within five days.
- If salvage not paid notice of sale in *Gazette* of articles recovered.
- Sale of articles recovered to meet expenses of harbour authority.
- revive and the amount of such security shall immediately become payable.
5. The provisions of this Act shall apply to every article or thing, or collection of things being or forming part of the tackle, equipments, stores, or ballast of a vessel in the same manner as if it were included in the term "vessel," and for the purposes of this Act any proceeds of sale arising from a vessel or any property recovered therefrom shall be regarded as a common fund.
6. Whenever the proceeds of such sale of any vessel as is in the third section of this Act provided for shall fail to meet the expenses mentioned in the said section, the Treasurer of this Colony 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, buoys, raising or removal of such vessel, or in and about the sale thereof.
7. Every harbour authority is hereby empowered and required to use his utmost 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 or tidal water in respect of which such harbour authority has power, and to retain possession of the same until the party rightfully claiming the same pay to him, or give security to his satisfaction, 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 harbour authority, 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 any such harbour authority, 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 such harbour authority 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.
8. If the salvage due in respect of any such anchors or chains or cables be not paid to the harbour authority, by or on behalf of the party claiming or owning the same, within seven days after the recovery thereof, the said harbour authority 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.
9. If the salvage, together with all necessary expenses incurred, be not paid within the time prescribed in such notice, the harbour authority 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 he 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 customs dues, if any, of charges of sale and other necessary 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.

No. 46—1885.

Surplus recoverable from Treasury within one year.

10. 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 of the Colony shall pay out of the Colonial Treasury to the harbour authority 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 harbour authority 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.

Payment of reasonable deficiency after sale by Colonial Treasury, subject to certain restrictions.

No search for more than 3 days without Governor's sanction paid for.

11. The exercise of any of the powers by this Act conferred upon harbour authorities in and about the lighting, buoing, raising, removal and destruction of vessels sunk, stranded or abandoned, and in and about the recovery of and searching for anchors, chains, cables, or other articles or things, may be by any harbour authority lawfully delegated by contract 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 to exercise the said powers, and any sum of money paid to or consideration received by such contractor under his contract with such harbour authority shall be deemed for all the purposes of this Act to be an expense incurred in and about the lighting, buoing, 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 of the Colony any sum out of the Colonial Treasury over and above the amount which such harbour authority would be entitled to claim in respect of the matter contracted for by such contractor.

Power to delegate by contract powers under this Act.

DD

No. 46—1885.

Sale or contract under this Act not limited by Section 36 of Act No. 16 of 1857.

Limits of harbours and tidal waters.

Short title.

12. Nothing contained in the thirty-sixth section of Act No. 16 of 1857 shall be deemed to apply to any sale or contract effected under the provisions of this Act.

13. The proclaimed limits of any harbour at the date of the passing of this Act shall continue to be the limits of such harbour for the purposes of this Act, but the Governor, by proclamation from time to time, may declare any harbour or tidal water to be, at and from the date of such proclamation, a harbour or tidal water within the meaning of this Act, and may, at and from the date of any proclamation to that effect, alter the proclaimed limits or fix and define the limits of any harbour or tidal water.

14. This Act may be cited for all purposes as the “Wrecks Removal Amendment Act, 1885.”

ACTS OF THE CAPE PARLIAMENT.

No. 1—1886.]

[Promulgated 23rd April, 1886.

ACT *Repealed by 1916 Act 22*

To Amend and Add to a Certain Clause in Act No. 1 of 1885, being the “Kimberley Railway Extension Act, 1885.”

WHEREAS no provision is made in the Act No. 1 of 1885, being the “Kimberley Railway Extension Act, 1885,” for charging the debentures therein authorised to be issued upon the general revenues of the Colony: and whereas it is desirable that such provision should be made: 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:— Preamble.

1. To the fourth section of the Act No. 1 of 1885 there shall be added, at the end thereof, the words following, that is to say, “And the value of such debentures as well as the interest thereon shall in like manner be chargeable, and are hereby charged to the general revenues of the Colony,” and such section shall henceforth be read as if such additional words had originally been included therein. 4th Section of Act 1 of 1885 amended by making debentures therein authorised chargeable to the general revenue.

2. This Act may be cited as the “Kimberley Railway Extension Amendment Act, 1886.” Short title.

No. 2—1886.]

[Promulgated 28th May, 1886.

ACT *Repealed by 1877 Act 28.*

To Amend the Act No. 32 of 1879, by Providing for a Reduction in the Annual Salaries of the Officers mentioned in the Seventh Section of Act No. 1 of 1872, known as “The Constitution Ordinance Amendment Act, 1872.”

WHEREAS it is expedient to make provision for a reduction in the annual salaries of the officers mentioned in the seventh section of Act No. 1 of 1872: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:— Preamble.

1. The second section of the Act No. 32 of 1879 is hereby repealed. Repealing clause.

2. During the year ending the thirtieth day of June, one thousand eight hundred and eighty-seven, and for and during every subsequent year, there shall be paid to the Salaries of Ministers fixed.

No. 3—1886.

Colonial Secretary, the Treasurer of the Colony, the Commissioner of Crown Lands and Public Works, and the Secretary for Native Affairs, respectively, the sum of twelve hundred pounds sterling, and to the Attorney-General the sum of one thousand pounds sterling.

No. 3—1886.]

[Promulgated 28th May, 1886.

ACT

For Altering certain Rates of Postage payable in the Colony of the Cape of Good Hope.

Preamble.

WHEREAS it is expedient to alter the rates of postage payable upon certain packets and parcels conveyed by post between post offices in the Cape Colony: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Postage rates on inland packets, &c., altered.

1. So much of the second schedule of the Post Office Act, 1882, as relates to the rates of postage payable upon inland packets and parcels forwarded through the inland post, is hereby repealed, and in lieu thereof postage shall be levied according to the scale and at the rates set forth in and by the Schedule to this Act.

Commencement of Act and Short title.

2. This Act shall come into operation on the First day of July, 1886, and may be cited for all purposes as the "Post Office Amendment Act, 1886."

SCHEDULE.

PACKETS.		
Inland	For each packet not exceeding one ounce in weight	One Half-penny.
	For each packet above one ounce and not exceeding two ounces in weight	One Penny.
	For each additional two ounces or fraction of two ounces	One Penny.
PARCEL POST.		
Inland	For each parcel not exceeding four ounces in weight	Two Pence.
	For each parcel above four ounces and not exceeding eight ounces in weight	Four Pence.
	For each parcel above eight ounces and not exceeding twelve ounces in weight	Six Pence.
	For each parcel above twelve ounces and not exceeding one pound in weight	Eight Pence.
	For each additional pound or fraction of a pound	Eight Pence.

No. 4—1886.]

[Promulgated 28th May, 1886.

ACT

To Legalise the Deposit of Moneys in Post Office Savings Banks by certain Societies, Clubs or Funds, and to Repeal the Savings Banks Act, 1875.

Repealed by Act 107 11 § 1.

WHEREAS it is expedient to legalise the deposit of moneys in the Post Office Savings Bank by certain societies, clubs or funds, and to render applicable to such deposits the provisions of "The Post Office Savings Banks Act, 1883": 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 trustees, treasurer or other responsible officer or officers of any society, club or fund, approved of by the Colonial Secretary, may deposit the funds of such society, club or fund, without restriction as to the maximum amount, in the Post Office Savings Bank: Provided that a copy of the rules be forwarded to the Postmaster-General with the names and addresses of such trustees, treasurer or other responsible officer or officers.

Deposits by certain societies, clubs, or funds.

Repealed by 1909 Act-5 Sec 2

2. One trustee or the treasurer, or one other responsible officer of any such society, club or fund, shall sign, on behalf of such society, club or fund, a declaration as nearly as may be in the terms set forth in the schedule D annexed to the Act No. 6 of 1883.

Declaration to be signed.

3. The "Savings Banks Act, 1875," is hereby repealed, and all balances of deposits received under the authority of that Act and transferred to the Post Office Savings Bank shall hereafter be administered by the Postmaster-General under the provisions of "The Post Office Savings Banks Act, 1883."

Repeal of Savings Banks Act, 1875.

4. This Act shall be read as one with "The Post Office Savings Banks Act, 1883," and may be cited for all purposes as "The Post Office Savings Banks Act Amendment Act, 1886."

Effect and short title of Act.

No. 5—1886.]

[Promulgated 11th June, 1886.

ACT

Act.

To Constitute the District of Prieska a Fiscal Division.

WHEREAS it is expedient to constitute the district of Prieska a fiscal division, and to enable such division

Preamble.

No. 5—1886.

to have and possess its own divisional council without altering or affecting the electoral division of which the said district now forms part: 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 Ordinance for constituting a Parliament in this Colony and commonly called "The Constitution Ordinance," and so much of any other Ordinance or Act as may be repugnant to or inconsistent with this Act, are hereby repealed.

District of Prieska may be proclaimed fiscal division.

2. The district of Prieska shall from and after the date of any proclamation to be issued for that purpose by the Governor, become and be a division of the Colony for fiscal purposes.

Boundaries to be defined.

3. The proclamation in the last section mentioned shall define and proclaim the boundaries of the said division, and the boundaries so defined and proclaimed shall become and be the boundaries of the said division.

Divisional councils or divisions affected by any such proclamation.

4. Upon the issue of the said proclamation the divisional council for the time being of every division to which any portion of the said newly constituted and defined division of Prieska belonged shall stand dissolved, and the provisions of Act No. 4 of 1865, entitled "An Act to consolidate and amend the several Acts relating to Divisional Councils," and of every other Act relating to divisional councils, shall apply to the said new division defined and bounded as aforesaid, and to the division or divisions whereof portion shall have constituted or partly constituted the said new division of Prieska, which portion shall for all fiscal and other purposes thenceforth form part of the new division of Prieska: And the registered voters for members of parliament for any of the said divisions respectively who shall be resident within the limits of the new division of Prieska, shall be entitled to vote at any election for members of the divisional council of the said new division of Prieska.

Provisions of Act 24 of 1858 to apply to division of Prieska

5. The several 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, *mutatis mutandis*, as soon as the said proclamation shall have been issued, apply to the new division of Prieska, and to the division or divisions to which such newly constituted division belonged before the issue of such proclamation.

No change of electoral divisions.

6. Notwithstanding the creation of such new division for fiscal and other purposes, such new division and every part thereof shall continue, for electoral purposes, to belong to and form part of whatever electoral division the said new division

or any part thereof theretofore belonged to, precisely as if this Act had not been passed and no such proclamation as aforesaid had been issued.

No. 6—1886.

7. This Act may be cited as "The Prieska Fiscal Division Act, 1886."

Short title.

No. 6—1886.] [Promulgated 11th June, 1886.

ACT

To Add to and amend the provisions of "The Vineyards Protection Act, 1880."

Repealed Act. 11/11 §1

WHEREAS it is desirable to make further and more effectual provision to prevent the introduction and spread of the insect known as Phylloxera Vastatrix, and to amend in certain respects the law relating thereto: 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:—

Preamble.

1. Every owner, occupier, or person in charge of the culture or care of a vineyard, nursery, garden, or any land or place wherein vines may be, shall notify immediately to the field-cornet of any ward wherein such vineyard, nursery, garden, land or place, shall be situate, every case of decay or disease therein other than ordinary and well-known cases of vine decay or disease, and every symptom of such decay or disease which may show itself amongst the vines in such vineyard, nursery, garden, land, or place.

Owner, &c., of vineyards & gardens to notify to Field-cornet the appearance of disease or decay therein.

2. On receipt of such notification the said field-cornet shall call to his assistance any two farmers, being landowners, not having any pecuniary interest in the subject of the inquiry, who are hereby authorised and required, when so called upon, to render such assistance, and thereupon an inquiry shall be held into the nature of the said decay or disease, and, if it shall appear to a majority of the said body, consisting of the said field-cornet and farmers, that there is good cause to suspect that such decay or disease is due to the existence of the said insect known as Phylloxera Vastatrix, and that it is necessary to take immediate steps to destroy any vines, plants, or other things infected thereby, or any vines, plants, or other things, in the neighbourhood of such infection, or to do any other act which may be necessary to prevent the spread of the ravages of such insect, the said field-cornet shall be at liberty, upon being authorised thereto by the Government, to proceed accordingly, provided he shall first serve a written notice of his intention upon the owner or person in charge of the culture or care of the said decayed or diseased vines, plants, or things.

Course to be pursued by Field-cornet on receiving such notification

No. 6--1886.

Where no urgency appears report to be made from Field-cornet to Colonial Secretary.

3. In case the said decay, disease, or symptoms thereof shall not appear to the said field-cornet or to the majority of the said body to be such as to require urgent and exceptional measures, the said field-cornet shall forthwith give notice to the Under Colonial Secretary of the nature and extent of the said decay or disease, and the general result of his inquiries for the purpose, if necessary, of further inquiry and of enabling the services of experts to be obtained.

In case of destruction of vines, &c., Governor may grant reasonable compensation to owner.

4. If it shall be necessary to destroy any vines, plants or things whatsoever for the purposes of preventing the spread of the said insect or to declare any area to be so infected that the removal therefrom of any grapes, vines, plants or agricultural or horticultural products or other matters or things whatsoever should be prohibited, the Governor is hereby authorised as occasion may require, to grant reasonable compensation as to him shall seem fit to any person for any loss sustained by him by reason of such destruction or prohibition, not to exceed the value of the net yield for two years, calculated at an average of the last three crops of the vines eradicated or destroyed to prevent the spread of the said insect, together with such reasonable sum as to the Governor may seem fit to cover any loss sustained by reason of any prohibition against the removal of any farm or other produce or any other matter or thing from the property of such person under any proclamation issued for the prevention of the spread of the said insect: Provided that under no circumstances shall any compensation be granted to any person who may have contravened the provisions of this Act, or of Act No. 27 of 1880, or who may have introduced upon his property grapes, vines, plants or agricultural or horticultural products, or any other matter or thing forbidden to be imported by Act No. 27 of 1880.

No compensation to persons who have contravened this Act or Act 27 of 1880.

Section 4 of such Act repealed and present one substituted.

5. The fourth section of Act No. 27 of 1880 is hereby repealed, and the following substituted: In case the said *Phylloxera Vastatrix* shall at any time make, or shall be suspected to have made its appearance in any vineyard in this Colony, it shall be lawful for the Governor to take such steps as he may deem expedient to have the vines upon which such insects shall have appeared, or be supposed to have appeared, rooted up and destroyed, and to use all such other means as he may be advised for the purpose of eradicating such insect, and preventing the spread of disease through its ravages, and for this purpose the Governor is authorised in addition to the above and all other necessary powers,—

Fresh powers given to Governor.

(a) To declare any area to be an area infected by the said insect, such area to comprise, first, vineyards,

nurseries, gardens, land, and other places known to be infected; secondly, vineyards, nurseries, gardens, land, and other places in the neighbourhood of infected vineyards, nurseries, gardens, land, or places; and, thirdly, a protecting zone.

- (b) To take measures to disinfect the soil within such area.
- (c) To prohibit all fresh planting of vines for such period as to him may seem fit.
- (d) To give directions for the preventive treatment of the said protecting zone.
- (e) To prohibit the removal from any such area of any grapes, vines, or cuttings, or portions of vines, trees, plants, tubers, roots, bulbs, or any portions thereof respectively, or any soil, leaves, or objects or things likely to spread the said insect.
- (f) To take such measures generally as may be requisite to prevent the further introduction or spread of the said disease.

6. Any person failing to give the notification in the first section required or any person obstructing or interfering with any field-cornet or farmer in the said section mentioned in making any inspection or inquiry, or any person contravening or disobeying any proclamation, order, or direction of the Governor issued, made, or given in pursuance of this Act shall, on conviction, be liable to the penalty provided by the fifth section of Act No. 27 of 1880.

Penalties for contravention of this Act.

7. All penalties under this Act and under Act No. 27 of 1880 shall be recoverable in the court of the resident magistrate of the district.

Recoverable in Magistrate's Court.

8. Any person wilfully transporting or removing in a living state the said insect, its eggs, or larvæ, from any place to any other place, except for scientific purposes under a written order of the Under Colonial Secretary, shall be liable, on conviction, to a fine not exceeding fifty pounds, or to imprisonment with or without hard labour for a period not exceeding three months, unless such fine be sooner paid, or to such imprisonment without the option of a fine.

Penalty for transporting or removing living Phylloxera.

9. If any grapes, vines, or cuttings, or portions of vines, trees, plants, tubers, roots, bulbs, or any portions thereof respectively, or any articles or things whatsoever, shall be imported or introduced into this Colony in contravention of the provisions of the first section of Act No. 27 of 1880, it shall be sufficient prima facie proof of such importation or introduction by the person to whom they are addressed to give proof of such address, and thereupon the onus shall be upon the addressee to show that he did not order, import,

Burden of proof on persons receiving grapes, &c., &c., in contravention of Act 27 of 1880.

No. 7—1886.

or direct the importation: Provided that in any prosecution to which this section shall be applicable it shall be lawful for the defendant or accused person to give his own evidence in the case upon oath.

Fourth Section in force till 30th June, 1887.

Short title.

10. The provisions of the fourth section of this Act shall be in force until the 30th June, 1887, and no longer.

11. This Act may be cited as "The Vineyards Protection Act Amendment Act, 1886"

No. 7—1886.]

[Promulgated 6th July, 1886.

ACT

To Repeal the Guns and Ammunition Trade Ordinance No. 29 of 1874, of Griqualand West.

Preamble.

WHEREAS it is desirable to repeal the Ordinance No. 29 of 1874 of Griqualand West, entitled an "Ordinance to regulate the trade in guns and ammunition in the Province of Griqualand West, and the conveyance of guns and ammunition through the said Province to territories beyond its borders": 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:—

Ordinance 29 of 1874 of Griqualand West repealed.

1. The Ordinance in the preamble of this Act mentioned is hereby repealed.

No. 8—1886.]

[Promulgated 6th July, 1886.

ACT

To Define "Railway Materials" for the purposes of "The Customs Tariff Amendment Act, 1884."

Preamble.

WHEREAS it is provided by the second section of the Customs Tariff Amendment Act No. 13 of 1884, and by the schedule to the said Act, that railway materials shall be exempt from customs duty on the importation thereof into the Colony of the Cape of Good Hope: and whereas it is desirable to define the term "railway materials" for the purposes of the said 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:—

Railway Materials defined for purposes of Act 13 of 1884.

1. The term "railway materials" shall for the purposes of the said Act be taken to mean rails, sleepers, fastenings for rails on sleepers, iron girders, iron bridge work, culvert tops, locomotives, tenders, ballast trucks, goods wagons, railway carriages, engine water tanks, turntables, and railway signals.

Repealed by 1889 Act. 1.

No. 9—1886.]

[Promulgated 6th July, 1886.

ACT

To Alter and Amend Act 20 of 1882.

WHEREAS the Club existing under Act 20 of 1882, known as the South African Jockey Club, has amalgamated with another Club, also connected with the racing of Horses, called the South African Turf Club, and it is desirable that the latter name should be the one by which the Club under said Act should in future be known: 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:—

Preamble.

1. The grant of the piece of Land made by the Governor to the South African Jockey Club, under the second section of Act 20 of 1882, is hereby vested in the South African Turf Club, for all and several the purposes of said Act.

Land granted to South African Jockey Club by Act No. 20 of 1882, to be vested in South African Turf Club.

2. All and singular the provisions of the Act No. 20 of 1882, and the rights, privileges, duties, and liabilities conferred, assigned, and created thereby, shall apply to the South African Turf Club as if that had been the Club to which the said Act had been declared to apply under the twenty-sixth section thereof, and the South African Turf Club and the Committee for the time being of the said Club and the Chairman thereof, are hereby vested with all the rights and powers and charged with all the duties and liabilities of, and are substituted for, the said South African Jockey Club and the Committee and Chairman thereof.

The Provisions of Act No. 20 of 1882 to apply to the South African Turf Club instead of to the South African Jockey Club.

No. 10—1886.]

[Promulgated 6th July, 1886.

ACT

To Declare Her Majesty's Appellate Jurisdiction under the "Kimberley Borough Amendment Act," No. 30 of 1884.

WHEREAS it is desirable to afford to the parties interested in the inquiry mentioned in the sixth section in the "Kimberley Borough Amendment Act, 1884," and to all Her Majesty's subjects, the right of appeal to Her Majesty the Queen in 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:—

Preamble.

1. Any limitation of the right of appeal now existing by the law of this Colony, contained in section six of the "Kimberley Borough Amendment Act, 1884," is hereby expunged, and the said section shall be read as if the words

Right to appeal to the Queen in Council under "Kimberley Borough Act, 1884."

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AMENDMENT ACT.

No. 11—1886.

“and the decision of such Court shall be final and conclusive,” and the further words “and the decision of the High Court thereon shall be final and conclusive,” were not contained therein.

Short Title.

2. This Act may be cited as the “Kimberley Borough Amendment Act, 1886.”

No. 11—1886.]

[Promulgated 6th July, 1886.

ee note to Act 3 of 1882.

1882.

ACT

To Amend in certain respects the “Imvani and Indwe Railway and Coal Mines Act,” No. 3 of 1882.

Preamble

WHEREAS by the Act No. 3 of 1882, being the “Imvani and Indwe Railway and Coal Mines Act,” the Governor was authorised to contract and agree with any individual or individuals or Joint Stock Company willing to construct a railway either from the Imvani to the Indwe Coal Fields, or from the said coal fields to a point at or near Putter’s Kraal, or both such lines, upon certain terms and conditions mentioned in such Act: And whereas it may be expedient that such railway should not be constructed either from Imvani or from a point at or near Putter’s Kraal but from some other place or point on the East London and Queen’s Town Railway: 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 consent to some other points than those of Imvani and Putter’s Kraal as starting point of Indwe Coal Fields railway.

1. It shall be lawful for the Governor to consent to the substitution of some other point or points on the East London and Queen’s Town Railway, between Imvani and Molteno, in lieu of Imvani or Putter’s Kraal, as the place or point from, or from near to which the said Indwe Coal Fields Railway line or lines shall be constructed, anything in the said Act No. 3 of 1882 to the contrary notwithstanding: And upon such consent of the Governor being given, all the provisions of such last mentioned Act shall, *mutatis mutandis*, apply to the Indwe Coal Fields line or lines to be constructed under the authority of this Act.

Meaning of the word Indwe; area comprised by Indwe Coal Fields.

2. Whenever the word Indwe appears in the said Act No. 3 of 1882, or in this Act, it shall be taken to mean the Indwe Coal Fields: And for the purposes of both the said Acts such coal fields shall not be held to extend to a greater distance than ten miles in any direction from the entrance to the coal mine now being worked at Indwe.

Tariff of charges to be approved by Governor, but not to affect existing agreement.

3. So soon as the line of railway is in a fit condition, and before the said railway is opened for traffic, the directors

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 COMPULSORY ATTENDANCE ACT.

No. 12—1886.

or proprietors for the time being shall frame terms and conditions, and a tariff of charges for the conveyance of passengers, live stock and goods, and such terms, conditions, and tariff shall be submitted to the Governor for approval, and if approved shall be published in the *Gazette* for general information: Provided always that the said terms and conditions and the rates so chargeable may from time to time be altered by the directors or proprietors with the consent of the Governor; and provided, further, that this shall not apply to any such line which may be constructed under any existing agreement.

4. This Act may be cited as the "Imvani and Indwe Railway and Coal Mines Act Amendment Act, 1886."

Short title.

No. 12—1886.] [Promulgated 6th July, 1886.

ACT

To Compel the attendance, as Witnesses, of Persons residing in this Colony before the Courts of Neighbouring States and Colonies.

WHEREAS the testimony of persons residing in this colony is frequently required in the Courts of neighbouring States and Colonies: And whereas there exists no power to compel the attendance of such persons before the said Courts, in consequence whereof the ends of justice are sometimes defeated: And whereas it is desirable to make the attendance of such persons before such Courts compulsory: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

1. Whenever a subpoena, purporting to be issued by the proper officer of any competent court in any neighbouring state or colony to which this Act shall apply for the purpose of securing the attendance of any person resident in this colony as a witness before such court, shall be transmitted by such officer to the resident magistrate of the district within which the person whose attendance is so required shall be residing, it shall be the duty of the said resident magistrate to endorse on such subpoena his order that the same shall be served on the person therein named; and the subpoena so endorsed shall thereupon be handed to the messenger of the said magistrate's court, or such other person as the said magistrate shall specially appoint for the purpose, whose duty it shall be to serve the same as soon as practicable on the person designated therein: Provided always that the necessary expenses of such service, and the necessary expenses

Repealed as regards persons who in Union by Act 27/12 §

Preamble

Subpoena issued by court or neighbouring State or Colony and transmitted to any resident magistrate of the colony for service in his district, to be endorsed by resident magistrate and served by his messenger.

X

Expenses of service and expenses of witness to be transmitted with the subpoena.

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to be incurred by the person subpoenaed in going to and returning from the court named in such subpoena and to be incurred during his detention at the place where his evidence has to be given, according to such tariff as may from time to time be framed by the Governor, shall be transmitted to the said resident magistrate together with the said subpoena, and the portion of such expenses assigned to the person named in the said subpoena shall be paid to him by the officer serving the same.

Penalty for non-attendance of the person summoned by such subpoena and how recoverable.

2. Every person who shall have been served with a subpoena as in the previous section mentioned shall be bound to attend on the day and at the place therein named; and in case he shall fail so to do and shall also fail to prove any lawful and valid excuse for such non-attendance, he shall be liable to a penalty not exceeding one hundred pounds sterling, which shall be recoverable in the court of the resident magistrate of the district in which he shall be residing at the instance of the Attorney-General of the colony, or the Solicitor-General and Crown Prosecutor for Griqualand West within their respective jurisdictions.

How non-attendance of subpoenaed person to be proved.

3. The return of the person authorised to serve such subpoena, as in the first section of this Act provided, showing that such service has been duly made, and a certificate under the hand and seal of the presiding judge or magistrate of the court from which the said subpoena was issued, that the person so served did not attend when called thereon and did not establish any valid or legal excuse for his default, shall be deemed sufficient proof of such person's non-attendance for the purpose of enforcing the penalty in the last preceding section mentioned.

No person compulsorily attending as a witness in this colony shall be liable to arrest for any debt contracted or offence committed here.

4. No person resident in any neighbouring state or colony to which this Act shall apply who may be summoned as a witness before any court of this colony and whose attendance before such court shall be enforced by any legislative enactment of such state or colony shall be liable, while so attending, to be arrested upon any civil or criminal process for any debt formerly due or any offence formerly committed by him in this colony.

Act to take effect when reciprocal legislation passed.

5. This Act shall take effect so far as concerns any such state or colony as soon as the Governor shall by proclamation in the *Gazette*, declare and make known that such state or colony has made due provision to compel the attendance as witnesses before the courts of this colony of persons resident in such state or colony.

Short title.

6. This Act may be cited as the "Neighbouring States and Colonies Witnesses Compulsory Attendance Act, 1886."

No. 13—1886.] [Promulgated 18th June, 1886.
ACT

To Amend in certain respects the Criminal Law and the Law of Evidence.

WHEREAS it is expedient to amend in some respects the criminal law and the law of evidence: 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 Police Offences Act, 1882," shall be read and construed as if the words "person or" in the first sub-section of the seventh section thereof were omitted.

Section 7, Act 27 of 1882, amended.

2. Any driver or other person having the charge of any carriage or vehicle injuring any person by negligence shall upon conviction be liable to a fine not exceeding one hundred pounds sterling, or, in default of payment, to imprisonment, with or without hard labour, and with or without spare diet, for any period not exceeding two years, or to both such fine and such imprisonment.

Penalty for injuring any person by negligent driving.

3. The word "imprisonment," where the same occurs for the last time in the ninth section of "The Police Offences Act, 1882," shall be taken to mean imprisonment with or without hard labour, and with or without spare diet.

Meaning of "imprisonment" in Section 9 Act 27 of 1882.

4. The "Ostrich Feathers and Skins Theft Repression Act, 1883," shall be read as if all the words in the third section which follow the words "penalty of not exceeding" were omitted and "one hundred pounds or to imprisonment with or without hard labour for any period not exceeding twelve months, or to both such fine and such imprisonment" were inserted; and as if all the words in the fourth section which follow the words "first section of this Act mentioned" were omitted.

Section 3 of Act 32 of 1883 amended. *error*

5. The resident magistrate of the district in which any offence against the provisions of "The Ostrich Feathers and Skins Theft Repression Act, 1883," or of "The Ostrich Feathers and Skins Theft Further Repression Act, 1885," is committed, shall have jurisdiction to impose the penalty provided in respect of such offence.

Resident Magistrates to have jurisdiction under Acts 32 of 1883 and 13 of 1885.

6. In any proceeding against any person for any crime or offence, such person and the wife or husband, as the case may be, of such person may, if such person thinks fit, be called, sworn, examined, and cross-examined as an ordinary witness in the case.

Accused person and the wife or husband competent witnesses in criminal cases.

7. No witness who shall be examined or cross-examined in any proceeding under the last preceding section shall be excused from answering any question relevant to the issue in

Repealed by 1917 Act 31.
Such witness cannot refuse to answer question on ground that it may criminate himself.

No. 13—1886.

If prisoner at preparatory examination admits previous conviction, his admission to be reduced to writing.

such proceeding on the ground that the answer thereto may criminate or tend to criminate himself.

8. As often as it shall appear at any preparatory examination that the prisoner has been previously convicted of some crime or offence, the presiding magistrate shall inform the prisoner of the particulars of such alleged previous conviction, and shall call upon him to admit or deny that he was so previously convicted; and if the prisoner shall admit that he was so previously convicted, his admission shall be reduced to writing and subscribed by him and also by the magistrate; and any such written admission purporting to be so made and subscribed shall be received in evidence as proof of such previous conviction before any court or tribunal upon its mere production, unless it shall be proved that such admission was not in fact duly made, or that the signatures or marks thereto are not in fact the signatures or marks of the persons whose signatures or marks they purport to be.

9. Any person who shall, without lawful authority, supply or cause to be supplied to any prisoner or convict any intoxicating liquor, tobacco or article of food or drink shall, upon conviction before the court of the resident magistrate having jurisdiction, be liable to a fine not exceeding ten pounds sterling, and in default of payment to imprisonment with or without hard labour and with or without spare diet, for any period not exceeding three months, or to such imprisonment without the option of a fine.

10. If it shall appear from information on oath that any person against whom any criminal proceeding has been instituted is in possession of any books of account or documents which are necessarily required in evidence in such proceeding, it shall be lawful for any Judge of the Supreme Court or the Magistrate presiding at such proceeding to issue an order, directing the officer to whom such order is addressed, to take possession of such books or documents, and to hand them over to such person as may be named in such order; and thereupon such officer may lawfully execute such order; and any person who shall resist or hinder, or shall aid, incite, or encourage any other person to resist or hinder such officer in executing the same shall, upon conviction, be liable to imprisonment with or without hard labour for any period not exceeding twelve months.

11. This Act may be cited as "The Administration of Justice Act, 1886."

Short title.

Judge of the Supreme Court or Magistrate may order seizure of books or documents in possession of accused person in criminal proceeding.

Penalty for supplying prisoners or convicts with liquor, tobacco, &c.

Such written admission to be received in evidence as proof of such previous conviction.

Repealed by
1917 Act 31.

Repealed by
1888 Act 23.

LONDON MISSIONARY SOCIETY'S PORT ELIZABETH 251
LANDS ACT.

No. 14—1886.] [Promulgated 6th July, 1886.
ACT

To Authorise the London Missionary Society to pass
Transfer in Freehold to the Occupants of certain
Lands in Port Elizabeth.

Preamble.

WHEREAS by two freehold grants, both bearing date the 17th August, 1859, certain two pieces of land, situated in Port Elizabeth, measuring respectively, after certain deductions, 1 morgen 31 square roods and 128·7 square feet, and 311 square roods and 132·18 square feet, were granted to the resident missionary at Port Elizabeth, in connection with the London Missionary Society, for the time being, and to his successors in his said capacity in trust for the said society: and whereas the said two pieces of ground have been used as a location for natives of various races under the religious instruction of the said society: and whereas it is desirable to give to the several occupiers of buildings or building sites on the said pieces of land transfer in freehold of the portions of the said land heretofore respectively occupied by them free of transfer dues: and whereas the trustees of the London Missionary Society, in pursuance of a resolution of the board of directors of the said society, have granted a power of attorney, under date the 11th June, 1885, authorising and appointing the Reverend Thomas Samuel Merrington, the Reverend Nicolas Goezaar, and John Mackay, Esquire, all of Port Elizabeth, and each of them with power of substitution, to act on behalf of the said society in the Colony of the Cape of Good Hope, for the purpose of carrying out 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:—

1. It shall be lawful for the said Reverend Thomas Samuel Merrington, Reverend Nicolas Goezaar, and John Mackay, Esquire, or such persons as shall from time to time be appointed by the board of directors of the said London Missionary Society by a resolution in writing, signed by the chairman and secretary of the said board, or for any two of them, to cause the said two pieces of land and any other pieces of land adjoining the same, acquired or to be acquired by the London Missionary Society from the Municipal Council of Port Elizabeth in exchange for portions of the said land, or otherwise, to be surveyed by a duly qualified land surveyor and divided into lots in such manner as to allot to the respective occupiers thereof such portions of land as they are entitled to occupy under and by virtue of the

Agents of the London Missionary Society authorised to sub-divide land and to allot to such occupiers such portions of land as they are entitled to occupy.

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LANDS ACT.

No. 14—1886.

Disputes to be settled by arbitration.

customs in force in the location existing on the said pieces of land, leaving spaces for streets and thoroughfares as may be required or agreed on by the Municipal Council of Port Elizabeth; and in case there shall be any dispute as whether any person is entitled as aforesaid to any allotment of the said land, or as to the extent of land which ought to be allotted to any occupier, such dispute shall be referred to the arbitrament and award of two arbitrators, one to be appointed by the representatives of the London Missionary Society, and one by the occupier or alleged occupier, and such arbitrators shall, before entering upon the reference, appoint an umpire, to act in case of difference of opinion between them, and the decision of such arbitrators or umpire, as the case may be, shall be final and binding on both parties, and the costs of such reference shall be borne and paid for as shall be directed in such award.

Society's Agents to give occupiers transfer of lots.

2. The person or persons appointed as aforesaid to represent the said London Missionary Society or any two of them shall, with all convenient speed, transfer to the respective occupiers of buildings or building sites in the said location such portions of land as shall have been respectively allotted to them, and the effect of such transfer shall be to vest in the respective transferees as full right and title to the portions of land respectively transferred to them as was vested in the said London Missionary Society by the said freehold grants of 17th August, 1859, or by any other deed of transfer or title deed.

Governor may remit duty

3. It shall be lawful for the Governor to remit to the persons to whom any portion of the said pieces of land shall be transferred under and by virtue of the provisions of this Act all duties otherwise due and payable to Her Majesty's Colonial revenue in respect of any such transfer as aforesaid.

Land transferred as provided in section 2 not to be alienated for ten years without Governor's consent.

4. In all deeds of transfer passed under the provisions of this Act there shall be inserted a condition to the effect that the land so transferred shall not for a period of ten years from and after the taking effect of this Act be alienated or transferred to any person unless the consent of the Governor shall have been first had and obtained: provided that nothing in this section contained shall be deemed to prevent the acquisition of any of such pieces of land by the municipal corporation of Port Elizabeth for town improvement or street purposes and transfer thereof to the said corporation accordingly.

Private rights of individual occupiers not to be affected by this Act.

5. Nothing in this Act contained shall be deemed or construed to take away, alter, or affect any private rights or privileges which may at the time of the promulgation of this Act be lawfully vested in any individual occupiers of buildings or building sites on any part of the said pieces of land.

6. This Act may be cited for all purposes as "The London Missionary Society's Port Elizabeth Lands Act, 1886."

No. 15—1886
Short Title.

No. 15—1886.]

[Promulgated 6th July, 1886.

ACT

Repealed by 1897 Act 27.

To Authorise the Municipal Council of Port Elizabeth to sell certain Land Reclaimed from the Baaken's River.

WHEREAS on the 10th June, 1864, a grant was made by His Excellency Sir Philip Wodehouse, the then Governor of the Colony of the Cape of Good Hope, in freehold, unto the mayor, councillors and householders of Port Elizabeth, of an area of 8 morgen 99 square rods and 113 square feet, situate in Ward No. 1 in the town of Port Elizabeth, being portion of the Baaken's River, with the unappropriated land on the south side thereof, on condition that portion of the land thereby granted should be converted into gardens for the use of the public, by diverting the course of the said river and reclaiming the land, and that portion thereof to the value of £700 (seven hundred pounds) sterling, should be disposed of by the grantees towards defraying the expense of laying out the said gardens and for no other purpose or purposes whatsoever, it being understood that without the sanction of the Governor first had and obtained, no land beyond the said value should be disposed of: And whereas the grantees disposed of a portion of the said land to the value of £466 in terms of the said grant, which said sum has been expended on the reclamation of the said Baaken's River land, and thereafter on the 4th November, 1880, applied to His Excellency the Governor for permission to make a public park or gardens in a more suitable part of Ward No. 1 than on the land reclaimed from the Baaken's River, the same having been found by the inhabitants of that part of the town to be totally unsuitable, especially as to situation, and also for permission to dispose of such further portion of the land contained in the said grant, as might be necessary to provide funds for the above purpose, beyond the sum stipulated in the said grant, to which application His Excellency the Administrator, with the advice of the Executive Council, was pleased, on the 28th December, 1880, to give his consent.

Preamble.

And whereas the said grantees, afterwards disposed of further portion of the said land, to the nett value of £1,911 3s. 10d., which they intended to apply towards

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No. 15—1886.

payment of the purchase price of a piece of ground, situate in the village of Walmer, purchased by them for the purpose of making a public park and gardens, but were on the 21st August, 1883, interdicted, at the instance of the ratepayers and residents of Ward No. 1, by an order of the Eastern Districts Court, "from spending on the Walmer ground, purchased by the grantees, any of the moneys specially set apart for the purpose of providing a park in Ward No. 1." Whereupon the said moneys, arising from the second sale of land, were placed as a fixed deposit in the Standard Bank of South Africa (Limited), where the same still remains, with interest accumulated thereon, amounting to the sum of £2,160 1s.

And whereas it is expedient and desirable that the grantees should be empowered to dispose of the remainder of the reclaimed land, with the exception of that portion now used for storage and stable purposes, or land in lieu thereof, and to apply the proceeds arising from such sale, as well as the proceeds of the previous second sale, now on fixed deposit in the said Standard Bank, for the purpose of purchasing a piece of land elsewhere in Ward No. 1 for a public park or garden.

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 authorised to sell land reclaimed from Baaken's River

1. The said Municipal Council of Port Elizabeth shall be empowered, and are hereby authorised, to sell such portions of the remainder of the land reclaimed from the Baaken's River (save and except that portion now used for storage and stable purposes, or land in lieu thereof, provided the same shall not exceed 200 yards in length by 50 yards in breadth) as are included in the freehold grant of the 10th June, 1864, referred to and recited in the preamble of this Bill, and as the said Municipal Council may from time to time deem expedient for that purpose.

Disposal of proceeds of sale.

2. The proceeds arising from such sale, as well as the proceeds arising from the previous second sale, hereinbefore referred to, amounting with interest to £2,160 1s., and now on fixed deposit in the Standard Bank of South Africa (Limited), shall be appropriated, in the first instance, towards defraying the costs of reclamation of the said land, and the costs and charges of this Bill, and incident thereto, and secondly, to the purchase of land in the said Ward No. 1 suitable for the purpose of a public park or gardens, and the enclosing and planting thereof.

Short title

3. This Act may be cited for all purposes as the "Port Elizabeth South End Park Improvement Act, 1886."

No. 16—1886.] [Promulgated 18th June, 1886.
ACT

To Authorise the Conversion into Cape of Good Hope Consolidated Stock, for the redemption of which no Sinking Fund shall be required, of securities for the redemption of which a Sinking Fund is now authorised.

WHEREAS it is expedient to reduce the annual charge of the Public Debt in respect of the Sinking Fund created by certain Acts authorising the raising of Loans for Public Purposes: 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 contained in any Act authorising the raising of Loans for Public Purposes, whereby it is required that the sum of one pound per centum per annum upon the total amount of such loans shall be set apart out of the annual revenues of the Colony for the gradual extinction of the debt created by such loans, it shall be lawful for the Governor, and he is hereby authorised to initiate and enter into arrangements with the holders of existing securities whereby such securities may be converted into Cape of Good Hope Consolidated Stock for the redemption of which no Sinking Fund shall be required.

Securities issued subject to provision for Sinking Fund may be converted into Consolidated Stock.

No. 17—1886.] [Promulgated 29th June, 1886.
ACT

To Amend the Law relating to Appeals and the Duties of the Sheriff, and to make more convenient provision regarding Legal Process in certain cases.

WHEREAS it is expedient to amend the law relating to appeals and to the duties of the Sheriff, and to make more convenient provision regarding legal process in certain cases: 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 the Court of Appeal shall cease to exist, and all and singular the powers, duties and authorities conferred upon the said Court of Appeal by Act No. 5 of 1879, Act No. 40 of 1882, or any other Act of Parliament, shall be vested in the Supreme Court of the Colony.

Supreme Court to be Court of Appeal.

Repealed by 1896 Act-35.

2. Every appeal to the Supreme Court against any judgment of the Eastern Districts Court, High Court of

Quorum of Judges.

No. 17—1886.

1896 Act 35.

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 Judges specially assigned to the Supreme 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.

Puisne Judges assigned to Supreme Court to remain so.

3. Every Puisne Judge who shall be specially and permanently assigned by the Governor in Council to the Supreme Court shall be entitled to remain so assigned until he shall cease to be a Judge of the Supreme Court.

Appeals from unanimous judgment of E. D. Court and High Court.

4. In case any appeal shall be heard before the Supreme Court against the unanimous judgment of the full Eastern Districts Court 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.

Appeals in criminal cases—how to be heard.

5. It shall be lawful for the prosecutor or defendant in any criminal suit, which shall be brought in appeal or review before the Eastern Districts Court, High Court of Griqualand, or any Circuit Court, from any inferior court, to appeal to the Supreme Court against the judgment of the said Eastern Districts Court, High Court of Griqualand or Circuit Court, as the case may be, and thereupon it shall be lawful for the Supreme Court to execute all and singular the powers heretofore vested in the Court of Appeal under and by virtue of the twenty-seventh Section of Act No. 5 of 1879.

What security Sheriff may demand before seizing disputed property.

6. The Sheriff of the Colony or his deputy shall not be bound to accept the indemnity offered to him by any plaintiff under and by virtue of the last proviso of the eighth Section of Ordinance No. 37 of 1828, unless he shall be reasonably satisfied as to the sufficiency of such indemnity, failing which he shall be entitled, before seizing the property in the said proviso mentioned, to require sufficient security from the plaintiff or his attorney.

How movables seized by Sheriff are to be sold.

7. The tenth Section of Ordinance No. 37 of 1828 is hereby repealed, and in lieu thereof it is enacted that where any movable property shall be taken by the said Sheriff or his deputy, in execution of any process of the Supreme Court, Eastern Districts Court, High Court of Griqualand or any Circuit Court, such property shall be sold by public auction by or in the presence of the Sheriff or his deputy, after the advertisement thereof shall have been twice made in some local newspaper or in the *Government Gazette*, and

after the expiration of fourteen days from the time of seizure thereof.

No. 17—1886.

8. No action shall be brought against the Sheriff or any Deputy Sheriff for anything done or omitted to be done in the execution of his office unless commenced within six calendar months after the act committed or omitted to be done.

Action against Sheriff to be brought within six months.

9. The Sheriff of the Colony, the Deputy Sheriff for Albany, or the Deputy Sheriff for Kimberley, shall, forthwith, upon receiving any moneys as and for the proceeds of any immovable property sold in execution of the judgment of any competent court, lodge such moneys with the Civil Commissioner of the Cape, Albany, or Kimberley, as the case may be. Whenever such moneys lodged as aforesaid shall be required for distribution, the Sheriff or his deputy aforesaid shall pay the same to those entitled thereto by a written order addressed to such Civil Commissioner, requesting him to pay the sum therein mentioned to the person or persons thus entitled, or his or their order, and such Civil Commissioner shall thereupon make such payment accordingly.

Sheriff and Deputy Sheriffs of Albany and Kimberley to lodge moneys received with Civil Commissioner.

How moneys to be distributed.

10. The 328th rule of court as amended by the 377th rule of court shall be applicable to the High Court of Griqualand, the word Kimberley being substituted for Cape Town.

The 328th and 377th Rules of Court to apply to High Court.

11. Unless by order of any Judge to whom application shall be made by any petitioner for the surrender of his estate, execution against his property shall not be stayed under and by virtue of the second Section of Act No. 38 of 1884, for a longer period than fourteen days from the date of the publication of the notice in the said section mentioned.

Execution stayed against petitioner for surrender for only 14 days.

12. The process mentioned in the tenth Section of Schedule B of Act No. 20 of 1856 may, in case neither the defendant nor any one of his household can be found after diligent search, be served by leaving the same at his usual or last known dwelling house or place of business.

Service of process under Act 20 of 1856.

13. The Judges of the Supreme Court may (by any rules or orders to be made in like manner as by law provided for the making of general rules or orders of the Supreme Court), make rules or orders respecting the manner and form of proceeding in civil and criminal cases before the courts of the resident magistrates; and any rules or orders so made shall be in addition to, or in place of the rules, orders, and regulations contained in Schedule B to the "Resident Magistrates' Court Act, 1856," or in any other Act relating to the said courts.

Judges of Supreme Court may make rules and orders for Courts of Resident Magistrates.

Repealed by 1917 Act 32.

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Provision as to
issuing process in
Dutch or English.

14. The following shall be added as a proviso to the second Section of Act No. 21 of 1884:—"Provided, however, that if it shall appear to the officer issuing any such process as aforesaid, either from his personal knowledge or otherwise, that the person upon whom the same is intended to be served is sufficiently acquainted with the English language to understand the purport of such process, or is not sufficiently acquainted with the Dutch language to understand the purport of such process if it be drawn in the Dutch language, then it shall not be necessary to issue such process in the Dutch language as well as the English language."

Short Title.

15. This Act may be cited as the "Appeal Court and Sheriff's Duties' Act, 1886."

No. 18—1886.]

[Promulgated 6th July, 1886.

Repealed by Act 31 of 1898 + 11 of 1899 ACT

To Amend Act No. 19 of 1883, and Act No. 22 of 1885.

Preamble.

WHEREAS it is expedient to Amend Act No. 19 of 1883, and the second section of the "Precious Stones and Minerals Mining Act Amendment Act, 1885": 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:—

Right of Claim-
holder to piece of
ground as resi-
dence.

1. To every registered claim in any alluvial digging which may have been already proclaimed, or which may hereafter be established, there shall be attached the right to use and occupy without extra payment, a piece of ground within the proclaimed area of such digging for the purpose of a residence for the holder of such claim. The said piece of ground shall be marked out for each claimholder by the Inspector of the digging, and shall not be more than fifty feet square in extent.

Provisions for
claimholder in allu-
vial diggings desiring
to sink a shaft.

2. Any person who has taken out a claim in any alluvial digging may give notice to the Inspector of the digging 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

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No. 18—1886.

search for precious stones or minerals 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 or minerals 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.

3. If any such person as aforesaid shall find any precious stones or minerals 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 thereof 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 or claim to the ten claims which he may have marked out as aforesaid.

Finds of Diamonds below fifteen feet to be reported to Inspector.

4. So soon as any person shall prove to the satisfaction of the Inspector that he has found any precious stones or minerals 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 twenty-first section of Act 19 of 1883.

On proof thereof finder entitled to registration of claims.

5. 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 a period of six days, shall be deemed to have abandoned the same, and the Inspector of the digging shall thereupon declare the same to be abandoned.

On failure to get registration claim to be considered as abandoned.

6. 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.

How disputes between claimholders to be settled.

7. The service of any summons on any defendant or witness in any case to be heard and decided as aforesaid,

Service of summons on defendant or witness.

No. 19—1886.

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.

Magistrate of district to have jurisdiction as to offences, fines, &c.

8. All offences created by this Act and all fines and penalties which may be imposed under the provisions of this Act may be prosecuted for and imposed by any Resident Magistrate of any district in which the offence was committed.

Section 33 of Act 19 of 1883 amended.

9. The thirty-third section of the aforesaid Act No. 19 of 1883, relating to compensation for surface damage, shall be read and construed as if the words within parenthesis in the said section, viz.: 'unless when a lease has been granted as aforesaid, such owner be himself the lessee or joint lessee' were expunged therefrom and formed no part of said section.

Section 2 of Act 22 of 1885 amended.

10. The second section of Act No. 22 of 1885 shall be read as if the words after the word 'expunged' had not been inserted therein.

Provision for payment of Mining Board Debt.

11. In regard to the Kimberley Mining Board debt due at the time of the passing of this Act, the court shall levy such rate from time to time as it may in its discretion think proper to fully satisfy such debt with interest at the rate of six per cent. per annum, calculated from the time of the filing of the claims with the master, and all costs properly incurred in respect thereof, within a period not exceeding four years from the date of the promulgation of this Act, and no set-off shall be allowed to ratepayers in respect of debts due to them by the said mining board exceeding three-fourths of the amount of rates levied.

Short title.

12. This Act may be cited as the "Precious Stones and Minerals Act Further Amendment Act, 1886."

No. 19—1886.]

[Promulgated 25th June, 1886.

ACT

To Amend the Law relating to the Duty on Distilled Spirits and to the Manufacture and Sale thereof, especially the provisions of the "Excise Duty Act, 1884," and the "Excise Spirits Act, 1884."

Preamble.

WHEREAS it is expedient to amend the law relating to the duty on spirits, and especially certain provisions of the "Excise Spirit Duty Act," No. 15 of 1884, and of the "Excise Spirits Act," No. 18 of 1884, and to relieve from payment of any duty all persons who may distil or manufacture spirits from wine: Be it enacted by the Governor of the

2
repealed by 1904 Act 36

Be it enacted by the Governor of the

Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

No. 20—1886.

1. For the purposes of this Act the words “wine” and “wine-farmers” shall have the meaning attached thereto in the second section of the “Excise Spirits Act, 1884.”

Definition of terms.

2. From and after the first day of July, 1886, no excise duty shall be payable upon spirits distilled from wine, anything in the “Excise Spirits Act, 1884,” the “Excise Spirit Duty Act, 1884,” or any other law, to the contrary contained notwithstanding.

Excise not payable upon spirits distilled from wine.

3. All the provisions of the “Excise Spirits Act, 1884,” and the second sub-section of the third section of the “Excise Spirit Duty Act, 1884,” in so far as the said first mentioned Act and the said sub-section may be applicable to wine-farmers, or to distillers distilling spirits from wine only, are hereby repealed.

Excise Spirits Act, 1884, not applicable to wine-farmers or distillers of spirits from wine.

4. There shall be paid or allowed to every holder of duty paid brandy distilled from wine, for all such brandy as aforesaid in his possession at the time of the taking effect of this Act, as his stock, duly taken account of by the proper officers, and for which duty shall have been paid or charged, the sum of one shilling per gallon for every gallon of spirits held by him in excess of one hundred gallons.

Refund for duty paid brandy in stock.

5. This Act may be cited as the “Excise Law Amendment Act, 1886.”

Short Title

No. 20—1886.]

[Promulgated 6th July, 1886.

ACT *Repealed by 1916 Act-22.*

To Amend the “Mossel Bay Wharfage Act, 1860.”

WHEREAS it is desirable to amend in some respects the “Mossel Bay Wharfage Act, No. 7 of 1860,” so as to exempt certain goods from being charged with wharfage dues at that port: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. Notwithstanding anything contained in the Act in the Preamble mentioned, it shall not be lawful for the Mossel Bay Harbour Board, after the taking effect of this Act, to levy or cause to be levied any wharfage dues or rates upon the following articles, that is to say:

Certain goods exempted from wharfage dues.

(1) All articles of colonial produce shipped to any place within the Colony;

(2) Bullion and coin shipped from the port of Mossel Bay to any place whatever.

2. This Act may be cited as the “Mossel Bay Wharfage Act Amendment Act, 1886.”

Short title.

No. 21—1886.]

[Promulgated 6th July, 1886.]

ACT

To Authorise the Municipality of the City of Grahamstown to Borrow the Sum of £6,000 sterling for the repayment of Certain Advances made by the Standard Bank of South Africa.

Preamble.

WHEREAS the Council of the Municipality of Grahamstown, duly elected under the provisions of the Act No. 23 of 1869, and of Act No. 12 of 1878, and acting under the provisions of the said Acts, did from time to time borrow and take up from the Standard Bank of South Africa divers sums of money amounting to the sum of six thousand pounds sterling, which sum was so borrowed and taken up and applied, to the search for and storage of water during the late severe drought, and for other important public works and for municipal purposes in the interest generally of the inhabitants of the said Municipality :

And whereas it has become necessary that the said sum or loan of £6,000 now due to the said bank should be repaid, and that in order to obtain funds for the repayment of the said sum, the Council elected or hereafter to be elected under the provisions of the aforesaid Acts should be authorised and empowered, subject further to the provisions of the 48th Section of the Act No. 23 of 1869, to raise by mortgage of any land or property belonging to the corporation or vested therein under the provisions of the aforesaid Acts, or by debentures on the security charged upon such land or property, or by charge on the security of the rates of the said municipality, a sum not exceeding £6,000 sterling :

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 authorised to borrow £6,000, and to secure loan by mortgage or debentures.

1. It shall be lawful for the Council of the Municipality of Grahamstown, now or hereafter duly elected under the provisions of the Act No. 23 of 1869, and the Act No. 12 of 1878, and the said Council is hereby empowered in one or more sums from time to time to borrow or take up at interest not exceeding six per cent. from any person or persons, company or corporation, such sum, not exceeding in all the sum of six thousand pounds sterling, as shall be necessary for repaying the amount advanced as aforesaid by the Standard Bank of South Africa, Limited ; and for the purpose of securing the principal and interest of the sum so borrowed to mortgage to the person or persons, company or corporate body lending the same, so much as may by the said Council be deemed sufficient of the land or property vested in the

corporation of the said municipality, to issue debentures charged on the land or property vested in the corporation of the said municipality, and to mortgage or charge by debentures the rates of the said municipality :

No. 22—1886.

Provided that the person or persons, company or corporate body, lending the said sum shall not be bound to see to the application by the Council of the sum so lent, nor shall the mortgage or debentures granted by the said Council for securing the principal and interest of such sum be impeached or questioned upon the ground of any irregularity which may be alleged to have been committed in regard to the borrowing from the bank aforesaid the sum or any part thereof so advanced as aforesaid, and to repay which the Council is hereby empowered to borrow money, and further that the provisions of the 48th Section of the Act No. 23 of 1869 shall, *mutatis mutandis*, apply to any mortgage or debenture passed or issued by the said Council under the provisions of this Act.

Lender not liable for application of money borrowed : Section 48 of Act 23 of 1869 to apply, *mutatis mutandis*, to mortgage or debentures.

2. Any loan obtained by the said Council 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, and any such loan obtained from the Governor of this Colony shall be deemed to be a loan within the meaning of the Local Works Loans Act, 1882.

Loan to be a debt under Public Bodies' Debts Act, 1867, and to be a loan within meaning of Local Works Loans Act, 1882.

3. All necessary costs, charges and expenses incurred in obtaining the passing of this Act shall be paid out of the ordinary revenue of the said Council.

Provision for costs, &c.

4. This Act may be cited as "The Grahamstown Municipality Loan Act, 1886."

Short title.

No. 22—1886.] [Promulgated 25th June, 1886.]

Spent.

ACT

For Applying a Sum not exceeding Fifteen Thousand and Six Pounds Nineteen Shillings and Three Pence Sterling for the purpose of meeting and covering certain Unauthorised Expenditure.

WHEREAS it has been necessary to expend from time to time in the service of this Colony certain sums of money amounting in the whole to fifteen thousand and six pounds nineteen shillings and three pence sterling, in addition to and beyond the sums voted and authorised by the Legislature to be so expended : and whereas it is expedient to legalise such unauthorised expenditure : Be it enacted by the Governor of the Cape of Good Hope, by and with the

Preamble.

o. 23—1886.

advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Revenue charged
with £15,006 19s. 3d.

1. The public revenue of this Colony is hereby charged with a sum not exceeding fifteen thousand and six pounds nineteen shillings and three 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, 1885, as described at page 15 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 1884-1885" [G. 1—'86], presented to both Houses of Parliament by command of the Governor.

Short title.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1886."

No. 23—1886.]

[Promulgated 29th June, 1886.

ACT

To Provide for the Establishment of a Civil Service Pension Fund.

Preamble.

WHEREAS it is desirable to provide against any increase of the amount now paid out of the general revenue for pensions to persons who have retired from the Civil Service of the Colony: 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:—

Monthly deduction
to be made from
salaries of certain
officers:

1. From the salary of every person to whom, on his retirement from the public service, a pension or gratuity may lawfully be assigned under the provisions of the "Civil Service Act, 1885," there shall be made a monthly deduction at the rate of three pounds per centum per annum on such salary; and all sums so deducted shall be paid into the Colonial Treasury to the credit of a separate account, to be called "The Civil Service Pension Fund:" Provided that nothing in this section contained shall apply to any person who was on the fixed establishment of the Civil Service of the Colony on the 10th August, 1885.

and to be paid into
Civil Service Pension
Fund.

Exemption.

"Salary" defined
for purposes of pre-
ceding section.

2. For the purposes of the last preceding section the word "salary" shall be taken to include all emoluments in respect of which superannuation or compensation allowances can be granted under the provisions of the thirty-second section of the "Civil Service Act, 1885;" provided that when the amount of any fees receivable by any officer cannot be definitely ascertained beforehand the deduction

Repealed by Act 22 of 1955

aforesaid shall be made upon the average amount of such fees received annually during the three financial years next preceding.

No. 23—1886.

3. The amount which shall from time to time be voted by Parliament for the payment of pensions to persons who have already retired from the public service, or who may hereafter become entitled to any pension or gratuity under the provisions of the "Civil Service Act, 1885," shall be paid into the said Fund out of the general revenue in quarterly instalments, payable in advance; and all pensions or gratuities payable to any such persons shall be paid out of the said Fund.

The amount voted by Parliament for certain pensions to be paid into the fund, and all such pensions to be paid out of the fund.

4. Interest at the rate of five pounds per centum per annum on the balance of the said Fund in the Treasury on the thirtieth day of June in each year shall be paid into the said Fund out of the general revenue.

Interest to be allowed on annual balance of the fund.

5. The rate of deduction mentioned in the first section of this Act may from time to time be altered by the Governor, provided that no such alteration 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.

6. It shall be lawful for the Treasurer of the Colony to invest any portion of the balance to the credit of the Fund in Government Debentures or Stock, and to sell any such Debentures or Stock which may have been previously purchased.

Treasurer may invest balance in Debentures or Stock.

7. A statement of all moneys received and disbursed under the provisions of this Act, and of all investments and sales under the provisions of the last preceding section, shall be laid before both Houses of Parliament annually.

Statement of transactions of Fund to be laid before Parliament annually.

8. At the end of every period of five years, the first period being reckoned from the taking effect of this Act, 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 Fund, shall be submitted by the Treasurer of the Colony to a competent actuary, and the report of such actuary shall be laid before both Houses of Parliament during the first session after the expiration of such period.

At the end of every five years, actuarial enquiry to be made into working of the Fund.

9. This Act may be cited as "The Civil Service Pension Fund Act, 1886," and shall come into operation on the first day of July, 1886.

Short title and time of taking effect.

No. 24—1886.] [Promulgated 9th July, 1886.
ACT

To Provide for a Penal Code for the Transkeian Territories.

Preamble.

WHEREAS it is desirable to provide a Penal Code for the Transkeian Territories as the same are hereinafter in this Act defined: 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:—

TITLE I.

CHAPTER I.
PRELIMINARY.

Short Title and Operation of Code.

Short Title and operation of Code.

1. This Act shall be called "The Native Territories Penal Code," and shall take effect on and from the first day of January, 1887, throughout the whole of the territories known as The Transkei (including Gcalekaland), Griqualand East, Tembuland (including Emigrant Tembuland, and Bomvanaland), and the port and territory of St. John's River, which are hereby styled the "Transkeian Territories." The said port and territory of Saint John's River shall for the purposes of this Code form part of the chief magistracy of Tembuland.

Offenders liable under the Code.

Offenders liable under the Code.

2. Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof, of which he shall be found guilty within the said territories on or after the said first day of January, 1887, and every person who shall be charged or chargeable on or after that day with any offence committed before such day shall be liable to be tried and punished by the courts hereinafter established in the same manner as if this Act had not been passed.

Criminals from Extra-Colonial Native Territories.

Criminal Fugitives from Extra-Colonial Native Territories.

3. Every person shall be subject to trial and punishment under this Code for every act or omission of which he shall be guilty on or after the said first day of January, 1887, within the territory of any native chief, and which act or omission is punishable within the Colony of the Cape of Good Hope or its dependencies, by virtue of any treaty or engagement heretofore entered into, or which may hereafter be made, between such native chief and the Governor of the Colony of the Cape of Good Hope.

Offence committed when and where Offender has Property in possession or control.

No. 24—1886.

4. Every offence consisting in unlawful taking or obtaining or appropriating property, or in knowingly receiving property so taken, obtained, or appropriated, or in forging any document, or in using any forged document, is committed as long as, and at every place where, the offender has the property or document so unlawfully dealt with in his possession or under his control, whether the original offence was committed within the territories to which the Code applies, or without

Offence committed when and where offender has property in possession or control.

Interpretation of terms.

5. In this Act the following words and expressions are used in the following senses, unless a different intention appears from the context:—

Interpretation of terms.

- (a) The pronoun "he" and its derivatives are used of any person, whether male or female. Words importing the singular include the plural, and words importing the plural include the singular number. The word "man" denotes a male human being of any age. The word "woman" denotes a female human being of any age. The word "person" includes any person or association or body of persons, whether incorporated or not. The word "public" includes any class of the public or any community. The word "government" denotes the person or persons authorised by law to administer executive government in any part of the said territory. The word "Court" denotes a judge who is empowered by law to act judicially alone, or a body of judges empowered by law to act judicially as a body when such judge or body of judges is acting judicially. The word "Judge" denotes every person who is empowered by law to give, in any legal proceeding, criminal or civil, a definitive judgment, or a judgment which if not appealed against would be definitive, or a judgment which, if confirmed by some other authority, would be definitive; or who is one of a body of persons empowered by the law to give such a judgment.
- (b) The word "public servant" denotes a person falling under any one of the following descriptions, namely:—
 - (1). Every servant of the Queen. (2). Every commissioned officer of the military or naval force of the Queen. (3). Every judge. (4). Every officer of a court of justice whose duty it is to investi-

gate or report on any matter of law or fact, or to make, authenticate, or keep any document, or take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or interpret or preserve order in the court. (5). Every jurymen or assessor assisting a court of justice. (6). Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement. (7). Every officer of Government whose duty it is as such officer to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience. (8). Every officer in the service or pay of the Government, or remunerated by fees or commission for performance of any public duty.

- (e) The words "movable property" include corporeal property of every description except land and things attached to the earth or permanently fastened to anything which is attached to the earth.
- (d) In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done, extend also to illegal omissions. The word "act" denotes as well a series of acts as a single act. The word "omission" denotes as well a series of omissions as a single omission; and an offence may be committed partly by an act and partly by an illegal omission.
- (e) When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if the act were done by him alone. Whenever an act which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act, with such knowledge or intention, is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.
- (f) Whenever an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence, by doing any one of those acts, either singly or jointly with any other person, commits that offence. When several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

- (g) The word “offence” denotes anything made punishable by this Code. The word “illegal” is applicable to anything which is an offence, or which is prohibited by law, or which furnishes grounds for a civil action; and a person is said to be “legally bound to do” whatever it is illegal in him to omit. The word “injury” denotes any harm whatever illegally caused to any person in mind, reputation, or property.
- (h) The words “life” and “death” denote the life or death of a human being unless the contrary appears from the context. The word “animal” denotes any living creature other than a human being. The words “year and month” denote a calendar year and month. The word “section” denotes a portion of a chapter of this Code distinguished by prefixed numerals.
- (i) “Oath” and all expressions relating to “the taking of oaths” include all such affirmations and declarations as may by law be substituted for an oath, and the making of such affirmations and declarations.
- (j) Nothing is said to be done or believed “in good faith” which is done or believed without due care and attention.
- (k) The word “kraal” denotes any hut, houses, or enclosure occupied by any single family, or member of a family, or any aboriginal tribe, or any collection of huts, houses or enclosures, occupied by several families of any aboriginal tribes, with a recognised head known as *umninimzi*.
- (l) The word “spoor” denotes any mark or impression on, or disturbance of, the surface of any ground, or any mark or impression on or disturbance of any grass, herbage, or wood on such ground, or any matter or substance left or found upon such ground, grass, herbage, or wood, indicating that any person or persons or any cattle have passed along in any particular direction.
- (m) The word “cattle” shall comprise horses, mules, asses, horned cattle, sheep, goats, or ostriches.

CHAPTER II.
PUNISHMENTS.

6. The following punishments may be inflicted under this Act:—
Death.

Repealed by 1917 Act 31
except sects 13, 15.
+ 17.

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Punishments.

Imprisonment with or without hard labour, and
with or without spare diet.
Flogging and whipping.
Detention in a reformatory institution.
Fine.
Putting under recognizances

Punishment of Death.

Punishment of
death.

7. The punishment of death shall be awarded for murder, and shall in all cases, where the circumstances will admit of it, be carried into effect within the gaols and in the manner prescribed by Act No. 3 of 1869: provided, however, that the omission to comply with any provision of the said Act shall not make the execution of the judgment of death illegal, in any case where such execution would otherwise be or have been legal. The punishment of death shall be inflicted by hanging the offender by the neck until he is dead: Provided always that no sentence of death shall be carried into effect without the warrant of the Governor authorising the same.

Commutation of punishment of death.

Commutation of
punishment of death.

8. In any case in which sentence of death shall have been passed, the Governor for the time being may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

Imprisonment.

Imprisonment.

9. The punishment of imprisonment consists in the detention of the offender in prison, and in his subjection to the discipline appointed for prisoners, during the period expressed in the sentence. Imprisonment shall be with or without hard labour or with or without spare diet. If it is with hard labour, the sentence shall so direct. No prisoner shall be sentenced to or suffer solitary confinement for any part of the term of his imprisonment, except the same may be unavoidable or necessary for the purpose of carrying out any sentence of spare diet. No female shall be sentenced to hard labour on any road, street, or public place. No offender sentenced to imprisonment with hard labour for any period exceeding three months shall be sentenced to spare diet, except for offences against the discipline of the gaol or other place at which he may be lawfully confined or employed; and in regard to the infliction of spare diet, the courts in their sentences shall observe and conform to such regulations and restrictions as shall from time to time be deemed necessary, to prevent injurious consequences, and be by the Governor prescribed for the guidance of such courts; and shall in their

sentences fix the particular days or times during which the offender shall be subject to spare diet.

No person shall be put to hard labour during any period he may undergo spare diet.

When any person shall be sentenced to imprisonment, it shall be lawful for the Governor to order, from time to time, the removal of such person during the period prescribed for his imprisonment, from any gaol in which he is confined to any other gaol or place of imprisonment within the territories to which this Code applies or within the Colony of the Cape of Good Hope.

Flogging and Whipping.

10. Flogging shall consist of the infliction on a male person, who shall have attained the age of sixteen years, of a number of strokes, not exceeding at any one time fifty, with an instrument specified by the court, and in default of such specification, with such instrument as the Governor shall direct. Flogging and whipping.

Whipping shall consist of the infliction on a male person, who shall not have attained the age of sixteen years, of a number of strokes or cuts, not exceeding at any one time twenty-five, with a cane or rod, which last correction shall be administered by such person in such private place as the court shall appoint, and in case the father or reputed father shall in person express a desire to correct such offender himself in the manner adjudged by the court, it shall be lawful for the court to permit him to do so in the presence of any suitable person selected by the court to witness the infliction of such correction. Should the age of any such offender be unknown it shall be lawful for the court before which he shall be tried to judge of the offender's age by his appearance, or according to such other materials for forming a judgment upon the subject as shall exist; and no error which shall be *bona fide* made by any court in judging of the age of any such offender shall vitiate or affect the sentence by which such offender shall be sentenced to receive, and shall have received, any such correction as aforesaid.

In each case, whether of whipping or flogging, the court shall in its sentence specify the number of strokes to be inflicted. No flogging or whipping shall take place after the expiration of six months from the passing of the sentence. The period of imprisonment is to be calculated from the date on which such sentence is passed: Provided, however, that the period during which the sentence may be suspended, pending appeal, is not to be reckoned in calculating the term of imprisonment if the appeal be rejected.

No female shall be liable to be flogged or whipped.

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Offenders under 16 years may be whipped in lieu of imprisonment.

Offenders under 16 years may be whipped in lieu of imprisonment.

11. Any male, whose age shall not exceed sixteen years, convicted of any offence punishable with imprisonment in the first instance, may, in lieu of such imprisonment, receive a whipping; and wherever an offence in this Code is punishable with flogging, any male whose age shall not exceed sixteen years may be sentenced to a whipping in addition to any term of imprisonment with or without hard labour, but shall not be flogged.

Reformatories.

Reformatories.

12. Upon the conviction of any person under the age of sixteen years, and whenever reformatory institutions for the reception and custody of youthful criminals are established within any of the territories to which this Code applies, the court shall have all the powers conferred by the Reformatory Institutions Act of 1879.

Fines.

Fines.

13. Where no sum is expressed to which a fine may extend, the amount of fine to which an offender is liable is unlimited, but shall not be excessive.

14. Where the court has power to fine without imprisonment, the court may, if it thinks fit, direct that the person sentenced to fine be imprisoned, with or without hard labour, until the fine be paid: Provided that the court may, at its discretion, suspend such imprisonment in such terms as it thinks fit, or may limit the period of such imprisonment: Provided also that in no such case shall anyone be imprisoned for non-payment of a fine for more than one year.

15. Where the court has power to fine and imprison, the term for which the court may direct the offender to be imprisoned in default of payment of a fine shall not in any case exceed the maximum term of imprisonment fixed for the offence; and where such fine is given in addition to any term of imprisonment which the court may have the power to impose, the term of imprisonment in default of payment of the fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence; and in such case this last term of imprisonment shall take effect from and after the termination of the imprisonment which may have been awarded in addition to fine

Portion of Fines may be paid to Persons assisting in bringing offenders to justice.

Portion of fines may be paid to persons assisting in bringing offenders to justice.

16. The courts empowered to pass sentence on any persons for any offence under this Code may order and direct that a portion of any fine imposed by the court shall be paid to the

person or persons on whose information the conviction of any offender may have been obtained, or who materially assisted in bringing such offender to justice.

Fines to be levied in restitution of, or as compensation for, Property stolen or injured.

17. Any court empowered to pass sentence under the provisions of this Code on any person for any offence may, in passing such sentences, include therein, under the punishment of fine, a sufficient amount to cover reasonable compensation for loss, costs, damages, or injury caused by the offence for which the offender shall have been convicted; such fine, if not paid, to be levied on the movable property of the said 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 out of such fine aforesaid, when paid or levied, it shall be competent for the judge or magistrate to direct payment to be made to the person injured, for such reasonable compensation as aforesaid; and any balance shall be paid into the public treasury: Provided that any magistrate may suspend the levying of any fine imposed as above until the record of the proceedings in the case shall have been reviewed by the chief magistrate of the territory who shall be empowered to reduce or disallow the same, as shall seem to him to be most in accordance with real and substantial justice.

Fines to be levied in restitution of, or as compensation for property stolen or injured.

Fines recoverable in money, stock, grain, or other produce.

18. All fines which may be imposed under this Code may be imposed, paid or recovered in money, or in cattle, or in grain, or other produce of the soil, at the discretion of the judge or magistrate who shall determine the number of cattle or quantity of grain or other produce of the soil to be paid in lieu of money.

Fines recoverable in money, stock, or grain.

Discharge without verdict.

19. In any case in which the court considers that the offence deserves no more than a nominal punishment, the court may in its discretion direct the discharge of the accused, and such discharge shall have all the effects of an acquittal.

Repealed by 1917 Act 31.
Discharge without verdict.

Placing under recognizances.

20. Every one who under any provision of this Code is convicted of any offence, for which he is liable to be sentenced to imprisonment, may in addition to any term of imprisonment or instead of any punishment hereby authorised, be required to enter into his own recognizances or to find sureties or both for such amount and for such time as the court by which he is tried considers reasonable, that he shall keep the

Placing under recognizances.

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peace and be of good behaviour. Every one required to find sureties as aforesaid shall be liable, if the court thinks fit, to be imprisoned till he find such sureties: Provided the court may in its discretion suspend such last mentioned imprisonment on such terms as it thinks fit, or may limit the period of such imprisonment: Provided also that no one shall be imprisoned for not finding sureties for more than one year, exclusive of any other period for which he may be imprisoned by the sentence of the court.

Sentences may be cumulative.

Sentences may be cumulative.

21. When an offender is convicted of more offences than one before the same court, at the same sitting, or when any offender undergoing punishment for one offence is convicted of another, the sentences passed upon him for his several offences shall take effect one after the other, or after the expiration of the punishment which he is undergoing at the time of his last conviction.

Limit of punishment of offence made up of several offences.

Limit of punishment of offence made up of several offences

22. When anything which is an offence is made up of parts, any of which part is itself an offence, defendant shall not be punishable with a punishment for more than one of such offences, unless it be so expressly provided.

Punishment of person guilty of several offences.

Punishment of person guilty of several offences.

23. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided; if the same punishment is not provided for all.

CHAPTER III.

JUSTIFICATION AND EXCUSE FOR ACTS WHICH WOULD OTHERWISE BE OFFENCES.

Common Law principles.

Common Law principles.

24. All rules and principles of the law in force in the Cape Colony which render any circumstance a justification or excuse for any act or a defence to any charge, shall be in force and be applicable to any defence to a charge under this Code, except in so far as they are thereby altered or are inconsistent therewith. The matters hereby provided for are declared and enacted to be justifications and excuses for all charges to which they apply.

Children exempted.

Children exempted

25. No one whose age does not exceed seven years shall be convicted of any offence.

No one whose age exceeds seven and does not exceed fourteen years, shall be convicted of any offence, unless it appear that at the time he committed the offence he had sufficient intelligence to know the nature and consequences of his conduct, or to appreciate that it was wrong.

Insanity.

26. If it be proved that a person who has committed an offence was, at the time he committed it, insane, so as not to be responsible for that offence, he shall not therefore be simply acquitted, but he shall be found not guilty on the ground of insanity, and in such case the court before which such trial shall take place shall order such person to be kept in strict custody in such gaol, lunatic asylum, or other place of confinement either in the said territories or in the Cape Colony, and in such manner as to the court shall seem fit, until the pleasure of the Governor shall be known, and the Governor may thereupon give such order for the safe custody of such person in such place, in such manner, and for such time as to the Governor shall seem fit.

Insanity.

To establish a defence on that ground it must be proved that the offender was at the time he committed the act labouring under natural imbecility or disease of or affecting the mind to such an extent as to render him incapable of appreciating the nature and quality of the act or that the act was wrong. A person labouring under specific delusions but in other respects sane, shall not be found guilty on the ground of insanity, unless the delusions caused him to believe in the existence of some state of things which, if it existed, would justify or excuse this act: Provided that insanity before or after the time he committed the act, and insane delusions though only partial, may be evidence that the offender was at the time that he committed the act in such a condition of mind as to entitle him to be found not guilty on the ground of insanity.

Everyone committing an offence shall be presumed to be sane until the contrary is proved.

Intoxication.

27. Nothing is an offence which is done by a person who, at the time of doing it, is by reason of intoxication incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Intoxication.

28. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be

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dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will: Provided, however, that if the existence of a specific intention is essential to the commission of a crime the fact that an offender was drunk when he did the act which if coupled with that intention would constitute such crime shall be taken into account by the judge or magistrate in deciding whether he had that intention.

Compulsion.

Compulsion.

29. Compulsion by threats of immediate death or grievous bodily harm from a person actually present at the commission of an offence, shall be an excuse for the commission of any offence other than high treason, murder, attempting to murder, assisting in rape, forcible abduction, robbery, causing grievous bodily harm, and arson: Provided that the person under compulsion believes that such threat will be executed: Provided also that he was not a party to any association or conspiracy, the being party to which rendered him subject to such compulsion. No presumption shall be made that a married woman committing an offence in the presence of her husband does so under compulsion.

Ignorance of Law.

Ignorance of Law.

30. The fact that an offender is ignorant of the law is not an excuse for any offence committed by him; but nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law, believes himself to be justified by law in doing it.

Act of Judicial Officer.

Act of Judge.

31. Nothing is an offence which is done by a judge, or any other judicial officer, when acting judicially in the exercise of any power which is or which in good faith he believes to be given him by law.

Execution of lawful sentence.

Execution of lawful sentence.

32. Every officer of any court authorised to execute a lawful sentence, and every gaoler, and every person lawfully assisting such officer or gaoler, is justified in executing such sentence.

Execution of lawful process and warrants.

Execution of lawful process and warrants.

33. Every officer of any court duly authorised to execute any lawful process of such court, whether of a civil or criminal nature, and every one duly authorised to execute a lawful warrant issued by any court or justice of the peace,

or other person having jurisdiction to issue such warrants, and every person lawfully assisting them respectively, is justified in executing such process or warrant respectively, and every gaoler who is required under such process or warrant respectively to receive and detain any person, is justified in receiving and detaining him.

Execution of erroneous sentence or process.

34. If a sentence is passed or process issued by a court having jurisdiction under any circumstances to issue such warrant, the sentence passed or process or warrant issued shall be sufficient to justify the officer or person authorised to execute such warrant, and every gaoler and person lawfully assisting, although the court passing the sentence or issuing the process had not in the particular case authority to do so, or although the court or the person in the particular case had no jurisdiction to issue or exceeded its or his jurisdiction in issuing the warrant, or was, at the time when such sentence was passed or process or warrant issued, out of the district for which such person was entitled to act.

Execution of erroneous sentence or process.

Effect of sentence or process without jurisdiction.

35. Every officer, gaoler, or person executing any process, sentence, or warrant, and every person lawfully assisting such officer, gaoler, or person, shall be protected from criminal responsibility, if he acts in good faith under the belief that the sentence or process was that of a court having, or that the warrant was that of a court, justice of the peace, or other person having authority to issue warrants, and if it be proved that the person passing the sentence, or issuing the process acted as such a court, under colour of having some appointment or commission lawfully authorising him to act as such court, or that the person issuing the warrant acted as a justice of the peace or other person having such authority, although in fact such appointment did not exist or had expired, or although in fact the court or the person passing the sentence or issuing the process was not the court or the person authorised by the commission to act, or the person issuing the warrant was not duly authorised so to act.

Effect of sentence or process without jurisdiction.

Repealed by 1917 Act-31.

Arresting the wrong person.

36. Every one duly authorised to execute a warrant to arrest, who thereupon arrests a person, believing in good faith and on reasonable and probable grounds that he is the person named in the warrant, shall be protected from criminal responsibility to the same extent, and subject to the same provisions, as if the person arrested had been the person named in the warrant. Every one called on to assist

Arresting the wrong person.

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the person making such arrest, and believing that the person in whose arrest he is called on to assist is the person for whose arrest the warrant is issued, and every gaoler who is required to receive and detain such person shall be protected to the same extent, and subject to the same provisions, as if the arrested person had been the person named in the warrant.

Effect of irregular warrant or process.

Effect of irregular warrant or process.

37. Every one acting under a warrant or process which is bad in law on account of some defect in substance or in form apparent on the face of it, if he in good faith and without culpable ignorance or negligence believed that the warrant or process was good in law, shall be protected from criminal responsibility to the same extent, and subject to the same provisions as if the warrant was good in law, and ignorance of the law shall in this case be an excuse: Provided that it shall be a question of law whether the facts of which there is evidence may or may not constitute culpable ignorance or negligence in his so believing the warrant or process to be good in law.

Arrest by peace officer in case of major offence.

Arrest by peace officer in case of major offence.

38. Every peace officer who on reasonable and probable grounds believes that one of the offences as to which it is provided in this Code that the offender may be arrested without warrant has been committed, whether it has been committed or not, and who on reasonable and probable grounds believes that any person has committed that offence, is justified in arresting such person without warrant whether such person is guilty or not.

Persons assisting peace officer arresting in case of major offence.

Persons assisting peace officer arresting in case of major offence.

39. Everyone called upon to assist a peace officer in the arrest of a person suspected of having committed any such offence as last aforesaid, is justified in arresting if he knows that the person calling on him to assist him is a peace officer and does not know that there is no reasonable ground for the suspicion.

Arrest of person found committing major offence.

Arrest of person found committing major offence.

40. Everyone is justified in arresting without warrant any person whom he finds committing any offence as to which it is provided by this Code that the offender may be arrested when found committing.

Arrest after commission of major offence.

Arrest after commission of major offence.

41. If any offence as to which it is provided in this Code that the offender may be arrested without warrant has been committed, anyone who on reasonable and probable grounds

believes that any person is guilty of that offence is justified in arresting him without warrant, whether such person is guilty or not.

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Arrest of persons believed to be committing major offence.

42. Everyone is protected from criminal responsibility for arresting without warrant any person whom he on reasonable and probable grounds believes he finds committing any offence as to which it is provided by this Code that offenders may be arrested without warrant.

Arrest of persons believed to be committing major offence at night.

Arrest by peace officer of person found committing any offence.

43. Every peace officer is justified in arresting without warrant any person whom he finds committing any offence against this Code.

Arrest by peace officer of person found committing any offence.

Arrest of person found committing any offence at night.

44. Everyone is justified in arresting without warrant any person whom he finds committing in the night time any offence against this Code.

Arrest of person found committing or about to commit any offence at night.

45. Every peace officer is justified in arresting without warrant any person whom he finds lying or loitering in any kraal, enclosure, cattle yard, premises, or other place during the night, and whom he has good cause to suspect of having committed or being about to commit any offence for which an offender may be arrested without warrant.

Arrest of persons lying or loitering in any kraal &c.

Arrest during flight.

46. Every one is protected from criminal responsibility for arresting without warrant any person whom he on reasonable and probable grounds believes to have committed an offence against this Code and to be escaping from and to be pursued by those whom on reasonable and probable grounds he believes to have lawful authority to arrest that person for such offence.

Arrest during flight.

What force may be used in executing process or in arrest.

47. Everyone is justified or protected from criminal responsibility in executing any sentence, warrant or process, or in making an arrest, and every one lawfully assisting him is justified and protected from criminal responsibility as the case may be, in using such force as may be necessary to overcome any force used in resisting such execution or arrest, unless the sentence, process or warrant can be executed or the arrest effected by reasonable means in a less violent manner.

What force may be used in executing process or in arrest.

Duty of persons arresting.

48. It is the duty of everyone executing any process or warrant to have it with him and to produce it if required.

Duty of persons arresting.

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It is the duty of everyone arresting another, whether with or without warrant, to give notice where practicable of the process or warrant under which he acts, or of the cause of the arrest.

A failure to fulfil either of the two duties last mentioned shall not of itself deprive the person executing the process or warrant, or his assistants, or the person arresting of protection from criminal responsibility, but shall be relevant to the enquiry whether the process or warrant might not have been executed or the arrest effected by reasonable means in a less violent manner.

Peace officer preventing escape from arrest for major offence.

Peace officer preventing escape from arrest for major offence.

49. Every peace officer proceeding lawfully to arrest with or without warrant any person for any offence as to which it is provided in this Code that the offender may be arrested without warrant, and everyone lawfully assisting in such arrest is justified, if the person to be arrested takes flight to avoid arrest, in using such force as may be necessary to prevent his escape by such flight, unless such escape can be prevented by reasonable means in a less violent manner.

Private person preventing escape from arrest for major offence.

Private person preventing escape from arrest for major offence.

50. Every private person proceeding lawfully to arrest without warrant any person for any offence as to which it is provided in this Code that the offender may be arrested without warrant, is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless such escape can be prevented by reasonable means in a less violent manner.

Preventing escape from arrest in other cases.

Preventing escape from arrest in other cases.

51. Everyone proceeding lawfully to arrest any person for any cause other than such offence as in the last section mentioned is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless such escape can be prevented by reasonable means in a less violent manner.

Preventing escape or rescue after arrest for major offences.

Preventing escape or rescue after arrest for major offences.

52. Every one who has lawfully arrested any person for any offence as to which it is provided in this Code that the offender may be arrested without warrant, is protected from criminal responsibility in using such force in order to prevent the rescue or escape of the person arrested, as he believes on reasonable grounds to be necessary for that purpose.

Preventing escape or rescue after arrest in other cases.

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53. Every one who has lawfully arrested any person for any cause other than one of the offences as to which it is provided in this Code that the offender may be arrested without warrant, is protected from criminal responsibility in using such force in order to prevent his escape or rescue as he believes on reasonable grounds to be necessary for that purpose.

Preventing escape or rescue after arrest in other cases.

Homicide of persons flying and resisting to be justifiable.

54. If any officer of the law or private person authorised and required to arrest, or assist in arresting, any person who has committed, or who is on reasonable grounds suspected to have committed, any murder, culpable homicide, rape, robbery, or assault with intent to commit any of those crimes, or in which a dangerous wound is given, arson, housebreaking with intent to commit any crime, or theft of any cattle, sheep, or goats, or any other crime of equal degree of guilt with any of the crimes aforesaid, or desertion or attempted desertion from a gaol or convict station, shall attempt to make such arrest, and the person so attempted to be arrested shall fly or resist, and cannot be apprehended and prevented from escaping by other means than by such officer or private person killing the person so flying or resisting, such homicide shall be deemed in law to be justifiable homicide.

Homicide of persons flying and resisting to be justifiable.

Suppression of breach of the peace.

55. Every one who witnesses a breach of the peace is justified in interfering to prevent the continuance or renewal of such breach of the peace, and may detain any person committing or about to join in or renew such breach of the peace, in order to give him into the custody of a peace officer: Provided that the person interfering uses no more force than is reasonably necessary for preventing the continuance or renewal of such breach of the peace or than is reasonably proportioned to the danger to be apprehended from the continuance or renewal of such breach of the peace.

Suppression of breach of the peace.

56. Every peace officer who witnesses a breach of the peace, and every person lawfully assisting him, is justified in arresting anyone whom he finds committing such breach of the peace, or whom he on reasonable and probable grounds believes to be about to join in or renew such breach of the peace.

57. Every peace officer is justified in receiving into custody any person given into his charge as having been a party to a breach of the peace, by one who has, or whom such peace officer upon reasonable and probable grounds believes to have, witnessed such breach of the peace.

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*Suppression of riot by Magistrates, &c.*Suppression of riot
magistrates, &c.

58. Every justice of the peace is justified in using and ordering to be used, and every peace officer is justified in using, such force as he in good faith and on reasonable and probable grounds believes to be necessary to suppress a riot, and as is not disproportioned to the danger which he on reasonable and probable grounds believes to be apprehended from the continuance of the riot.

*Suppression of riot by persons acting under lawful orders.*Suppression of riot
by persons acting
under lawful orders.

59. Every one, whether subject to military or police law or not, acting in good faith in obedience to orders given by a justice of the peace for the suppression of a riot, is justified in obeying the orders so given, unless such orders are manifestly unlawful; and he is protected from criminal responsibility in using such force as he on reasonable and probable grounds believes to be necessary for carrying into effect such orders.

It shall be a question of law whether any particular order is manifestly unlawful or not.

*Protection of persons subject to military law.*Protection of persons
subject to military
law.

60. Every one who is bound by military or police law to obey the lawful command of his superior officer, is justified in obeying any command given him by his superior officer for the suppression of a riot, unless such order is manifestly unlawful.

It shall be a question of law whether such order is manifestly unlawful or not.

*Prevention of major offences.*Prevention of major
offences.

61. Every one is justified in using such force as may be reasonably necessary in order to prevent the commission of any offence for which if committed the offender might be arrested without warrant, and the commission of which would be likely to cause immediate and serious injury to the person or property of any one; or in order to prevent any act being done which he upon reasonable grounds believes would, if committed, amount to any of such offences.

*Self-defence against unprovoked assault.*Self-defence
against unprovoked
assault.

62. Every one unlawfully assaulted, not having provoked such assault, is justified in repelling force by force, if the force he uses is not meant to cause death or grievous bodily harm, and is no more than is necessary for the purpose of self-defence.

*Self-defence against provoked assault.*Self defence
against provoked
assault.

63. Every one who has without provocation assaulted another, or has provoked an assault from that other, may

nevertheless justify force, subsequent to such assault, if he uses such force under reasonable apprehension of death, or grievous bodily harm from the violence of the party first assaulted or provoked, and in the belief on reasonable grounds that it is necessary for his own preservation from death or grievous bodily harm: Provided that he did not commence the assault with intent to do grievous bodily harm, and did not endeavour, at any time before the necessity for preserving himself arose, to kill or do grievous bodily harm: Provided, also, that before such necessity arose he declined further conflict, and quitted or retreated from it as far as was practicable.

Provocation within the meaning of this and the last preceding section may be given by blows, or words.

Defence of movable property against trespasser.

64. Every one who is in peaceable possession of any movable property or thing, and every one lawfully assisting him, is justified in resisting the taking of such property or thing by any trespasser, or in retaking it from such trespasser, if in either case he does not do grievous bodily harm to such trespasser: and if, after any one having peaceable possession as aforesaid has laid hands upon any such property or thing, such trespasser persists in attempting to keep it, or to take it from the possessor, or from any one lawfully assisting him, the trespasser shall be deemed to commit an assault without justification or provocation.

Defence of movable property against trespasser.

Defence of movable property by one having claim of right.

65. Every one who is in peaceable possession of any movable property or thing under a claim of right, and every one acting under his authority, is protected from criminal responsibility for defending such possession, even against a person entitled by law to the possession of such property or thing, if he does not do grievous bodily harm to such person; and if the person so entitled by law to the possession thereof attempts to take it from or otherwise assaults the possessor, or any one acting under his authority, such assault shall be deemed to be without justification or provocation.

Defence of movable property by one having claim of right

Defence of movable property by person not having claim of right.

66. Every one who is in peaceable possession of any movable property or thing, but neither claims right thereto nor acts under the authority of a person claiming right thereto, is neither justified nor protected from criminal responsibility for defending his possession against a person entitled by law to the possession of such property or thing; and if the person so entitled attempts to retake any such

Defence of movable property by person not having claim of right.

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thing, and the possessor resists and the person entitled thereto thereupon assaults the possessor, such assault shall be deemed to have been provoked, although the possessor may not have assaulted the person entitled by law to the possession.

Defence of house or kraal.

Defence of house or kraal.

67. Every one who is in peaceable possession of a dwelling-house or other building, or kraal, and every one lawfully assisting him, or acting by his authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of that dwelling-house, building or kraal either by night or day, by any person with the intent to commit any indictable offence therein.

Defence of dwelling-house or kraal at night.

Defence of dwelling-house or kraal at night.

68. Every one who is in peaceable possession of a dwelling-house, or other building or kraal, and every one lawfully assisting him or acting by his authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of that dwelling-house, building or kraal by night by any person, if he believes on reasonable and probable grounds that such breaking and entering is attempted with the intent to commit any indictable offence therein.

Defence of immovable property.

Defence of immovable property.

69. Every one who is in peaceable possession of any house, or other building, kraal, or land, or other immovable properties, and every one lawfully assisting him or acting by his authority, is justified in using force to prevent any person from trespassing on such property, or to remove him therefrom, if he does not do grievous bodily harm to such trespasser; and if such trespasser resists such attempt to prevent his entry or to remove him, such trespasser shall be deemed to commit an assault without justification or provocation.

Assertion of right to house or land.

Assertion of right to house or land.

70. Every one is justified in peaceably entering in the day time to take possession of any house, or other building, kraal, or land, to the possession of which he or some other person under whose authority he acts is lawfully entitled.

71. If any person, not having or acting under the authority of one having peaceable possession of any such house, building, kraal, or land, with a claim of right, assaults any one peaceably entering as aforesaid for the purpose of making him desist from such entry, such assault shall be deemed to be without justification or provocation.

72. If any person having peaceable possession of such house, building, kraal, or land, with a claim of right, or any person acting by his authority, assaults any one entering as aforesaid for the purpose of making him desist from such entry, such assault shall be deemed to be provoked by the person entering.

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Surgical operations.

73. Every one is protected from criminal responsibility for performing with reasonable care and skill any surgical operation upon any person for his benefit, with such person's consent, if in a fit state to give such consent, or, in the case of a minor, with the consent of the parents or guardians of such minor: Provided that performing the operation was reasonable, having regard to the patient's state at the time, and to all the circumstances of the case.

Surgical operations.

Act done in good faith for the benefit of a person without consent.

74. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit.

Act done in good faith for the benefit of a person without consent.

Excess.

75. Every one authorised by law to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess.

Excess.

Consent to Death.

76. No one has a right to consent to the infliction of death upon himself, or of any injury likely to cause death, unless it be an injury in the nature of a surgical operation upon himself; and if such consent is given, it shall have no effect upon the criminal responsibility of any person by whom such death may be caused.

Consent to death.

CHAPTER IV.

OF PARTIES TO THE COMMISSION OF OFFENCES.

Parties to offences.

77. Every one is a party to and guilty of an offence who
(a) Actually commits the offence, or does or omits any act, the doing or omission of which forms part of the offence, or

Parties to offences.

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(b) Aids or abets any person in the actual commission of the offence, or in any such act or omission as aforesaid; or

(c) Directly or indirectly counsels or procures any person to commit the offence, or to do or omit any such act as aforesaid.

78. If several persons form a common intention to prosecute any unlawful purpose, and to assist each other therein, each of them is a party to every offence committed by any one of them in the prosecution of such common purpose, the commission of which offence was, or ought to have been, known to be a probable consequence of the prosecution of such common purpose.

Offence committed other than the offence intended.

Offence committed other than the offence intended.

79. Every one who counsels or persuades another to be a party to an offence of which that other is afterwards guilty, is a party to that offence, although it may be committed in a way different from that which was counselled or suggested.

80. Everyone who counsels or procures another to be a party to an offence is a party to every offence which that other commits in consequence of such counselling or procuring, and which the person counselling or procuring knew, or ought to have known, to be likely to be committed in consequence of such counselling or procuring.

Accessory after the fact defined.

Accessory after the act defined.

81. An accessory after the fact to an offence is one who receives, comforts, or assists anyone who has been a party to such offence, in order to enable him to escape, knowing him to have been a party thereto: Provided that no married woman whose husband has been a party to an offence, shall become an accessory after the fact by receiving, comforting, or assisting her husband, or by receiving, comforting, or assisting, in his presence and by his authority, any other person who has been a party to such offence, in order to enable her husband or such other person to escape.

Attempts to commit offences.

Attempts to commit offences.

82. An attempt to commit an offence is an act done or omitted with intent to commit that offence, forming part of a series of acts or omissions which would have constituted the offence if such series of acts or omissions had not been interrupted either by the voluntary determination of the offender not to commit the offence or by some other cause.

83. Everyone who, believing that a certain state of facts exists, does or attempts an act the doing or omitting of which

would, if that state of facts existed, be an attempt to commit an offence, attempts to commit that offence, although its commission in the manner proposed was by reason of the non-existence of that state of facts at the time of the act or omission impossible.

84. The question whether an act done or omitted with intent to commit an offence, is or is not only preparation for the commission of that offence, and too remote to constitute an attempt to commit it, is a question of law.

TITLE II.

CHAPTER V.

OFFENCES AGAINST THE PUBLIC ORDER.

High Treason, or waging or attempting to wage war against the Queen.

85. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, may be punished with death, or with imprisonment for a term which may extend to his natural life, with or without hard labour, and with or without fine, and with or without flogging or whipping, or with any two or more of such punishments.

High treason, or waging or attempting to wage war against the Queen.

Conspiracy against the Queen or Government of the Territories.

86. Whoever within or without the said Transkeian territories conspires to commit any of the offences punishable by the last section, or to deprive the Queen of her sovereignty in the said territories, or any of Her Majesty's dominions, or conspires to overawe by means of criminal force, the Queen in her Government of the said territories or dominions, shall be punished with imprisonment with or without hard labour for a term which may extend to fifteen years, to which fine may be added, or with fine only, or with flogging or whipping, or with any two or more of such punishments.

Conspiracy against the Queen or Government of the Territories.

Collecting arms with the intention of waging war.

87. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punishable as in the last section is provided.

Collecting arms with the intention of waging war.

Concealing with intent to facilitate a design to wage war.

88. Whoever by any act or by any illegal omission conceals the existence of a design to wage war against the Queen, knowing that it may be likely that he may by such concealment facilitate the waging of such war, shall be punishable as in the eighty-sixth section of this Code is provided.

Concealing with intent to facilitate a design to wage war.

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Waging war against Allies.

Waging war against allies.

89. Any British subject who wages war against the Government of any power in South Africa in alliance or at peace with the Queen, or attempts to wage such war or abets the waging of such war, shall be also punishable as in the said eighty-sixth section is provided.

Abetting mutiny and desertion or attempting to seduce a soldier or policeman from his duty.

Abetting mutiny and desertion or attempting to seduce a soldier or policeman from his duty.

90. Whoever by instigation, conspiracy, or aid, abets the committing of mutiny, or desertion by any person in the military or police service of the Queen, or attempts to seduce any such person from his allegiance or duty, shall be punished with imprisonment with or without hard labour for a term which may extend to seven years, to which fine may be added, or with fine only.

CHAPTER VI.

OFFENCES AGAINST THE PUBLIC TRAN-
QUILLITY.*Unlawful Assemblies.*

Unlawful assembly.

91. An assembly of five or more persons is designated an “unlawful assembly,” if the common object of the persons comprising that assembly is:—

- (1) To overawe, by criminal force, or show of criminal force, any officer of the government or any public servant in the exercise of the lawful power of such public servant, or
- (2) To resist the execution of any law, or any legal process.

Being member of unlawful assembly.

Being member of unlawful assembly.

92. Whoever being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Punishment.

Punishment.

93. Every member of an unlawful assembly shall be liable to be imprisoned, with or without hard labour, for a term which may extend to one year, to which a fine may be added.

Fighting in a public place an affray.

Fighting in a public place an affray.

94. When two or more persons by fighting at any gathering at any kraal or after such gathering away from any kraal or in a public place, disturb the public peace, they are said to commit an affray, and shall be punished

with a fine not exceeding five pounds, or in default of payment with imprisonment, with or without hard labour for a term which may extend to three months.

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Dispersing assembly after an affray has begun.

95. Whenever any five or more persons are assembled together, from whose conduct a breach of the peace may be reasonably apprehended, or when any affray has actually begun, any justice of the peace or other peace officer may command such persons to disperse, and on failure so to do they shall each be liable to a fine not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, for a term which may extend to three months.

Dispersing assembly after an affray has begun.

Obstructing or assaulting Magistrates.

96. If after such command as is mentioned in the last preceding section, five or more persons fail to disperse, the justice of the peace or other peace officer may use force to compel them so to do, and whoever by force wilfully and knowingly opposes, obstructs, hinders or hurts any such justice of the peace or other peace officer or persons authorised by him to compel such dispersion, shall be punished with imprisonment, with or without hard labour, for a term which may extend to one year, or with fine, or both.

Obstructing or assaulting magistrates.

Indemnity of persons authorised to disperse assembly.

97. If any person, assembled as in the last two preceding sections mentioned, is killed or hurt in the apprehension of such persons, or in the endeavour to apprehend or disperse them by reason of their resistance, every person ordering them to be apprehended or dispersed and every person executing such orders shall be indemnified against all proceedings of every kind in respect thereof.

Indemnity of persons authorised to disperse assembly.

Liability of members of unlawful assembly.

98. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who at the time of committing that offence is a member of that assembly is guilty of that offence.

Liability of members of unlawful assembly.

Punishment for drunken, riotous and indecent conduct.

99. Any person drunk in any street, road, lane, or public place, or in or near any shop, store, hotel or canteen, and any person guilty of any riotous or indecent behaviour in any such place as aforesaid, or in any police office or police station house, shall be punished with a fine not exceeding two pounds, and in default of payment, with imprisonment,

Punishment for drunken, riotous and indecent conduct.

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with or without hard labour, and with or without spare diet for any period not exceeding fourteen days; and in case of a second or subsequent conviction, shall be punished with a fine not exceeding five pounds, or in default of payment with imprisonment with or without hard labour and with or without spare diet for any period not exceeding thirty days, unless the fine in any case be sooner paid.

For threats, abusive language, &c.

For threats, abusive language, &c.

100. Any person who shall 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 may be occasioned, in any street, road, public place, or licensed public house, shall be punished with a fine not exceeding three pounds, or with 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.

For accepting from seamen and others ships' stores, &c.

For accepting from seamen and others ships' stores, &c.

101. Every person who shall, in any port knowingly purchase or take in exchange from any seaman or other person, not being the owner or master of any vessel, anything belonging to such vessel lying in such port, or any part of the cargo of any such vessel, or any stores or articles belonging to the same, shall be punished with a fine not exceeding ten pounds, or with imprisonment with or without hard labour for any term not exceeding three months, but nothing herein contained shall prevent the trial of such person for any other crime of which but for the passing of this Code he would have been guilty.

For seamen and others removing ships' boats.

For seamen and others removing ship's boats.

102. If any seaman belonging to any vessel lying in any port, or if any other person shall take away or remove from any such vessel any boat attached or belonging to the same without having obtained permission so to do from the master or some officer of the said vessel, such seaman or other person shall (although such taking or removal may not have been with intent to steal), be punished with a fine not exceeding ten pounds, or with imprisonment with or without hard labour for any term not exceeding three months.

TITLE III.

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CHAPTER VII.

OFFENCES AGAINST THE ADMINISTRATION OF JUSTICE.

Judicial Corruption.

103. Whoever, holding any judicial office, corruptly accepts, or obtains, or agrees to accept, or attempts to obtain for himself or any other person any money or valuable consideration, office, place, or employment whatever, on account of anything already done or omitted, or to be afterwards done or omitted by him in his judicial capacity, or corruptly gives to any person holding any judicial office, or to any other person, any money or valuable consideration, office, or place of employment, whatever, on account of such act or omission as aforesaid, shall be punished with imprisonment, with or without hard labour, for a term which may extend to five years, or fine, or both. Judicial Corruption.

Corruption of Public Officers.

104. Whoever, being a justice of the peace, or public officer appointed in any capacity for the prosecution or detection or punishment of offenders, or whoever, being an interpreter in any court of justice, corruptly accepts, or obtains, or agrees to accept, or attempts to obtain for himself or any other person, any money, valuable consideration, office, or place whatever, with the intent to interfere corruptly with the due administration of justice, or to procure or facilitate the commission of any offence, or to protect from detection or punishment any person having committed, or intending to commit any such offence, or corruptly gives or offers to any such officer as aforesaid, with any such intent as aforesaid, shall be punished with imprisonment, with or without hard labour, for a term which may extend to three years, or fine, or both. Corruption of Public Officers.

Threatening any person in order to induce him to refrain from applying for legal protection.

105. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any magistrate or other public officer or servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with a fine not exceeding ten pounds, and in default of payment thereof, with imprisonment with or without hard labour for a term which may extend to three months. Threatening any person in order to induce him to refrain from applying for legal protection.

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*Perjury and Subornation of Perjury.*Perjury and sub-
ornation of per-
jury.

106. Perjury is an assertion as to a matter of fact, opinion, belief, or knowledge made by a witness in a judicial proceeding as part of his evidence, either upon oath, or in any form allowed by law to be substituted for an oath, whether such evidence is given in open court or by affidavit or otherwise, such assertion being known to such a witness to be false.

Every person is a witness within the meaning of this section who actually gives his evidence upon oath, or in such form as aforesaid, whether he was competent to be a witness or not. Subornation of perjury is counselling any person to commit any perjury which is actually committed.

107. Whoever is guilty of perjury, or subornation of perjury, shall be punished with imprisonment for a term which may extend to seven years, or fine, or flogging or whipping, or any two of such punishments; and if an innocent person be convicted and executed in consequence of any false evidence, the person who gives or counsels such evidence shall be punished with imprisonment, with or without hard labour, for a term which may extend to the term of his natural life, or with such term of imprisonment and flogging or whipping.

*False Statement on Oath.*False statement on
oath.

108. Whoever being required or authorised by law to make a statement, either on oath or in any form permitted to be substituted for an oath, thereupon makes a statement which would amount to perjury if made in a judicial proceeding, shall be deemed to be guilty of perjury, and punished accordingly.

False declaration.

False declaration.

109. Whoever makes a statement as to any matter of fact, opinion, or belief, which would amount to perjury if made on oath upon any occasion on which he is permitted by law to make any statement or declaration in lieu of an oath before any officer authorised by law to permit it to be made before him, shall be punished in the same manner as if he had committed the crime of perjury.

*Fabricating Evidence.*Fabricating evi-
dence.

110. Whoever, with intent to mislead any court of justice or person holding any such judicial proceeding as aforesaid, fabricates or contrives evidence by any means other than perjury and subornation of perjury, shall be punished with imprisonment, with or without hard labour, for a term of not exceeding seven years, or with fine, or both.

Conspiring to bring False Accusations.

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111. Whoever conspires with any person to prosecute anyone for any offence, knowing such other person to be innocent thereof, shall be liable upon conviction to be punished with imprisonment, with or without hard labour, for a term which may extend to seven years, or flogging or whipping, or with fine, or any two or more of such punishments: Provided, however, that where such innocent accused is convicted and executed, such conspirator may be punished with death, or imprisonment with or without hard labour, for a period which may extend to the term of his natural life.

Conspiring to bring false accusations.

Conspiring to defeat Justice.

112. Whoever conspires with any person to obstruct, prevent, or defeat the course of justice, or who wilfully attempts in any way, not otherwise criminal, to obstruct, prevent, pervert or defeat the course of justice or the administration of the law, shall be punished as in the last section provided.

Conspiring to defeat justice.

Bribery or Corruption of Witnesses, Jurors, Assessors, or Interpreters.

113. Everyone shall be liable to the punishment provided in section 104 of this Code who (a) dissuades or attempts to dissuade any person by threats, bribes, or other corrupt means, from giving evidence in any cause or matter, civil or criminal; or (b) influences or attempts to influence by threats or bribes or other corrupt means any jurymen, assessor, or interpreter in his conduct as such, whether such jurymen, assessor, or interpreter has been sworn or not; (c) or accepts any such bribe or other corrupt consideration to abstain from giving evidence, or on account of his conduct as jurymen, assessor, or interpreter.

Bribery or corruption of witnesses, jurors, assessors, or interpreters.

CHAPTER VIII.

ESCAPES AND RESCUES.

114. Whoever by force or violence breaks any gaol or prison with intent to set at liberty himself or any other person lawfully confined therein on any criminal charge, shall be punished with imprisonment, with or without hard labour, for a term which may extend to two years.

Escapes and rescues.

115. Whcever, being convicted of any offence, escapes from gaol or prison, or from any lawful custody in which he may be under such conviction, or attempts or conspires to make his escape from such custody, shall be punished with imprisonment, with or without hard labour, for a term which may extend to two years, or flogging or whipping.

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116. Whoever, being in lawful custody on any criminal charge, escapes from such custody, shall be liable to imprisonment, with or without hard labour, for a term which may extend to one year, or fine, or both.

117. Whoever rescues any prisoner, or assists any prisoner in escaping or attempting to escape from lawful custody, whether in gaol or prison or not, or being a gaoler or other officer having the lawful custody of such prisoner, voluntarily and intentionally permits him to escape, or aids him in escaping or attempting to escape, shall be punished with imprisonment, with or without hard labour, for a term which may extend to two years, or fine, or both.

118. Whoever, by failing to perform any legal duty, permits a person in his lawful custody on a criminal charge to escape therefrom, shall be punished with imprisonment for a term which may extend to six months, or fine, or both.

119. It shall be lawful for the Governor to make such rules and regulations for the several gaols and prisons of the territories to which this Code applies, and for the discipline therein, as shall to him seem expedient, and thereby to impose any punishment for the breach of such regulation, under a penalty of imprisonment, with or without hard labour, or with or without spare diet, or flogging, or whipping: Provided that in no case shall any unconvicted person be sentenced to flogging or whipping.

TITLE IV.

CHAPTER IX.

OFFENCES AGAINST RELIGION, MORALITY, DECENCY, AND THE PUBLIC HEALTH.

Disturbing a religious assembly.

Disturbing a religious assembly.

120. Whoever wilfully and without lawful justification or excuse, the proof whereof shall be on him, disquiets or disturbs any meeting, assembly, or congregation of persons lawfully assembled for religious worship, and whoever in any way disturbs, molests, or misuses any preacher, teacher, or person lawfully officiating at such meeting, assembly, or congregation, or any persons there assembled, shall be punished with a fine not exceeding ten pounds sterling, and in default of payment with imprisonment, with or without hard labour, for a term which may extend to three months, unless such fine be sooner paid.

Unnatural offences.

Unnatural offences.

121. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall

be punished with imprisonment, with or without hard labour, for a term which may extend to ten years, or with flogging, or whipping, or fine, or with any two or more of the said punishments. This offence is complete upon penetration.

122. Whoever attempts to have carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment, with or without hard labour, for a term which may extend to five years, or flogging, or whipping, or fine, or to any two or more of such punishments.

Incest.

123. Incest is the carnal connection of persons related by consanguinity within the third degree. Incest.

Incest shall be punished with imprisonment, with or without hard labour, for a term which may extend to seven years, or with flogging, or fine, or any two or more of these punishments combined.

Indecent acts.

124. Whoever commits any nuisance in any street or public place, or in view of any dwelling house whereby public decency may be offended, shall be punished with a fine not exceeding two pounds, and in default of payment thereof with imprisonment with or without hard labour for a term which may extend to one month, unless such fine be sooner paid. Indecent acts.

Insufficient clothing in towns and other public places.

125. Whoever indecently exposes his person or appears in any street or public thoroughfare without such articles of clothing as decency requires shall be punished with a fine not exceeding two pounds, and in default of payment with imprisonment for a term which may extend to one month, unless such fine be sooner paid. Insufficient clothing in towns and other public places.

Burial, disinterment, or indignity to human remains.

126. Whoever neglects to perform any legal duty, either imposed upon him by law, or undertaken by him, with reference to the burial of any dead human body or human remains, or without lawful authority disinters a dead body, or improperly or indecently interferes with or offers any indignity to any dead human body or human remains, whether buried or not, shall be liable to a fine of twenty pounds, or in default of payment, to imprisonment with or without hard labour for a term which may extend to six months, unless such fine be sooner paid. Burial, disinterment, or indignity to human remains.

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Common nuisances.

Common nuisances.

127. Whoever is guilty of an unlawful act or omission to discharge a legal duty, which act or omission endangers the lives, safety, or health of the public, or which occasions injury to the person of any individual, may be convicted and punished with a fine not exceeding twenty pounds, and in default of payment thereof with imprisonment, with or without hard labour, for a term which may extend to six months, unless such fine be sooner paid.

General Police Provisions.

General Police Provisions.

128. Any person guilty of any of the following acts or offences shall, upon conviction in respect of each act or offence, be punished with a fine not exceeding five pounds, or in default of payment be imprisoned, with or without hard labour, for a period not exceeding three months, unless such fine be sooner paid :—

- (1) Any driver of any vehicle injuring any person or property by negligence or driving on the wrong side of the road.
- (2) Any driver of any vehicle being away from his horse or cattle so as to be unable to have the full control of them.
- (3) Driving any vehicle or riding any animal, and when meeting any other vehicle or animal being ridden not keeping on the left or near side of the road or street, or when passing any other vehicle or animal going in the same direction, not going or passing or not allowing any person desirous so to do to pass when practicable on the right or off side of such other vehicle or animal being ridden.
- (4) Leaving upon any street, public road or thoroughfare, any stone, timber, bricks, or other thing, calculated to damage or endanger any animal or vehicle ridden or driven thereon.
- (5) Any driver or guard of a public vehicle for the conveyance of passengers wilfully delaying on the road, using any abusive or insulting language to any passenger, or by reason of intoxication, negligence, or other misconduct, endangering the safety or property of any passenger or other person, or demanding or exacting more than the proper fare due from any passenger.
- (6) Leaving upon any public road or thoroughfare any vehicle, plough or harrow without any horse or animal harnessed thereto, unless in consequence of some accident having occurred.

- (7) Having any timber, iron, or boards laid across any vehicle going along any public road so that either end projects more than two feet beyond the wheels or sides of such vehicle.
- (8) Slaughtering or skinning any beast upon any public road or thoroughfare, or leaving any dead beast on any such road or thoroughfare.
- (9) Setting or urging or permitting any dog or other animal to attack or worry any person, horse or other animal, or by ill-usage or negligence in driving any cattle causing any damage or hurt to be done by such cattle.
- (10) Wilfully breaking any pane of glass in any building.
- (11) Wilfully breaking or extinguishing or injuring any lamp, or damaging any lamp-post.
- (12) Wilfully trespassing in any place, and neglecting or refusing to leave such place after being warned to do so by the owner or occupier, or any person authorised by or on behalf of the owner or occupier.
- (13) Playing or betting in any street or other open and public place, at or with any table or instrument of gaming or pretended game of chance.

129. Any person guilty of any of the following acts or offences shall upon conviction in respect of each act or offence be punished with a fine not exceeding twenty pounds, or in default of payment be imprisoned with or without hard labour, for a period not exceeding six months, unless such fine be sooner paid, or either to such penalty or such imprisonment, that is to say:—

- (1) Any person having in his custody or possession without lawful excuse (the proof of which excuse shall be on such person) any pick-lock, key, crow, or other implement of housebreaking.
- (2) Any person found by night, having his face blackened or wearing felt or other slippers, or being dressed or otherwise disguised with a criminal intent.
- (3) Any person found by night, without lawful excuse (the proof of which excuse shall be on such person) in or upon, or loitering in the neighbourhood of any dwelling-house, warehouse, coach-house, stable, cellar, or out-house, or in or loitering in the neighbourhood of any enclosed yard, garden, or area, or in any kraal, or in or on board any ship or other vessel when lying or being in any port, harbour, or place in these territories.

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- (4) Any person found by night armed with any gun, pistol, sword, bludgeon, or other offensive weapon or instrument with a criminal intent, and who being thereto required shall not assign a valid and satisfactory reason for being so armed.
- (5) Any person who shall resist, or incite, or aid, or encourage any person to resist, and any person who shall hinder or disturb any constable, policeman, or officer of any local authority in the execution of his duty.

TITLE V.

CHAPTER X.

OFFENCES AGAINST THE PERSON.

Duties tending to the preservation of life.

Duty to provide necessaries.

Duties tending to the preservation of life.
Duty to provide necessaries.

130. Whoever has charge of any other person, unable either by reason of detention, age, sickness, insanity, or any other cause, to withdraw himself from such charge, and unable to provide himself with the necessaries of life, is under a legal duty to supply that person with the necessaries of life, and is criminally responsible for omitting without lawful excuse to perform it, if death is caused thereby; or if the life of such person is endangered, or his health permanently injured, whether such charge is imposed upon him by law, or if undertaken by him under any contract, or by reason of any unlawful act.

Duty of persons doing dangerous acts.

Duty of persons doing dangerous acts.

131. Every one who undertakes, except in cases of necessity, to administer surgical or medical treatment, or to do any other lawful act, the doing of which is or may be dangerous to life, is under a legal duty to have and to use reasonable knowledge, skill, care, and caution in doing any such act, and is criminally responsible for omitting to discharge that duty, if death is caused thereby.

Duty of persons in charge of dangerous things.

Duty of persons in charge of dangerous things.

132. Every one who has in his charge, or under his control, anything whatever whether animate or inanimate, or who erects, makes, or maintains anything whatever which, in the absence, of precaution or care, may endanger human life, is under a legal duty to take reasonable precautions against, and use reasonable care to avoid, such danger, and is criminally responsible for the consequences of omitting without lawful excuse to take such precautions or to use such care.

Duty to avoid omissions dangerous to life.

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133. Every one who undertakes to do any act, the omission to do which is or may be dangerous to life, is under a legal duty to do that act, and is criminally responsible for the consequences of omitting, without lawful excuse, to discharge that duty.

Duty to avoid omissions dangerous to life.

Homicide defined.

134. Homicide is the killing of a human being by another directly or indirectly by any means whatsoever.

Homicide defined.

A child becomes a human being within the meaning of this Code, when it has completely proceeded in a living state from the body of its mother, whether in a case of suspended respiration, it has breathed or not, and whether it has an independent circulation or not, and whether the navel string is severed or not; and the killing of such a child is homicide when it dies after birth in consequence of injuries received before, during, or after birth.

Culpable Homicide.

135. Homicide is culpable when it consists in the killing of any person either by an unlawful act or by a culpable omission to perform or observe any legal duty, or by both combined, or by causing a person by threats or fear of violence, or by deception, to do an act which causes that person's death, or by wilfully frightening a child or sick person.

Culpable Homicide.

Homicide which is not culpable is not an offence.

Death must be within a year.

136. No one is criminally responsible for the killing of another unless the death take place within a year of the cause of death. The period of a year shall be reckoned inclusive of the day on which the last unlawful act contributing to the cause of death took place. Where the cause of death is an omission to fulfil a legal duty, the period shall be reckoned inclusive of the day on which such omission ceased. Where death is in part caused by an unlawful act and in part by an omission, the period shall be reckoned inclusive of the day on which the last unlawful act took place or the omission ceased, whichever happened first.

Death must be within a year.

Acceleration of death.

137. Every one who by an act or omission of a legal duty causes the death of another shall be deemed to kill that person, although the effect of the bodily injury caused to such other person be merely to accelerate his death, while labouring under some disorder or disease arising from some other cause.

Acceleration of death.

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*Causing death which might have been prevented.*Causing death which
might have been
prevented.

138. Every one who by an act or omission of a legal duty causes the death of another shall be deemed to kill that person, although death from that cause might have been prevented by resorting to proper means.

139. Every one who causes a bodily injury to any person from which death results shall be deemed to kill that person, although the immediate cause of such death be treatment applied in good faith for the purpose of cure, even if such treatment was improper: Provided that if the injury was not in itself of a dangerous character, and the improper treatment was the cause of death, that shall be a defence to a charge of murder or culpable homicide.

Murder, &c.

Murder, &c.

140. Culpable homicide becomes murder in the following cases :—

- (a) If the offender means to cause the death of the person killed.
- (b) If the offender means to cause to the person killed any bodily injury which is known to the offender to be likely to cause death, and if the offender, whether he does or does not mean to cause death, is reckless whether death ensues or not.
- (c) If the offender means to cause death or such bodily injury as aforesaid to one person, so that if that person be killed the offender would be guilty of murder, and by accident or mistake the offender kills another person, though he does not mean to hurt the person killed.
- (d) If the offender for any unlawful object does an act which he knows or ought to have known to be likely to cause death, and thereby kills any person, though he may have desired that his object should be effected without hurting any one.

Provocation.

Provocation.

141. Homicide which would otherwise be murder may be reduced to culpable homicide if the person who causes death does so in the heat of passion occasioned by sudden provocation.

Any wrongful act or insult of such a nature as to be sufficient to deprive any ordinary person of the power of self-control may be provocation, if the offender acts upon it on the sudden, and before there has been time for his passion to cool.

Whether any particular wrongful act or insult, whatever may be its nature, amounts to provocation, and whether the person provoked was actually deprived of the power of self-control by the provocation which he received, shall be questions of fact: Provided that no one shall be deemed to give provocation to another only by doing that which he had a legal right to do, or by doing anything which the offender incited him to do in order to provide the offender with an excuse for killing or doing bodily harm to any person: Provided also that an arrest shall not necessarily reduce the offence from murder to culpable homicide because the arrest was illegal, but if the illegality was known to the offender, it may be evidence of provocation.

Punishment for murder, &c.

142. Every one who commits murder shall, upon conviction thereof, be sentenced to death. Punishment for murder, &c.

143. Every one who attempts to commit murder shall be punished with imprisonment, with or without hard labour, for a term which may extend to twenty years, fine, or flogging or whipping, or with any two or more of such punishments.

144. Whoever

- (a) Conspires or agrees with any person to murder or to cause or procure the murder of any other person, whether the person intended to be murdered is a subject of Her Majesty or not, or is within Her Majesty's dominions or not: or
- (b) Counsels or attempts to procure any person to murder any other person, although such person is not murdered in consequence of such counselling or attempted procurement, whether the person whose murder is counselled or attempted to be procured is a subject of Her Majesty or not, or is within Her Majesty's dominions or not:

shall be punished with imprisonment, with or without hard labour, for a term which may extend to twenty years, or with fine, or flogging or whipping, or any two or more of such punishments.

Accessory after the fact to murder.

145. Whoever is an accessory after the fact to murder shall be punished with imprisonment, with or without hard labour, for a term which may extend to ten years, or fine, or both. Accessory after the fact to murder.

Punishment of culpable homicide.

146. Everyone who commits culpable homicide shall be punished with imprisonment, with or without hard labour, Punishment of culpable homicide.

No. 24—1886. for a term which may extend to twenty years, or with fine, or with flogging or whipping, or any two or more of such punishments.

Aiding and abetting suicide.

Aiding and abetting suicide.

147. Whoever counsels or procures any person to commit suicide, actually committed in consequence of such counselling or procurement, or whoever aids or abets any person in the commission of suicide, shall be punished with imprisonment, with or without hard labour, for a term which may extend to ten years, or with fine, or both: Provided, however, that for abetment of suicide of a minor or insane or intoxicated person the term of such imprisonment may extend to his natural life.

Attempting suicide.

Attempting suicide.

148. Every one who attempts to commit suicide shall be punished with imprisonment, with or without hard labour, for a term which may extend to one year, or with fine or both.

Concealment of child-birth.

Concealment of child-birth.

149. Whoever disposes of the dead body of any child in any manner, with intent to conceal the fact of its birth, whether the child died before, during, or after birth, shall be punished with imprisonment, with or without hard labour, for a term which may extend to five years, or with fine, or both.

Bodily injuries and acts causing danger to the person.

Bodily injuries and acts causing danger to the person.

150. Whoever with intent to maim, disfigure, disable or do grievous bodily harm to any one, or, to resist or prevent the lawful apprehension or detention of any one, unlawfully wounds or does actual grievous bodily harm to any person, shall be punished with imprisonment, with or without hard labour, for a term which may extend to ten years, or with fine, or with flogging or whipping, or any two or more of such punishments.

The following kinds of hurt only are designated "grievous" bodily harm, viz.:—1, Emasculation; 2, permanent privation of the sight of an eye; 3, permanent privation of the hearing of an ear; 4, privation of any member or joint; 5, destruction or impairing of the powers of any member or joint; 6, permanent disfiguration of the head or face; 7, fracture or dislocation of a bone; 8, any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

Administering poison so as to endanger life.

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151. Whoever, knowingly and with intent to injure, aggrieve, or annoy any person administers, or causes to be administered to, or be taken by such person, any poison, or other noxious or destructive thing, whereby the life of any person is endangered or grievous bodily harm is caused to any person, shall be punished with imprisonment, with or without hard labour, for a term which may extend to seven years, or with fine, or with flogging or whipping, or any two or more of such punishments.

Administering poison so as to endanger life.

Administering poison with intent.

152. Whoever knowingly and with intent to injure, aggrieve, or annoy any person, administers to, or causes to be administered to, or be taken by such person, any poison or other destructive or noxious thing, although no injury may be caused thereby, shall be punished with imprisonment with or without hard labour for a term which may extend to one year or with flogging or whipping, or any two or more of such punishments.

Administering poison with intent.

Forcing or aiding, or procuring the enforcement of circumcision or intonjane.

153. Whoever by force or threats compels any person to submit against his or her will to the act of circumcision, or to take part in the ceremony named *intonjane*, or whoever by force or threats compels any person, male or female, against his or her will, to submit to any other like act or ceremony, shall be punished with fine, and in default of payment, with imprisonment, with or without hard labour, for a term which may extend to one year.

Forcing or aiding, or procuring the enforcement of circumcision or intonjane.

Circumcision without consent.

154. Any person aiding or procuring the circumcision of any youth without the consent of his parent or the person having the lawful custody of such youth, shall be guilty of an assault, and shall be punished as in the last preceding section mentioned.

Circumcision without consent.

Assault defined.

155. An assault is the act of intentionally applying force to the person of another, directly or indirectly, or attempting or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has or causes the other to believe upon reasonable grounds that he has the present ability to effect his purpose.

Assault defined.

Indecent assault.

156. Whoever indecently assaults any female shall be punished with imprisonment, with or without hard labour, for

Indecent assault.

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a term which may extend to two years, or with fine or with flogging, or whipping, or any two or more of such punishments.

Assaults on peace officers, and to resist apprehension.

Assaults on peace officers, and to resist apprehension.

157. Whoever

- (a) Assaults any person with intent to commit an offence, or to resist or prevent the lawful apprehension or detention of himself or of any other person for any offence, or to rescue any person from lawful custody ;
- (b) Assaults, resists, or wilfully obstructs any peace officer in the execution of his duty, or any person acting in aid of such officer ; or
- (c) Assaults, resists, or unlawfully obstructs any person in the lawful execution of any process against any lands or goods, or with intent to rescue any goods taken under such process, or taken under any lawful distress ;

shall be punished with imprisonment, with or without hard labour, for a term which may extend to two years, or with fine, or both.

Common assaults.

Common assaults.

158. Whoever commits a common assault shall be punished with imprisonment, with or without hard labour, for a term which may extend to one year, or with fine or both.

Rape.

Rape.

159. Rape is the act of a man having carnal knowledge without the consent of a woman who is not his wife: Provided that nothing shall be deemed to be consent which is either extorted by threats or fear of bodily harm, or obtained by personating the woman's husband, or by falsely and fraudulently misrepresenting the nature and quality of the act. This offence shall be complete upon penetration.

A boy under fourteen years of age shall be conclusively presumed to be incapable of having carnal knowledge of a woman within the meaning of this section.

Whoever commits rape shall be punished with imprisonment, with or without hard labour, for a term which may extend to twenty years, or with flogging or whipping or with fine or any two or more of such punishments.

Attempt to rape.

Attempt to rape.

160. Whoever attempts to commit a rape shall be punished with imprisonment, with or without hard labour, for a term which may extend to seven years, or with flogging, or fine, or whipping, or any two or more of such punishments.

Carnally knowing children.

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161. Whoever carnally knows any girl under the age of twelve years, whether he believes her to be of or above that age or not, and whether she consents or not, shall be imprisoned, with or without hard labour, for a term which may extend to twenty years, or with or without flogging or whipping or fine, or any two or more of such punishments.

Carnally knowing children.

162. Whoever attempts carnally to know any girl under the age of twelve years, whether he believes her to be of such age or not, shall be punished with imprisonment with or without hard labour, for a term which may extend to two years, or with fine, or with flogging or whipping, or any two or more of the said punishments.

Age of children.

163. It shall be lawful for the court or jury by whom the accused is tried to judge from the appearance of the girl in question in such prosecution, and also, if the court thinks fit from the opinions duly given in evidence of persons skilled in ascertaining the age of such girls, and from any other evidence that may be adduced on the subject, whether the girl was under the age of twelve years at the time the offence was committed or not.

Age of children.

Causing death of child by means of miscarriage.

164. Whoever causes the death of any living child, which has not proceeded in a living state from the body of its mother, in such a manner that he would have been guilty of murder if such child had been fully born, shall be punished with imprisonment with or without hard labour for a term which may extend to seven years or with fine or both: Provided that no one shall be guilty of an offence under this section who by means employed in good faith for the preservation of the life of the mother of the child, causes the death of any such child before or during or after its birth.

Causing of miscarriage.

Procuring miscarriage.

165. Whoever, with the intent to procure miscarriage of any woman, whether she be or be not with child, unlawfully administers to, or causes to be taken by her, any poison or other noxious thing, or unlawfully, uses any instrument or other means whatsoever with the like intent, shall be punished with imprisonment with or without hard labour, for a term which may extend to five years, or fine or both: Provided that such woman herself shall not be indictable under this section.

Procuring miscarriage. mis-

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*Woman procuring her own miscarriage*Woman procuring
her own miscarriage.

166. Whoever unlawfully administers or permits to be administered to herself, any poison or other noxious thing, or unlawfully uses or permits to be used on herself any instrument with intent to procure her own miscarriage, shall be punished with imprisonment, with or without hard labour, for a term which may extend to two years, or fine, or both.

*Supplying means of procuring abortion.*Supplying means of
procuring abortion.

167. Whoever unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child, shall be punished with imprisonment, with or without hard labour for a period which may extend to one year, or fine, or both.

Bigamy.

Bigamy.

168. Whoever, having a husband or wife living, marries in any case in which such marriage is and shall be void by reason of its taking place during the lifetime of such husband or wife, shall be punished with imprisonment, with or without hard labour, for a term which may extend to five years, or with fine or both: Provided, however, that this section shall not extend to any person whose marriage with such husband or wife has been declared void by a court of competent jurisdiction, or to any person who contracts a marriage during the life of such husband or wife, if such husband or wife at the time of the subsequent marriage shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time: Provided that the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts, so far as the same are within his or her knowledge: Provided, further, that this section shall not extend to any person whose previous marriage with a husband or wife living was entered into according to native custom, whether the same was registered or not.

Stealing or abducting children under fourteen years of age.

Stealing or abducting children under fourteen years of age.

169. Whoever with intent to deprive any parent or guardian or other person having the lawful care or charge of any child under the age of fourteen, unlawfully leads or takes away or decoys or entices away or detains any such child, or receives or harbours any such child, knowing it

to have been dealt with as aforesaid, shall be punished with imprisonment, with or without hard labour, for a term which may extend to five years, or fine, or both: Provided that nothing herein shall extend to anyone who gets or takes possession of any child, claiming in good faith a right to the possession of the child.

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Abandoning or exposing children.

170. Whoever unlawfully exposes or abandons any child under the age of seven years, or who, being lawfully bound to take charge of any such child, knowingly and without lawful excuse leaves it abandoned or exposed, whereby its life is endangered or its health is permanently injured, shall be punished with imprisonment, with or without hard labour, for a term which may extend to three years, or with fine, or both.

Abandoning or exposing children.

CHAPTER XI.

PRETENDED WITCHCRAFT.

Imputations of Witchcraft.

171. Whoever imputes to any other 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 another to be a wizard or witch (*umtakati*) shall be punished with a fine not exceeding forty shillings sterling, or in default of payment with imprisonment, with or without hard labour, for fourteen days unless such fine be sooner paid.

Imputations of witchcraft.

172. Whoever having named or indicated any person as wizard or witch, shall be proved to be by habit and repute a witch-doctor or witch-finder (*isanusi*) shall be punished with imprisonment, with or without hard labour, for a term which may extend to two years, or with fine, or flogging, or any two or more of such punishments.

Employing a Witch-doctor.

173. Whoever employs or solicits any witch-doctor or witch-finder (*isanusi*) to name or indicate any person as wizard or witch (*umtakati*) shall be punished with a fine not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, for a term which may extend to two months unless such fine be sooner paid.

Employing a witch-doctor.

Witch-doctors supplying advice or witchcraft materials with intent to injure.

174. Any person professing to a knowledge of so-called witchcraft, or the use of charms, who shall advise any person

Witch-doctors supplying advice or witchcraft materials with intent to injure.

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applying to him how to bewitch or injure persons, property, or cattle, or who shall supply any person with the pretended means of witchcraft, shall be punished with imprisonment, with or without hard labour, for a term not exceeding twelve months, or with fine.

Persons using witch medicine with intent to injure.

Persons using witch medicine with intent to injure.

175. Whoever, on the advice of a witch-doctor, or of his pretended knowledge of so-called witchcraft, shall, with intent to injure, use, or cause to be put into operation, such means or processes as he believes are calculated to injure any person or property, shall be punished by imprisonment, with or without hard labour, for a period not exceeding twelve months, or with fine.

TITLE VI.

CHAPTER XII.

THEFTS AND SIMILAR OFFENCES.

Inanimate things, fixed or movable, capable of being stolen.

Inanimate things, fixed or movable, capable of being stolen.

176. Every inanimate thing whatever, which is the property of any person, and which either is or may be made movable, shall be capable of being stolen, as soon as it becomes movable, although it be made movable in order to steal it.

Animals capable of being stolen.

Animals capable of being stolen.

177. All tame living creatures, whether tame by nature or wild by nature and tamed, shall be capable of being stolen.

178. All wild living creatures, wild by nature, shall, if kept in a state of confinement, be capable of being stolen so long as they remain in confinement, or are being actually pursued after escaping therefrom, but no longer. Wild creatures in the enjoyment of their natural liberty shall not be capable of being stolen when living; nor shall the taking of their dead bodies by or by orders of the person who killed them before they are reduced into actual possession by the owner or occupier of the land on which they die, be deemed theft. Everything produced by, or forming part of, any living creature capable of being stolen, shall be capable of being stolen: Provided always that nothing in this section contained shall in any way affect or interfere with the provisions of Act 9 of 1869, "For the better protection of bees," which last-mentioned Act shall be and remain in force as law throughout these territories: and provided, further, that Act 12 of 1870, "For the better preservation of wild ostriches," as amended by Act 15 of 1875, or "The Wild Ostriches Act

Acts 9 of 1869, 12 of 1870, 15 of 1875, 24 of 1875, to be in force in these territories.

of 1875," shall also have the effect of law within these territories: Provided, further, that the Act 24 of 1875, or "The Domesticated Ostriches Act of 1875," shall have the effect of law within the said territories.

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Definition of Theft.

179. Theft or stealing is the act of fraudulently and without colour of right taking, or fraudulently and without colour of right converting to the use of any person anything or the use of anything capable of being stolen, with intent to deprive the owner thereof or to deprive any person having any special property or interest therein of such property or interest. It is immaterial whether the thing converted was taken by the thief for the purpose of the conversion or whether it was at the time of the conversion in the lawful possession of the thief: Provided that if any servant, contrary to the orders of his master, takes from his possession any food for the purpose of giving the same to any horse or other animal belonging to or in the possession of his master, the servant so offending shall not by reason thereof be deemed guilty of theft.

Definition of theft.

180. Theft is complete when the offender takes or moves anything capable of being stolen, or causes it to move or to be moved, for the purpose of fraudulently converting it, although such conversion be not completed.

181. Theft is committed when the offender cuts, rips, or otherwise begins to cause to be movable anything part of or growing out of or attached to any real property with intent to steal it.

Theft of Animals.

182. Every one commits theft who kills any living creature capable of being stolen with intent to steal the carcass, skin, plumage, or any part of such creature.

Theft of animals.

Theft by Agent.

183. Every one commits theft who, having received any money, valuable security, or other thing whatsoever, on terms requiring him to account for or pay the same or the proceeds thereof to any other person, though not requiring him to deliver over in specie the identical money, valuable security, or other thing received, fraudulently converts to his own use or fraudulently omits to account for the same, or to account, for or pay any part of the proceeds which he was required to account for or pay as aforesaid: Provided that if it be part of the said terms that the money or other thing received, or the proceeds thereof, shall form an item in a debtor and creditor account between the person receiving the same and the person to whom he is to account for or pay the same,

Theft by agent.

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and that such last-mentioned person shall rely only on the personal liability of the other as his debtor in respect thereof, the proper entry of any part of such proceeds in such account shall be deemed a sufficient accounting for the part of the proceeds so entered.

Theft by person holding Power of Attorney.

Theft by person holding power of attorney.

184. Every one commits theft who, being entrusted either solely or jointly with any other person, with any power of attorney, for the sale, mortgage, pledge, or other disposition of any property, movable or immovable, whether capable of being stolen or not, fraudulently sells, mortgages, pledges, or otherwise disposes of the same or any part thereof; or fraudulently converts the proceeds of any sale, mortgage, pledge or other disposition of such property, or any part of such proceeds, to some purpose other than that for which he was entrusted with such power of attorney.

Theft by misappropriating proceeds held under direction.

Theft by misappropriating proceeds held under direction.

185. Every one commits theft who, having received, either solely or jointly with any other person, any money or valuable security, or any power of attorney for the sale of any stock or shares whatever, with the direction that such money, or any part thereof, or the proceeds or any part of the proceeds of such security or such stock or shares shall be applied to any purpose or paid to any person specified in such direction, in violation of good faith and contrary to such direction, fraudulently applies to any other purpose or pays to any other person, such proceeds or part thereof: Provided that where the person receiving such money, security, or power of attorney, and the person from whom he receives it, deal with each other on such terms that all money paid to the former would, in the absence of any such direction, be properly treated as an item in a debtor and creditor account between them, this section shall not apply, unless such direction is in writing.

Theft by Co-owner.

Theft by co-owner.

186. Theft may be committed by the owner of anything capable of being stolen, against a person having a special property or interest therein, or by a person having a special property or interest therein against the owner thereof, or by one of several joint owners, tenants in common, or partners of or in any such thing, against the other person interested therein, or by the directors, public officers, or members of a public company or body corporate against such public company or body corporate.

Husband and Wife.

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Husband & wife.

187. No husband shall be convicted of stealing, during cohabitation, the property of his wife; and no wife shall be convicted of stealing, during cohabitation, the property of her husband; but whilst they are living apart from each other, either shall be guilty of theft if he or she fraudulently takes or converts anything which is by law the property of the other in a manner which in any other person would amount to theft.

188. Every one commits theft who, whilst a husband and wife are living together, knowingly (a) assists either of them in dealing fraudulently with anything which is the property of the other, in a manner which would amount to theft if they were not married; or (b) receives from either of them anything the property of the other, obtained from that other by such fraudulent dealings as aforesaid.

Obliterating Documents Fraudulently.

189. Every one who destroys, cancels, conceals, or obliterates any document for any fraudulent purpose, shall be punished as if he had stolen that document. Obliterating documents fraudulently.

Theft outside of the Territories.

190. Every one who having obtained any property by any act which if done in these territories would have amounted to theft, brings such property into these territories, shall be guilty of theft. Theft outside of the territories.

Theft by False Pretences.

191. A false pretence is a representation, either by words or otherwise, of a matter of fact either present or past, which representation is known to the person making it to be false, and which is made with a fraudulent intent to induce the person to whom it is made to act upon such representation. Theft by false pretences.

192. Everyone shall be guilty of theft by false pretences, and shall be liable, upon conviction thereof, to the penalties provided for the crime of theft, who by any false pretence obtains with intent to defraud, either directly or through the medium of any contract obtained by such false pretence, anything capable of the use of anything capable of being stolen, or who with intent to defraud or injure any person by any false pretence, causes or induces any person to execute, make, accept, endorse, or destroy the whole or any part of valuable security, or to impress or affix any name or seal on any paper or parchment, in order that it may afterwards be made or converted into or used or dealt with as a valuable security.

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193. Everyone who by any false pretence causes or procures anything capable of being stolen to be delivered to any other person than himself with intent to defraud, obtains that thing by a false pretence within the meaning of this section, and shall be punishable with the penalties provided for the crime of theft.

Theft of Ostrich Feathers, Hides, Skins, Wool, Mohair, &c.

Theft of Ostrich Feathers, Hides, Skins, Wool, Mohair, &c.

194. All and singular the provisions of the Acts No. 32 of 1883 No. 19 of 1884 and No. 13 of 1885 shall be in force in the Transkeian Territories.

Wrongful possession of and illicit dealing in diamonds.

Wrongful possession of and illicit dealing in diamonds.

195. All and singular the provisions of every law which shall, at the time of the taking effect of this Code, be in force in any part of this Colony other than Griqualand West, in regard to the wrongful possession of and illicit dealing in diamonds and other precious stones, shall be in force in the Transkeian Territories.

Obtaining value or credit by fraud.

Obtaining value or credit by fraud.

196. Whoever obtains any money or things, or who in incurring any debt or liability, obtains credit by means of any fraud, though not amounting to a false pretence as hereinbefore defined, may be punished with imprisonment, with or without hard labour, for a term which may extend to one year, or fine, or both.

Punishments for certain Thefts.

Punishments for certain thefts.

197. Whoever steals any testamentary instrument, post letter bag, post letter, postal packet, or anything from such post letter bag, post letter, or postal packet, or who being a clerk or servant, or being employed in the capacity or for the purpose of a clerk or servant, steals anything belonging to or in the possession of his master or employer, or being employed in the public service of Her Majesty, or in the service of any public department, or public body, or being employed as a constable, steals anything in his possession by virtue of his employment, shall be punished with imprisonment, with or without hard labour, for a period which may extend to a term of seven years, or fine, or both; and, in case of subsequent conviction, with imprisonment, with or without hard labour, which may extend to a term of ten years, or fine, or both.

Punishments for Cattle Thefts.

Punishments for cattle thefts.

198. Whoever steals anything from the person of another, or from any dwelling-house, or steals any horse, ass, mule, sheep, horned cattle, goat, or domesticated ostrich, or

the feathers thereof, or who willfully kills any such animal, with intent to steal the carcase, or any part thereof may, upon conviction, be punished with imprisonment, with or without hard labour, for a term which may extend to five years, or fine, or both; and in case of subsequent conviction, with imprisonment, with or without hard labour, for a term which may extend to seven years, or flogging or whipping, or fine, or any two of such punishments.

Punishment for Thefts otherwise not provided for.

199. Whoever steals anything for the stealing of which no punishment is hereinbefore provided, shall be punished with imprisonment with or without hard labour, for a term which may extend to three years, or fine or both, and in case of a subsequent conviction with imprisonment, with or without hard labour, for a term which may extend to five years, or fine, with flogging or whipping, or any two or more of such punishments.

Punishment for thefts otherwise not provided for.

Responsibility for value of stolen property under Spoor Law.

200. When the spoor of any stolen animals 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:—

Responsibility for value of stolen property under Spoor Law.

- (A) When such spoor originates and terminates within the limits of a magisterial district or tribal area, then—
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, when corroborative evidence is forthcoming to the satisfaction of the resident magistrate that the theft in question was committed by some person belonging 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 animal stolen, with damages.
 3. When the owner of any stolen animals is on the spoor of such animal, it shall be lawful for such owner to demand from the persons living in the neighbourhood all reasonable assistance in following up such spoor, and whoever 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

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loss or obliteration of such spoor, is liable for the value of the animal stolen, with damages.

(B) When the spoor originates in one magisterial district or tribal area and passes into and terminates in another magisterial district or tribal area, then—

1. When such spoor is traced to any kraal or kraals, the owners (*abaninimizi*) shall be held responsible for the value of the animal stolen, and upon the order of the resident magistrate of the district, shall forthwith pay such value into court for the benefit of the owner.
2. 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 adjacent 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.
3. 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 persons 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.

Creating false spoor.

Creating false
spoor.

201. Whoever fraudulently and with intent to injure another shall create any spoor, shall be punished with fine not exceeding fifty pounds sterling, and in default of payment with imprisonment with or without hard labour for a term which may extend to twelve months.

Mode of procedure in spoor cases.

Mode of procedure
in spoor cases.

202. It shall be lawful for the resident magistrate of

any district, whenever any claim is made against any person or persons in respect of the spoor traced to any kraal or locality, upon request of the owner of the animal or animals stolen, or of any person authorised by such owner, to inquire summarily and without pleading, but in the presence of the heads of the kraals upon whom responsibility is sought to be attached, into the circumstances of the case, and the value of the animal or animals alleged to have been stolen, together with the damage which the owner or owners shall have sustained by the loss, or by the cost of search or other endeavour to recover the same, and may give judgment in favour of such owner as hereinbefore provided.

CHAPTER XIII.

FRAUD AND BREACH OF TRUST.

Fraudulent Accounting by Directors.

203. Whoever being a director, manager, public officer, or member of any body corporate or public company, with intent to defraud, destroys, alters, mutilates any book, paper, writing, or valuable security belonging to the body corporate or public company, or makes or concurs in making any false entry, or omits or concurs in omitting to enter any material particular in any book of account or other document, or being a director, public officer, or manager of any body corporate or public company, as such receives or possesses himself of any of the property of such body corporate or public company, and with intent to defraud omits to make, or to cause and direct to be made, a full and true entry thereof in the books and accounts of such body corporate or public company, shall be liable, upon conviction, to imprisonment with or without hard labour, for a term which may extend to five years, or fine, or both.

Fraudulent Accounting by Directors.

False Statements by Directors.

204. Whoever being a promoter, director, public officer, or manager of any body corporate or public company, either existing or intended to be formed, makes, circulates, or publishes any prospectus, statement, or account which he knows to be false in any material particular, with intent to induce persons, whether ascertained or not, to become shareholders, or partners, or with intent to deceive or defraud the members, shareholders, or creditors, or any of them, whether ascertained or not, of such body corporate or public company, or with intent to induce any person to entrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be liable to the punishment in the preceding section provided.

False Statements by Directors.

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*Falsifying accounts by clerks and servants.*Falsifying accounts
by clerks and ser-
vants.

205. Whoever being an officer, clerk, or servant, or employed or acting in such capacity, and with intent to defraud, destroys, alters, mutilates, or falsifies any book, paper, writing, valuable security, document, or account, which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or with intent to defraud makes or concurs in making any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from or in any such book, paper, writing, valuable security, or account as aforesaid, shall be punished with imprisonment, with or without hard labour, for a term which may extend to five years, or with or without hard labour, or fine or both.

*Public Officers making false statements and returns.*Public Officers
making false state-
ments and returns.

206. Whoever, being an officer, collector, or receiver entrusted with the receipt, custody, or management of any part of the public revenues, knowingly makes or renders any false statement or return of any money collected by him or entrusted to his care, or of any balance of money in his hand, or under his control, shall be punished with imprisonment, with or without hard labour, for a term which may extend to one year, or fine, or both.

*Conspiracy to defraud.*Conspiracy to de-
fraud.

207. Whoever conspires with any other person by deceit or falsehood, or other fraudulent means, to defraud the public, or to affect the public market, price of shares, merchandize, or anything else publicly sold, or who conspires by deceit and falsehood or other fraudulent means, to defraud any person, ascertained or unascertained, whether such deceit or falsehood or other fraudulent means would or would not amount to a false pretence, as hereinbefore defined, shall be punished with imprisonment, with or without hard labour, for a term which may extend to two years, or to fine, or to both; and whoever after a previous conviction for any offence involving dishonesty, commits an offence under this section, may be sentenced to a term of imprisonment, with or without hard labour, which may extend to five years, or fine, or both.

*Unlawful gaming and betting.*Unlawful gaming
and betting.

208. Whoever wins or endeavours to win from any other person to himself or to any other any money or valuable thing by any fraud or unlawful device or ill practice in playing at or with cards, dice, tables, or other games, or in bearing a part in the stakes, wages, or adventures, or in betting on the size or hands of the players, or in wagering

on the event of any sport, pastime, or exercise, shall be punished with imprisonment, with or without hard labour, for a term which may extend to six months, or fine or both. The offence is complete although the thing won has not been paid or delivered.

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Criminal breach of trust.

209. Whoever being in any manner entrusted with property or with dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person to do so, shall be guilty of a criminal breach of trust, and upon conviction shall be punished with imprisonment for a term which may extend to three years, or with fine, or both.

Criminal breach of trust.

Fraudulent disposition of property.

210. Whoever dishonestly or fraudulently removes, converts, or delivers to any person, or causes to be transferred to any person without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent the distribution of that property according to law, or among his creditors or the creditors of any other person, shall be punished with imprisonment for a term which may extend to two years, or with fine or with both.

Fraudulent disposition of property.

CHAPTER XIV.

ROBBERY AND EXTORTION.

Definition of Robbery and its punishment.

211. Robbery is theft accompanied with actual violence or threats of violence to any person or property, intentionally used to extort the property stolen, or to prevent or overcome resistance to its being stolen, and shall be punished with imprisonment with or without hard labour for a term which may extend to seven years, or flogging or whipping, or any two of these punishments.

Definition of Robbery and its punishment.

212. Everyone who assaults any person with intent to rob him shall be punished as in the last section provided.

213. Whoever with menaces demands from any person, either for himself or for any other person, anything capable of being stolen with intent to steal it, shall be punished with imprisonment, with or without hard labour, for a term which may extend to two years or with fine or both.

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214. Whoever with intent to extort or gain anything from any person: (a) accuses or threatens to accuse either that person or any other person, whether the person accused or threatened with accusation is guilty or not, of any offence punishable by law; or (b) threatens that any person shall be so accused by any other person; (c) or without lawful excuse sends, delivers, utters, or directly or indirectly causes to be received by any person any document containing any such accusation or threat as aforesaid, knowing the contents thereof; (d) or by any of the means aforesaid, compels or attempts to compel any person to execute, make, accept, endorse, alter, or destroy the whole or any part of any valuable security, shall be punished with imprisonment with or without hard labour, for a term that may extend to two years, or with fine, or with both such punishments.

Housebreaking.

Housebreaking.

215. Whoever breaks and enters a building with intent to commit any offence therein, or breaks out of such building either after committing such offence therein, or after having entered it to commit an offence, shall be punished with imprisonment, with or without hard labour, for a term which may extend to five years, or fine, or both.

Receiving property stolen or dishonestly obtained.

Receiving property stolen or dishonestly obtained.

216. Whoever receives anything obtained by any offence punishable under any law in force for the time being, knowing that thing to have been stolen or dishonestly obtained, or who receives in these territories anything obtained elsewhere than in these territories by any act which if done in these territories would have been an offence punishable under this or any other law in force for the time being, knowing such things to have been stolen or dishonestly obtained, shall be punished for a first offence with imprisonment, with or without hard labour, for a term which may extend to three years, or fine, or both; and after a previous conviction of any offence involving dishonesty, shall be punished with imprisonment, with or without hard labour, for a term which may extend to five years, or fine, or both.

When receiving is complete.

When receiving is complete.

217. The act of receiving anything stolen or unlawfully obtained is complete as soon as the offender has, either exclusively or jointly with the thief or any other person, possession of or control over such thing, or aids in concealing or disposing of it.

Corruptly taking reward.

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218. Whoever corruptly takes reward, or bargains for any reward, directly or indirectly, on consideration that he will help any person to recover anything obtained by any offence punishable under this or any other law in force, shall, unless he shall have used all due diligence to cause the offender to be brought to trial for the same, be punished with imprisonment, with or without hard labour, for a term which may extend to three years, or fine, or both.

Corruptly taking reward.

CHAPTER XV.

FORGERY AND PERSONATION.

Definition of document.

219. A document is any substance on which is expressed and described by means of letters, figures, or marks, any matter which is intended to be or may be used in a court of justice, or otherwise, as evidence of such matter.

Definition of document.

False document defined.

220. A false document means

False document defined.

(a) A document, the whole or some material part of which purports to be made by or on behalf of any person who did not make or authorise the making thereof; or which, though made by or by the authority of the person who purports to make it, is falsely dated as to time or place of making, where either is material; or

(b) A document which is made in the name of an existing person, either by that person or by his authority, with a fraudulent intent that the document should pass as being made by some person, real or fictitious, other than the person who makes or authorises it.

It is not necessary that the fraudulent intention should appear on the face of the document, but it may be proved by external evidence.

Forgery defined.

221. Forgery is the making of a false document, knowing it to be false, with the intention that it shall in any way be used or acted upon as genuine whether within Her Majesty's dominions or not. Making a false document includes altering a genuine document in any material part, and adding to it any false date, attestation, or other thing which is material, or making any material alteration in it either by erasure, obliteration, removal, or otherwise.

Forgery defined.

Forgery when complete.

222. A forgery is complete as soon as the document is made, with such knowledge and intent as aforesaid, though

Forgery when complete.

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the offender may not have intended that any particular person should use or act upon it as genuine, or be induced by the belief that it is genuine to do or refrain from doing anything. Forgery is complete although the false document may be incomplete, or may not purport to be such a document as would be binding in law, if it be so made and is such as to indicate that it was intended to be acted on as genuine.

Punishment for Forgery.

Punishment for forgery.

223. Whoever is convicted of the crime of forgery shall be punished with imprisonment, with or without hard labour, for a term which may extend to seven years, or fine, or both.

Sending false Telegram.

Sending false telegram.

224. Whoever shall without lawful authority or excuse (the proof whereof shall be upon the person accused) cause or procure any telegram to be sent or delivered as being sent by the authority of any person, knowing that it is not sent by such authority, with the intent that such telegram should be acted on as being sent by that person's authority, shall be punished with imprisonment with or without hard labour, for a term which may extend to six months or fine, or both.

Procuring Execution of Document by False Evidence.

Procuring execution of document by false evidence.

225. Whoever, with intention to defraud, procures the execution of any document by any person by falsely pretending that the contents thereof are different from what they really are, shall be punished with imprisonment, with or without hard labour, for a term which may extend to two years, or fine, or both.

Using Forged Documents.

Using forged documents.

226. Whoever, knowing a document to be forged, fraudulently uses or acts upon it or causes or attempts to cause any person to use or act upon it as if it were genuine, shall, upon conviction, be liable to the same punishment as if he had forged that document. It is immaterial whether the document was forged in these territories or elsewhere.

Personation.

Personation.

227. Whoever falsely and deceitfully personates anyone, with intent fraudulently to obtain any benefit to himself or any other person, shall be imprisoned, with or without hard labour, for a term which may extend to two years, or fine, or both.

CHAPTER XVI.

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COINING.

228. Coin is metal used for the time being as money, and stamped and issued by authority of some State or Sovereign Power in order to be so used. Coin stamped and issued by authority of the Queen or any Government in the Queen's dominions, is the Queen's coin.

Coining.

229. Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment, with or without hard labour, for a term which may extend to ten years, or fine, or both.

230. Whoever

(a) Makes or begins to make any counterfeit gold, silver, or copper coin; or

(b) Gilds or silvers any counterfeit coin; or

(c) Gilds, silvers, files, or alters any silver or copper coin, with intent to make it resemble or pass for gold or silver coin; or imports, receives, or has in his possession, any counterfeit gold, silver or copper coin, knowing such coin to be counterfeit, and with intent to utter it, or whoever utters any counterfeit coin, knowing it to be counterfeit, or has in his possession any stamps, dies or other instruments generally used for the purpose of counterfeiting coin.

(d) With intent to defraud, utters pieces of gold, silver, or copper as Queen's coins, which are coins not Queen's coin, or any medal or piece of metal, or mixed metal being of less value than the Queen's coin, as and for which it is uttered,

shall be punished with imprisonment, with or without hard labour, for a term which may extend to ten years, or fine, or both.

CHAPTER XVII.

OFFENCES RELATING TO WEIGHTS AND MEASURES.

Standard Weights and Measures.

231. The standard weights and measures required by law to be used in the Colony of the Cape of Good Hope, as provided for by Act No. 11 of 1858, shall be the standard weights and measures to be used in the territories to which this Code applies, and all the provisions of that Act as well as of Act No. 15 of 1876 shall be of force and effect in the said territories.

Standard weights and measures.

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*Fraudulent use of False Instruments for Weighing.*Fraudulent use of
false instruments
for weighing.

232. Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment, with or without hard labour, for a term which may extend to one year or with fine, or both.

*Fraudulent use of False Weight or Measure.*Fraudulent use of
false weight or
measure.

233. Whoever fraudulently uses any false weight, or measures of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment, with or without hard labour, for a term which may extend to one year or with fine, or both.

*Being in possession of false Weights or Measures.*Being in posses-
sion of false Weights
or Measures.

234. Whoever is in possession of any instrument for weighing, or of any weight or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment, with or without hard labour, for a term which may extend to one year, or with fine, or both.

CHAPTER XVIII.
MISCHIEF AND ARSON.

Mischief.

Mischief.

235. Everyone who causes any event by an act which he knew would probably cause it, being reckless whether such event happened or not, shall be deemed to cause it wilfully for the purposes of this part of this Code. Nothing shall be an offence under any provision contained in this part, unless it is done without legal justification or excuse, and without colour of right: Provided that where the offence consists in an injury to anything in which the offender has an interest, the existence of such interest, if partial, shall not prevent his act being an offence, if done with an intention to defraud.

*Arson, and attempted Arson.*Arson, and at-
tempted Arson.

236. Whoever wilfully sets fire to any building whatever, or to any erection or structure whatever fixed to the soil, whether such building, erection or structure is completed or not, or to any stock of vegetable produce, or of mineral or vegetable fuel, or to any mine, or to any ship or vessel, or to any crop, whether standing or cut down, shall be guilty of arson, and may be punished with imprisonment, with or without hard labour, for a term which may extend to fourteen years, or with or without flogging or whipping, or fine, or any two or more of such punishments.

237. Whoever wilfully attempts to set fire to anything mentioned in the last preceding section, shall be punished with imprisonment, with or without hard labour, for a term which may extend to seven years, and with or without fine, or both.

Damage by Explosive Substances.

238. Whoever wilfully places or throws any gunpowder or other explosive substance in, into, upon, under, against, or near any building, ship, road, or public place, or thoroughfare, so as to endanger person or property, shall be punished as provided for the crime of arson.

Damage by Explosive Substances.

Damage to Public Works.

239. Whoever wilfully breaks down, cuts down, or otherwise damages or destroys any public works, shall be punished with imprisonment, with or without hard labour, for a period which may extend to three years, or fine, or both.

Damage to Public Works.

Unlawful killing of Animals, &c.

240. Whoever unlawfully and wilfully kills, poisons, or wounds, any horse, ass, mule, horned cattle, sheep, ostrich, goat, or other domesticated animal, shall be punished with fine, and in default of payment, with imprisonment, with or without hard labour, for a period which may extend to one year.

Unlawfully killing of animals, &c.

Damage to Telegraph.

241. Whoever wilfully injures or removes anything whatever forming part of or used in or about any electric or magnetic telegraph, or in the working thereof, or prevents or obstructs in any manner whatever the sending, conveyance, or delivery by any such telegraph of any message or communication, shall be punished with imprisonment, with or without hard labour, for a period which may extend to three years, or fine, or both.

Damage to Telegraph.

Damage to Tolls.

242. Whoever unlawfully and wilfully throws down, levels, or otherwise destroys, in whole or in part, any toll gate, or any toll bar or chain, or fence belonging thereto, set up to prevent passengers from passing by without paying toll, directed by law, shall be punished with fine, and in default of payment with imprisonment, with or without hard labour, for a term which may extend to six months.

Damage to Tolls.

Other damage.

243. Whoever wilfully commits upon any property whatever, any wilful damage, or injury, not otherwise provided for, shall be punished with fine, and in default of payment with imprisonment, with or without hard labour, for a term which may extend to three months.

Other damage.

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TITLE VI.
CHAPTER XIX.
THREATS, CONSPIRACY, ATTEMPTS, ACCESSORIES, &c.

Threats, Conspiracy, Attempts, Accessories, &c.

244. Whoever with intent to intimidate or annoy any person, breaks or injures any building or portion thereof, or by the discharge of firearms or otherwise alarms or attempts to alarm any person in any dwelling, shall be punished with imprisonment, with or without hard labour, for a term which may extend to six months, or with fine or both.

Conspiring to prevent levying of or collection of Taxes.

245. Whoever conspires with any other person by force or intimidation to prevent the levying or collection of any taxes, authorised by law, shall be liable to imprisonment, with or without hard labour, for a term which may extend to one year, or fine or both.

Inciting or attempting to commit offences.

246. Whoever attempts in any case, not hereinbefore by this Code provided, to commit any offence, or who incites or attempts to incite any one to commit an offence punishable by this Code, shall be liable to imprisonment for a term not exceeding one-half of the longest term, to which a person committing the offence attempted to be committed, or incited to, may be sentenced under this Code: Provided that the power to fine or in default of payment to imprison, shall exist in all such cases.

Punishment for accessories.

247. Whoever, in any case where no express provision is made for the punishment of an accessory, is an accessory after the fact, to any offence punishable under this Code, he shall be liable to imprisonment for a term not exceeding half of the longest term for which the offence to which he is accessory is punishable under this Code: Provided that the power to fine, or in default of payment to imprison, shall exist in all such cases.

TITLE VII.
CHAPTER XX.
JURISDICTION AND PROCEDURE.
Courts of Resident Magistrates.

Courts of Resident Magistrates.

248. The courts of resident magistrates already established in the Transkeian Territories shall be until otherwise provided courts of resident magistrates, and it shall be lawful for the Governor, by any proclamation to be by him from time to time issued for that purpose, to erect, constitute, and establish courts of resident magistrates within the Transkeian Territories, to be held for and within such districts respectively as the said Governor shall think fit to create, which courts shall be holden before such persons as shall respectively be appointed to be resident magistrates of such districts.

Trial by Resident Magistrates.

249. Whenever in any of the cases in which jurisdiction is hereby given to any court of resident magistrate, the magistrate shall consider that any person charged with any crime or offence, whether he has pleaded guilty to the same or not, ought to receive a more serious punishment than such magistrate is competent to adjudge, he may, at his discretion, commit the accused person for trial before any court having jurisdiction to impose such greater punishment, or the special court hereafter provided for and established.

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Resident Magistrate may commit accused person for trial.

Jurisdiction and Special Court.

250. The courts of resident magistrate shall have jurisdiction in all cases wherein a person may be accused of any crime or offence, except crimes or offences punishable under the following chapters and sections of this Code, viz. :—

Jurisdiction.

- (a) Title II, Chap. V, Offences against the Public Order, Sections eighty-five to ninety inclusive,
- (b) Title III, Chap. VII, Offences against the Administration of Justice, Sections one hundred and three and one hundred and four.
- (c) Title V, Chap. X, Murder :

Provided, however, that no Resident Magistrate shall, in any case, have jurisdiction or authority to pass and pronounce upon any offender under this Code, any sentence greater or heavier than imprisonment, with or without hard labour, for any period not exceeding one year, or imprisonment with spare diet and with or without hard labour, for any period not exceeding three months, or corporal punishment in any number of lashes not exceeding twenty-five: Provided, also, that no offender sentenced under this Code to imprisonment with hard labour for any period exceeding three months shall be sentenced to spare diet, except for offences against the discipline of the gaol or other place at which he may be lawfully confined or employed: Provided, further, that in regard to the infliction of spare diet under this Code the Courts of Resident Magistrates shall in their sentences observe and conform to such regulations and restrictions as shall from time to time be deemed necessary to prevent injurious consequences and be by the Governor prescribed for the guidance of such Court, and such Courts shall in their sentences fix, in accordance with such regulations and restrictions, the particular days or times during which the offender shall be subject to spare diet.

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Trial by Special Court.

Trial by Special Court.

251. Unless and until provision shall be made for the establishment in the said territories of a superior court of record the offences excepted in the last section and any offences under this Code the trial of which shall be remitted thereto, shall be tried by a special court consisting of the chief magistrate and two resident magistrates, having jurisdiction within his chief magistracy, who shall from time to time as occasion shall require be thereto summoned by such chief magistrate, and the judgment and sentence of the majority of such chief magistrate and resident magistrates shall be the judgment and sentence of such court.

Sittings of the Special Court.

252. Such Special Court shall, from time to time as often as may be necessary, be summoned by the chief magistrate to assemble and sit for the trial of offences under this Code, and every order convening any sitting of the said court shall specify the time and place of such sitting, and the names of the resident magistrates who shall be thereto summoned: Provided, however, that the chief magistrate may, after the making thereof, alter or vary such order in respect of the time or place at which such court shall assemble and sit, or in respect of the resident magistrates who shall be summoned to sit as members of such court.

Adjournments.

253. The Special Court, when assembled, may adjourn from time to time as to it may seem fit.

Form of procedure to be same as in Resident Magistrates' Courts.

254. Until otherwise ordered by any rules to be made in pursuance of the provisions of this Code, the form and manner of procedure in the Special Court shall be according to the laws and rules for the time being regulating the practice and procedure in the courts of resident magistrates in the Colony of the Cape of Good Hope.

Issuing of process.

255. The process of the said Court for compelling the appearance of any person accused to answer the charge, and of any persons as witnesses, may be signed and issued by any magistrate by whom the accused has been remanded or committed, or by the clerk of any such magistrate, or by the clerk of the chief magistrate or of the Special Court.

Preliminary Examination to be held by Magistrate.

256. All charges for offences cognizable by the Special Court shall, in the first instance, be brought before a resident magistrate having jurisdiction in the district wherein the offence has been committed, and such magistrate shall

- (1) If the case be within his jurisdiction, either try and dispose of the same to the extent of his jurisdiction, or after preliminary examination remit it for trial to the Special Court;
- (2) If the case be not within his jurisdiction, after preliminary examination, remit it for trial to the Special Court.

257. The Governor may from time to time establish general rules and orders for regulating the practice and form of procedure in cases pending before the Special Court, in addition to or instead of the laws regulating the practice and procedure in the courts of resident magistrates in the Colony of the Cape of Good Hope.

No. 24—1886.
 Governor may from time to time frame Rules regulating procedure in Courts of Resident Magistrates.

Removal of Trial or Stay of Proceedings.

258. Whenever any proceedings under this Code shall have been commenced in the Court of any Resident Magistrate, or shall have been remitted to the Special Court in manner provided in this Code, and it shall appear to the Attorney-General of the Cape of Good Hope, that substantial justice may be better attained by staying proceedings or removing the case for trial to the Supreme Court, the Eastern Districts Court, or any Circuit Court, it shall be lawful for him to order such stay of proceedings or such removal or both.

Removal of trial or stay of proceedings.

Review of Sentence by Chief Magistrate.

259. When, and as often as any court of resident magistrate shall sentence any person upon conviction to be imprisoned for any period exceeding one month, or to pay any fine exceeding five pounds sterling, or to receive any number of lashes or cuts exceeding twelve, such sentence shall be subject to the review of the chief magistrate of that territory, in like manner as provided by section 47 of Act 20 of 1856: Provided that every record of the proceedings in such case shall be forwarded to the said chief magistrate, instead of to the registrar of the Supreme Court.

Review of Sentence by Chief Magistrate.

Pleadings and Proceedings.

260. The courts aforesaid shall be respectively courts of record, and the pleadings and proceedings of the said courts in criminal cases shall be carried on, and the sentences, decrees, judgments, and orders thereof pronounced and declared in open court and not otherwise: and the several pleadings and proceedings of the said courts shall be in the English language, which shall be interpreted into such language as is best understood by prisoners not understanding English; and the witnesses for and against any accused person or persons shall deliver their evidence, *viva voce*, in the presence of the prisoner, and in open court.

Pleadings and Proceedings.

Juries.

261. Nothing contained in this Code shall have the effect of depriving the Governor of the power at any time to direct that within any district of the said territories, the law of the Colony of the Cape of Good Hope, relating to

Juries.

No. 24—1886. the qualification, summoning, and functions of persons serving upon petit juries shall be in force.

Native Assessors.

Native Assessors.

262. In any case in which any resident magistrate shall deem it desirable, he shall be at liberty to call to his assistance any such number of assessors not exceeding five, who shall be chosen by him from the principal chiefs, councillors, headmen, and others, whose names shall be placed upon a list to be framed by him for that purpose, after the taking effect of this Act, and thereafter annually, to aid him in the hearing of any trial with a view to the advantages derivable from their observations, and particularly in the examination of witnesses. The opinion of such assessors shall be given separately and discussed, and if any of the assessors or the magistrate shall desire it, the opinion of the assessors shall be recorded in writing, and form part of the proceedings to be forwarded for review; but the finding of the court shall be vested exclusively in the magistrate. In like manner the special court hereinbefore provided for shall be at liberty to call to its assistance a like number of assessors to be taken from any list framed as aforesaid within the territory within which the chief magistrate presiding in such court shall have jurisdiction.

Evidence and Examination of Accused.

Evidence and examination of accused.

263. In any proceeding under this Code the accused person and his wife, or husband, as the case may be, may, if such person thinks fit, be called, sworn, examined, and cross-examined as an ordinary witness in the case.

Enrolment of Legal Practitioners.

Enrolment of legal practitioners.

264. No person shall be enrolled to practise in any court of the said territories unless such person shall be an advocate or attorney, duly admitted as such by some competent colonial court.

Other matters of Procedure and Process.

Other matters of Procedure and Process.

265. In all other matters of procedure and process in respect of crimes and offences brought before the courts of resident magistrate for trial, until otherwise ordered, the powers of resident magistrates, and the rules, orders, and regulations of courts of resident magistrate, respectively, in the said territories shall, *mutatis mutandis*, and as far as the circumstances of the country will admit, be the same as those from time to time in existence as to the resident magistrates and courts of resident magistrate in the Colony of the Cape of Good Hope, under the provisions of the Ord-

nance No. 40 of 1828, and Act 20 of 1856, with amendments thereof.

No. 24—1886.

Authority of Officers of the Law.

266. Every justice of the peace, field-cornet, police constable, or other officer of the law within the said territories, is empowered to exercise all and singular the powers and authorities by law conferred upon such persons within the Colony of the Cape of Good Hope.

Authority of Officers of the Law.

Power to make Rules.

267. Subject to the provisions of this Code, the Governor may at any time make such rules as shall be deemed expedient and proper with respect to the qualifications, appointment, form of summoning, challenging, and service of assessors; and generally for the amendment and better regulation of any matters relating to the practice, procedure, and process in the trial of crimes and offences in the several courts established and provided for by this Code.

Power to make Rules.

Appeals.

268. In every case in which judgment has been given and sentence passed under the provisions of this Code it shall be lawful for the convicted person or persons to appeal therefrom to the Supreme Court, the Eastern Districts Court, or any Circuit Court having jurisdiction.

Appeals.

Crimes and Offences not specially provided for in this Code.

269. In case any person shall be accused of the commission within the said territories of any act which if committed in this Colony would constitute a crime or offence, but not hereinbefore in this Code provided for as a crime or offence, such person may be tried, and if convicted, sentenced for the same by the aforesaid resident magistrate or the said special court, as the case may be, as if such crime or offence had been committed in this Colony, and the laws and punishments applicable to such case shall be those which shall, for the time being, be in force in this Colony.

Crimes and offences not specially provided for in this Code.

Repeal of repugnant or inconsistent Laws.

270. So much of any Ordinance, Act, law or proclamation having the force of law as may be repugnant to or inconsistent with this Code is hereby repealed.

Repeal of repugnant or inconsistent laws.

No. 25—1886.]

[Promulgated 6th July, 1886.

ACT

To Authorise the Raising of Money for Certain Public Purposes.

Preamble.

WHEREAS it is expedient to authorise the raising of a sum of money for the construction of public works and for other purposes: 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 empowered to raise £193,100 for purposes specified in Schedule.

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 one hundred and ninety-three thousand one hundred pounds, to be applied to the several purposes mentioned in the Schedule to this Act annexed.

Short Title.

2. This Act may be cited as "The Public Works Loan Act, 1886."

Schedule.

SCHEDULE.

Kimberley Railway	..	..	..	£22,000
Orange River Road Bridges, Costs of Arbitration, and Claim	..	..	..	13,100
Kei Bridge and Kokstad Road	..	..	..	5,000
St. John's Trunk Road	..	..	..	10,000
Port Alfred and Kei Mouth Road	..	..	..	6,000
East London Harbour	..	..	..	3,500
Expenses of Raising Launch "Lizzie"	..	..	..	1,500
Table Bay Harbour	..	..	..	50,000
Purchase of Farm "Groote Constantia"	..	..	..	7,000
Subsidy—Worcester and Roodewal Railway	..	..	..	75,000
				£193,100

No. 26—1886.]

[Promulgated 25th June, 1886.

ACT

Spent

For Applying a further Sum not exceeding Fifty-five Thousand Eight Hundred and Thirty-five Pounds Sterling for the Service of the year ending the 30th June, 1886.

Preamble.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending on the 30th June, 1886, in addition to the sums provided by the Acts No. 5 and 45 of 1886: Be it therefore enacted by the Governor of the Cape of Good Hope,

ADDITIONAL APPROPRIATION 1885-'86 ACT. 331

with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

No. 26—1886.

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, 1886, with a further sum of fifty-five thousand eight hundred and thirty-five pounds sterling, in addition to the several sums provided for by the said Acts No. 5 and 45 of 1885.

Public Revenue charged with £55,835

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.

How to be applied.

3. This Act may be cited for all purposes as the "Additional Appropriation 1885-'86 Act, 1886."

Short title.

SCHEDULE.

Schedule.

Additional Appropriation, 1885-'86.	Establishments.	Services, exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
1. Ministerial Department of Colonial Secretary	650	36,575	37,225	37,225
2. Ministerial Department of Treasurer of the Colony	357	2,908	3,265	3,265
3. Ministerial Department of Attorney-General	..	..	..	..
4. Ministerial Department of Commissioner of Crown Lands and Public Works	75	12,536	12,611	12,611
5. Ministerial Department of Secretary for Native Affairs	..	2,734	2,734	2,734
Grand Total	1,082	54,753	55,835	55,835

No. 27—1886.]

[Promulgated 25th June, 1886.

Spent.

ACT

To Apply a Sum of Money for the Service of the Year ending the 30th day of June, 1887.

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

Preamble.

- No. 27—1886.
- Public revenue to be charged with £1,856,067.
- How to be applied.
- Not to be applied except as granted.
- Short title.
- Schedule.
1. The public revenue of the Colony is hereby charged towards the service of the year ending the 30th of June, 1887, with a sum of one million eight hundred and fifty-six thousand and sixty-seven pounds sterling.
 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 of the Expenditure for the year ending 30th June, 1887, with the notes to such estimates, submitted to and approved by Parliament.
 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 and Estimates.
 4. This Act may be cited for all purposes as the "Appropriation Act, 1886."

SCHEDULE.

Summary of Recapitulations of Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
1. Ministerial Department of Colonial Secretary ..	505,482	465,970	971,452	852,350
2. Ministerial Department of Treasurer of the Colony ..	54,350	1,245,944	1,300,294	20,943
3. Ministerial Department of Attorney-General ..	54,062	16,550	70,612	57,557
4. Ministerial Department of Commissioner of Crown Lands and Public Works ..	46,773	841,121	887,894	881,504
5. Ministerial Department of Secretary for Native Affairs	55,883	4,817	60,700	43,713
Grand Totals ..	716,550	2,574,402	3,290,952	1,856,067

No. 28—1886.]

[Promulgated 6th July, 1886.]

ACT

*Repealed by 1894 Act-20.*To More effectually Prevent the Spread of Scab Disease
in Sheep and Goats.

WHEREAS it is expedient to adopt more effectual measures for the prevention of the spread of the scab disease in sheep and goats: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The provisions of the Act No. 31 of 1874, known as the "Scab Act," are hereby repealed.

Provisions of Act 31 of 1874 repealed.

2. The Governor may from time to time appoint an inspector or inspectors of sheep for any district or area, inserted in the first Schedule hereto, and may from time to time remove or dismiss such inspector or inspectors, and every person so appointed shall have full power at any time to inspect any sheep within any district or area for which he shall be appointed, wherever such sheep may be kept, driven or depastured, and shall have, exercise, and discharge within any such district or area the several powers, authorities and duties hereinafter mentioned; and if any person shall refuse to allow any inspector to enter upon his land, pasturage, or premises, or to examine any sheep belonging to him or in his care or possession, or shall attempt to impede or hinder any inspector from examining such sheep, or shall not, when required by any inspector, render him every reasonable assistance, such person shall, on conviction before the resident magistrate of the district, be liable to a penalty not exceeding ten pounds for each offence.

Governor in Council to appoint Inspectors.

Their powers.

Penalty for obstructing them, Or not rendering assistance when required.

3. If the divisional council of any division, adjoining any area or district where this Act is in force, shall by resolution request the Governor to bring this Act into operation in such division, the Governor may bring it into operation accordingly: Provided that before any divisional council shall make any such request as aforesaid, two-thirds of the elected members thereof present at a meeting to be specially called for the purpose of making such request shall concur in making the same, and not less than six weeks' notice of such meeting and of the object thereof shall have been given by advertisement in some newspaper circulating in the division.

Provision for Act being brought into operation in adjoining areas or Districts.

4. District or area inspectors as in the last clause provided shall be selected by the Governor, from persons living within such area, and who have had practical experience in the management of sheep in the Colony.

Appointment of Inspectors.

No. 28—1896.

Duties of Inspectors.

5. It shall be the duty of each inspector appointed under this Act to inspect each flock in his district or area at least once in six months. In the event of such inspector finding indications of any flock being infected with the disease called scab, he shall forthwith proceed to hold an inquiry into the circumstances of the case, and if he shall be of opinion that the said flock is infected as aforesaid, the owner of such flock shall forthwith proceed to make proper and diligent efforts to cleanse them, and the said owner shall be granted by the said inspector a licence to keep such sheep for a period of three months for that purpose; at the expiry of such licence the inspector shall reinspect such flock, and should he find that the said sheep are still infected with scab, the licence may be renewed for a further period of three months, or for such further period as the inspector may with reference to special circumstances consider proper, and the inspector shall repeat his inspection every three months until such flock is found clean.

Licence to keep scabby sheep.

Penalty for negligence in cleaning sheep.

6. If at any time after the expiration of any licence in the last preceding section mentioned, and after due inspection by the inspector of the infected sheep, and due inquiry by him into the circumstances under which they are and have been kept, it shall be found that they are still infected and that the owner has failed to make proper and diligent efforts to cleanse the said sheep, the said owner upon proof thereof to the satisfaction of the resident magistrate of the district and conviction by him, shall be liable to a fine, for a first conviction at the rate of not more than five pounds, for a second conviction at the rate of not more than ten pounds nor less than five pounds, and for a third or subsequent conviction at the rate of not more than twenty pounds nor less than ten pounds per thousand infected sheep.

Owner of scabby sheep to give notice to inspector.

7. It shall be the duty of every owner of sheep which are or may become infected with the disease called scab, to give notice at once of such infection to the inspector of the district or area, and to proceed forthwith to take all reasonable precautions and means to prevent the spread of the said disease; and any owner of infected sheep neglecting or delaying to give such notice, or neglecting to take such reasonable precautions and means as aforesaid, shall be liable to a fine at the rate of not more than five pounds per thousand sheep infected. And the inspector on receiving such notice as aforesaid shall proceed to inspect the sheep referred to therein, and shall thereupon issue a licence to keep the infected sheep for the purpose of cleansing the same for the period or periods provided by the fourth section.

Duty of inspector on receiving notice.

Special damages for trespass by infected sheep.

8. Every owner or occupier of land upon which sheep infected with the disease called scab shall trespass, shall be

entitled to recover from the owner of such sheep, over and above the damages otherwise recoverable for such trespass, a sum not exceeding twenty pounds.

No. 28—1886.

9. For the purposes of this Act if any one sheep in a flock is proved to be infected with the disease called scab, all the sheep in such flock shall be deemed and taken to be so infected.

Flock held to be diseased if one diseased sheep found therein.

10. No person shall import or introduce, or attempt to import or introduce into any district or area in which this Act shall be in operation, or shall place or convey, or allow or cause to be placed or conveyed in any truck, van, carriage or train travelling, or intended to travel along any line of public railway through any such district, or shall drive or allow or cause to be driven along any public road, bridge, way or thoroughfare, or within one mile from any public road, way or thoroughfare in any such district, any sheep infected with the disease called scab, unless he shall have a permit so to do from the said inspector in the form in the second Schedule hereto, and shall to the satisfaction of the inspector have previously treated the said sheep in manner directed by the said inspector, and shall take such other precautions by way of notice to sheep-owners in the neighbourhood of the route taken by such infected sheep as to the said inspector shall seem proper.

Importing or placing, &c., on public railway or road, &c., any infected sheep forbidden.

11. The penalty for any contravention of the last section shall be recoverable in the court of the resident magistrate of the district wherein the owner of the said sheep lives or wherein the said sheep may be found, and shall be by way of fine not exceeding twenty pounds.

Penalty for contravening preceding section.

12. For the purposes of this Act, two or more sheep kept on the same farm shall constitute a flock, and the term "sheep" shall include "goat."

Terms defined.

13. This Act shall commence and take effect from and after the first day of July, 1887.

Commencement of Act.

14. This Act may be cited for all purposes as "The Scab Act, 1886."

Short title.

SCHEDULE.

First Schedule.

FIRST SCHEDULE.

- King William's Town
- Komgha
- East London
- Stutterheim
- Cathcart
- Queenstown
- Tarkastad
- Victoria East

No. 29—1886.

Peddie
 Fort Beaufort
 Stockenstrom
 Bedford
 Somerset East
 Uitenhage
 Jansenville
 Albany
 Bathurst
 Port Elizabeth
 Alexandria
 Humansdorp

Second Schedule

SECOND SCHEDULE.

PERMIT.

18

No.

District

I certify that
 may be driven from

Brand—

Ear mark—

The above permit is to be in force for

sheep, the property of
 to

days.

Inspector.

No. 29—1886.]

[Promulgated 6th July, 1886.

ACT

sealed by 1917 Oct 31

To Amend the "Libel Act, 1882."

Preamble.

WHEREAS it is expedient to amend the Act No. 46 of 1882, commonly called the "Libel 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:—

Prosecutor to pay costs if special plea filed by Defendant is successful.

1. Whenever any defendant charged under the provisions of Act No. 46 of 1882 with publishing a defamatory libel shall be acquitted upon the grounds of defence raised in any special plea of justification filed in the manner provided in the third and fourth sections of the said Act, it shall and may be lawful for the judge or magistrate presiding at his trial, if he shall think fit, to order and direct that the costs incurred by the defendant in and about the pleading and proof of such special plea shall be paid by the person at whose instance the prosecution was commenced, and all such costs shall be by the taxing officer of the court before which the defendant is tried taxed and allowed at such sum as the said officer shall deem to be reasonably necessary and sufficient to meet the costs of pleading and proving such special plea.

Costs, how taxed.

2. Notwithstanding anything to the contrary contained in the ninth section of the said Act or in any statute having the force of law in this Colony, no case based upon a charge of defamatory libel shall be remitted for trial to any court of resident magistrate within a period of fourteen days after the record of the preparatory examination duly taken shall have been sent to the Attorney-General, Solicitor-General, or Crown Prosecutor for Griqualand West, respectively; and at any time before or during the said period it shall be lawful for the defendant in the case, by writing signed by the defendant or his lawful agent or attorney, to demand that the case against him shall be submitted for trial by jury to a court of justice superior to the courts of resident magistrate, and after such receipt of any such demand no such case shall be remitted for trial to any court of resident magistrate: Provided that if upon such trial by jury the defendant who has made such demand shall be convicted it shall and may be lawful for the judge before whom the trial shall have taken place to order, if he shall think fit, that the costs of such trial as taxed by the proper officer of the court shall be paid by the defendant.

No. 30—1886.

No case to be remitted to R.M. till defendant has had opportunity to demand trial before a superior court.

3. This Act may be cited as the "Libel Act Amendment Act, 1886."

Short title.

No. 30—1886.]

[Promulgated 6th July, 1886.

ACT *Repealed by 1892 Act 15.*

To Alter and amend the fifty-ninth Section of the "Pounds and Trespasses Ordinance" No. 16 of 1847.

WHEREAS it is desirable that cattle found trespassing should in all cases be sent to the pound which is nearest to the place of trespass, whether the same be situated or not within the limits of any municipality; and for that purpose it is necessary to amend in certain respects the fifty-ninth Section of the Ordinance No. 16 of 1847, being the "Pounds and Trespasses Ordinance:" Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The proviso in the fifty-ninth Clause of the Ordinance mentioned in the preamble to this Act is hereby repealed and the following shall be substituted and read in lieu thereof: "Provided always that animals seized or detained for or on account of any trespass committed beyond the limits of a

New clause substituted for Provisions in 59th Section of Ordinance No. 16 of 1847.

No. 31—1886.

municipality shall be sent to any pound within the said limits if the same shall be the pound nearest to the place of trespass, and the poundmaster of such pound shall be bound to receive the animals so sent; and all animals impounded in any pound within a municipality shall be subject in all respects to the regulations of such pound; but all questions respecting trespasses committed beyond the limits of any municipality shall be determined and the damages claimable therefrom shall be regulated by the provisions of this Ordinance."

Short Title.

2. This Act may be cited as the "Pounds and Trespasses Ordinance Amendment Act, 1886."

No. 31—1886.]

[Promulgated 6th July, 1886.

ACT

To Amend the Law relating to Enrolled Agents.

Preamble.

WHEREAS it is expedient to amend the law relating to enrolled agents practising in Courts of Resident Magistrate: 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 eighth section of Act 43 of 1885.

1. Notwithstanding anything in the eighth section of the "Magistrates' Jurisdiction Act, 1885," contained, all agents admitted and enrolled in any Court of Resident Magistrate before the passing of the said Act shall be entitled to be admitted and enrolled, and to practise, in any other Court of Resident Magistrate, as if the said Act had not been passed: Provided that the Resident Magistrate to whom any application for admission and enrolment shall be made by any such agent may refuse to admit and enrol the applicant for any reason which would have warranted such refusal upon an original application under the provisions of the thirty-sixth section of the "Resident Magistrates' Court Act, 1856."

Short Title.

2. This Act may be cited as the "Enrolled Agents Act, 1886."

No. 32—1886.]

[Promulgated 6th July, 1886.

ACT

To Authorise the Cape Central Railways (Limited) to construct a Line of Railway from Roodewal (Kogman's Kloof) to Montagu.

Preamble.

WHEREAS it is desirable to have the Line of Railway now under construction from Worcester to

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

1. The Company styled the Cape Central Railways (Limited) shall be and is 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 not less than three feet six inches wide, and at a gradient of not more than one in forty, in continuation of the Company's line to Roodewal (Kogman's Kloof), 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.

Cape Central Railways Company authorised to construct and work line of railway as shown on plans.

2. The said railway shall commence at the terminus of the line of the railway now being constructed by the Cape Central Railways (Limited) under Act 16 of 1883, thence across or over or near the farms of Gorree Karpat, Sadowa, Roodeberg, Grant No. 1007, Drooge Kloof, Keur Kloof, Aasvogel Krantz, Fontein Kloof, along, over or upon the main road through Kogman's Kloof, and terminating at or on the outspan at the village of Montagu, in accordance with the plans and sections deposited with the Clerk of the House of Assembly: Provided always that it shall be lawful for the said Company to deviate from and vary the said line, as shown by the said plans, at the request of any owner or owners through whose lands the said line may pass or to such extent as may be allowed by the Commissioner of Crown Lands and Public Works upon the request of the directors.

Route of railway and powers of deviation.

3. The provisions of "The Cape Central Railways Act, 1883," with the exception of the first, second, fourteenth, fifteenth and twenty-first sections thereof, are hereby incorporated, and shall extend and apply to the railway hereby authorised to be constructed, as if the same had been included in the said Act: save and except as to the application of the eleventh section, that it shall not be compulsory upon the Company to fence so much of the line passing through Kogman's Kloof as the Commissioner of Crown Lands and Public Works may deem it unnecessary to cause to be fenced.

Certain Provisions of Cape Central Railways Act, 1883, applicable to Railway now authorized.

4. The Company shall, at its own cost, construct, to the satisfaction of the Divisional Council of Robertson, a road through Kogman's Kloof, for wagon traffic, in place of so much of the existing road as may be taken for the purposes of the said railway.

Company to construct road through Kogman's Kloof.

5. The directors shall be bound and are hereby required to finish and complete the said railway within one year,

Time for completing railway.

340 FISCAL DIVISION OF SIMON'S TOWN ABOLITION ACT.

No. 33—1886.

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 the said Company shall be bound to commence the said railway not later than one year from and after the taking effect of this Act: Failing which all and singular the powers and authorities conferred by this Act shall cease and determine.

Short title.

6. This Act may be cited for all purposes as "The Cape Central Railways Extension Act, 1886."

No. 33—1886.]

[Promulgated 6th July, 1886.

ACT

To Abolish the Fiscal Division of Simon's Town and to include that Division within the Fiscal Division of the Cape.

Preamble.

WHEREAS it is expedient that the Division of Simon's Town shall cease to be a Fiscal Division and shall be included in the Fiscal Division of the Cape: 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:—

Fiscal Division of Simon's Town abolished, and to become part of the Cape Division.

1. Upon the issue of a Proclamation to that effect by the Governor to be published in the *Gazette*, the division of Simon's Town shall cease to be a division for fiscal purposes, and shall become and be part of the fiscal division of the Cape.

Main and Divisional roads to be repaired to satisfaction of Government road Inspector.

2. The proclamation in the last section mentioned shall not be issued until the main and divisional roads in the division of Simon's Town shall be placed in a reasonable state of repair, to the satisfaction of the Government Road Inspector.

After such general election, districts of Simon's Town to be entitled to return members to Divisional Council of the Cape.

3. During the period intervening between the issue of such proclamation as aforesaid and the time for holding the next general election of members of the divisional council of the Cape, the districts constituting the said division of Simon's Town shall not be entitled to return members to the divisional council of the Cape; but at such general election they shall be so entitled, and then and thenceforth the districts of the Cape division shall be and shall continue to be until otherwise altered, those existing before the passing of the Act No. 36 of 1879.

Toll-gates and toll revenues to be transferred to Divisional Council of the Cape.

4. From and after the issue of the said proclamation the toll-gate with the buildings and appurtenances belonging thereto; and the revenue to arise from the tolls levied thereat, which were transferred by the Act No. 8 of 1882 to the

THE GRAAFF-REINET MUNICIPALITY AMENDMENT ACT. 341

divisional council of Simon's Town, shall be re-vested in the divisional council of the Cape, and such revenue shall be carried to and form part of the general revenue of such last-mentioned divisional council, anything contained in the third section of Act No. 3 of 1857 to the contrary notwithstanding.

No. 34—1886.

5. No such proclamation as aforesaid shall be issued until all debts incurred by the divisional council of Simon's Town shall have been duly paid and satisfied.

No debts of Simon's Town Council to be chargeable to the Divisional Council of the Cape. Arrear rates.

6. All arrear rates which shall be payable to the divisional council of Simon's Town at the date of the proclamation aforesaid shall be payable to the divisional council of the Cape.

7. So much of the Act No. 36 of 1879, as relates to the said Division of Simon's Town, and the Act No. 8 of 1882, are hereby repealed.

Repeal of part of Act 36 of 1879 and Act 8 of 1882.

8. This Act may be cited as the "Fiscal Division of Simon's Town Abolition Act, 1886."

Short title.

No. 34—1886.]

[Promulgated 6th July, 1886.

ACT

To Amend "The Graaff-Reinet Municipality Act of 1880."

WHEREAS, by the Act No. 10 of 1880, commonly called "The Graaff-Reinet Municipality Act, 1880," and hereinafter called the said Act, the Municipality of Graaff-Reinet is divided into seven wards, the ratepayers in each of which are entitled to elect two councillors to represent them in the council of the said municipality: And whereas the council thus constituted of fourteen councillors so elected does not fairly and properly represent the majority of ratepayers in the said municipality: And whereas the aforesaid division of the said municipality into wards is inexpedient and inequitable, inasmuch as many ratepayers having great and important interests in the said municipality are thereby not at all or insufficiently represented in the said Council: And whereas it is expedient and necessary to amend the said Act, so as to repeal and abolish the division of the said municipality into such wards as aforesaid, and to provide that every ratepayer in the said municipality shall have an equal right to vote in the election of any and every councillor to represent him in the said council, and to that end to constitute the entire body of ratepayers of the said municipality one constituency for the election of such councillors and for all municipal purposes in respect of which

Preamble.

P

No. 34—1886,

heretofore under the said Act the several wards have had a separate voice : And whereas, moreover, it is expedient and necessary to amend the said Act in certain respects with regard to the qualification of voters in municipal elections and of councillors, and with regard to the disqualification of any councillor by reason of his being personally interested in any contract to which the said council is a party and also to provide additional security against the borrowing of money by the said council without the authority of the necessary majority of ratepayers : And whereas at a public meeting of the said ratepayers convened and held on the 10th day of March, 1886, and at another public meeting of ratepayers, convened by the mayor in conformity with the provisions of the 76th section of Act No. 10 of 1880, and held on the 25th day of May, 1886, it was resolved by a majority of ratepayers then present to seek legislative amendment of the said Act :

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:—

Sections repealed

1. The sections five, six, seven, eight, ten and nineteen of the said Act are hereby repealed.

Section 4 amended

2. The fourth section of the said Act shall be amended by expunging the word “fourteen” and substituting the word “nine,” and by the addition of the following words at the end of the clause :

“And the said councillors shall be elected by the ratepayers of the said municipality voting as one constituency in manner hereinafter provided: Provided, however, that every councillor elected before the passing of this Act shall notwithstanding anything herein contained continue to hold office in the said council as if this Act had not been passed.”

Certain amended.

Sections

3. The following sections of the said Act are hereby amended as follows :

- (1) The eleventh section by the omission of the words “for any ward,” and of the words “of such ward.”
- (2) The twelfth section by the omission of the words “in each ward.”
- (3) The fourteenth section by the omission of the words “in every ward,” of the words “for any ward,” and of the words “for such wards” wherever they occur in the said section ; and by the insertion of the words “or persons,” and at some place “or places” after the word “person” where the same occurs in the second line of the said section.
- (4) The sixteenth section by the omission of the words “for his ward” and of the words “for the ward,”

- (5) The twenty-first section by the omission of the words "with the numbers of the wards for which such persons are elected."

No. 34--1886.

4. Every 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 municipality, and who shall have paid all sums if any then payable by such person in respect of any rates made three months or more before such day, shall be entitled to be enrolled on the assessment roll for the municipality according to the following scale:—

Who entitled to be enrolled on voters' roll.

- (1) If the property liable to be rated be of the value of or exceeding one hundred pounds, and less than five hundred pounds, he shall have one vote.
- (2) If such value amount to five hundred pounds and be less than one thousand pounds, he shall have two votes.
- (3) And if such value amount to or exceed one thousand pounds, he shall have three votes.

Number of votes for which person entitled to be enrolled.

5. 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 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 one hundred pounds for each such person.

How for purposes of last section when more persons than one liable to be rated in respect of any property.

6. The following persons shall not be qualified to vote at any elections held under the provisions of this Act:

Who not qualified to vote at elections under this Act.

- (1) Persons who have not paid all sums due from them in respect of any rates made or levied 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.

- No. 35—1886. (3) Persons whose names do not appear upon the assessment roll for the time being.
- Section 31 amended 7. The thirty-first section of the said Act shall be amended by the insertion after the word "business" of the words "or shall directly or indirectly sell or supply any goods whatsoever to the council."
- Section 44 amended. 8. The forty-fourth section of the said Act shall be amended by the insertion after the word "borrowed" where it occurs in the proviso to the said section of the words "from Government or from any person or persons or body corporate, or for any purpose whatsoever."
- Costs of obtaining Act out of revenue from rates. 9. The costs, charges and expenses of promoting and procuring the passing of this Act shall be paid out of the revenue derived from rates in the said municipality.
- Short Title. 10. This Act may be cited as "The Graaff-Reinet Municipality Amendment Act, 1886."

No. 35—1886.]

[Promulgated 6th July, 1886.

sealed by 1905 Act no.

ACT

To Extend and Regulate the Liability of Employers to make Compensation for Personal Injuries suffered by Workmen in their Service.

Preamble.

WHEREAS the law relating to the Liability of Employers to make Compensation for Injuries suffered by Workmen in their Service is at present vague and uncertain, and it is desirable to amend the same, and to extend and regulate such liability: 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:—

In what cases compensation to be made to injured workmen.

1. Whenever, after the taking effect of this Act, personal injury is caused to a workman:

- (1) By reason of any defect in the condition of the ways, works, machinery, or plant connected with, or used, in the business of the employer; or
- (2) By reason of the negligence of the employer, or any person in the service of the employer who has any superintendence entrusted to him, whilst in the exercise of such superintendence; or
- (3) By reason of the negligence of the employer, or any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform, and did conform, when such injury resulted from his having so conformed; or

No. 35—1886.

- (4) By reason of the act or omission of the employer, or any person in the service of the employer done or made in obedience to the rules or by-laws of the employer, or in obedience to particular instructions given by any person delegated with the authority of the employer in that behalf; or
- (5) By reason of the negligence of the employer, or any person in the service of the employer who has the charge or control of any signal, points, locomotive engine, train upon a railway, or any machinery or hauling gear in or about any mine, the workman or, in case the injury results in death, the legal personal representatives of the workman, and any person entitled in case of death, shall have the same right of compensation and remedies against the employer as if the workman had not been a workman of, nor in the service of the employer, nor engaged in his work.

2. A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases; that is to say,—

Exceptions to the provisions of the above Section.

- (1) Under sub-section one of section one of this Act, unless the defect therein mentioned arose from, or had not been, or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer, and entrusted by him with the duty of seeing that the ways, works, machinery, or plant were in proper condition.
- (2) Under sub-section four of section one of this Act unless the injury resulted from some impropriety or defect in the rules, by-laws, or instructions therein mentioned: Provided always that in case any such rule or by-law shall have been submitted to the Governor, and approved of by him by notification in the *Gazette*, or in case such rule or by-law shall be made under the provisions of any Act of Parliament, it shall not be deemed for the purposes of this Act to be an improper or defective rule or by-law.
- (3) In any case where the workman knew of the defect or negligence which caused his injury, and failed within a reasonable time to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer, unless he was aware that the employer or such superior already knew of the said defect or negligence.

3. The amount of compensation under this Act shall not exceed such sum as may be found to be equivalent to the

Limit of sum recoverable as compensation.

No. 36—1886.	estimated earnings, during the three years preceding the injury, of a person in the same grade employed during those years in the like employment, and in the district in which the workman is employed at the time of the injury.
No compensation recoverable under any other law as well as under this Act.	4. No workman, or representative of a workman, shall be entitled to recover compensation for any injury done to him under any other existing law in addition to the compensation to which he may be entitled under this Act.
Limit of time within which actions must be brought.	5. All actions under this Act shall be commenced within six months after the occurrence of the injury for which compensation is sought.
Definitions.	6. For the purposes of this Act, unless the context otherwise requires,— The expression “person who has superintendence entrusted to him” means a person whose sole or principal duty is that of superintendence, and who is not ordinarily engaged in manual labour. The expression “employer” includes a body of persons corporate or unincorporate.
Where Act to be in force and Short Title.	7. This Act shall take effect only within such mining areas as the Governor may from time to time declare by Proclamation to be published in the <i>Gazette</i> , and may be cited as the “Employers’ Liability Act, 1886.”

No. 36—1886.]

[Promulgated 6th July, 1886.

ACT

For the Better Preservation of Game.

Preamble.	WHEREAS it is expedient to consolidate and amend the laws relating to game: 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:—
Repeal of existing Game Laws.	1. The following Game Law Proclamations are hereby repealed; that is to say, the Proclamation dated 21st March, 1822, entitled “Game Law Proclamation;” the Proclamation dated 23rd August, 1822, entitled “Amendment of Game Law—Elephants;” and the Proclamation dated 14th March, 1823, entitled “Amendment of Game Law—Elands.”
The word “game” defined.	2. The word “game” shall for the purposes of this Act, be taken and understood to mean and comprehend the several birds and animals of this Colony following, not being domesticated, commonly known as paauw, korhaan, guinea-fowl, pheasant, partridge, grouse, and dikkop, elephant, camelopard, seacow (<i>hippopotamus</i>), buffalo, zebra, quagga, Burchell zebra, buck (comprehending the whole antelope

species, with the exception of springbucks actually migrating, but including the gnu or wildebeest), hare and rabbit (not being coney); and the words "game licence" shall, for the purposes of this Act be taken and understood to mean a game licence duly issued by Government.

No. 36-1888
1908 Act. 11.

Game licence.

3. It shall be lawful for the Governor, by proclamation to be by him issued, to fix and prescribe for each district in this Colony, the close time or fence seasons within which it shall not be lawful to kill, pursue, hunt, or shoot at, the different kinds of game respectively within such district either with or without a game licence respectively, or with or without the landowners' permission.

Governor to have power to proclaim the close season for the several districts of this Colony.

4. No person shall, save as is hereinafter provided, kill, catch, capture, pursue, hunt or shoot at, sell, hawk, or expose for sale, game in any part of this Colony, without having previously obtained a game licence, under the penalty of not exceeding thirty shillings sterling for the first offence, and not exceeding five pounds sterling for every subsequent offence, excepting herefrom any game found injuring crops in cultivated lands or gardens. No person, however, shall be at liberty to pursue, shoot, kill, destroy, or capture any elephant, hippopotamus, buffalo, eland, koodoo, hartebeest, bontebok, blesbok, gemsbok, rietbok, zebra, quagga, Burchell zebra or any gnu or wildebeest of either variety, without having obtained a special permission to that effect from the Governor, under a penalty of not exceeding ten pounds sterling for each offence, or, on failure of payment thereof, not exceeding one month's imprisonment with or without hard labour: Provided, however, that landed proprietors and persons authorised by them shall, without having such special permission, be at liberty to shoot elephant upon the property of such landed proprietors.

Penalty for shooting, killing, capturing, or selling game without a licence.

Except game found in lands, gardens, &c. Special permission of Governor required for destruction of certain game.

Penalty.

5. No person shall kill, pursue, or shoot at game in any district in the Colony during the close time, or shall possess, sell, hawk, or expose for sale game in such district after the expiration of one week from the commencement of the close time which shall be proclaimed for any such district, under a penalty of four pounds sterling for the first offence, and eight pounds sterling for every subsequent offence.

Penalty for shooting or selling game during close season.

6. No person shall, without special permission of the Governor, for purposes to be mentioned in such permission as hereinafter is provided, at any time wilfully take away, disturb or destroy eggs, or sell, hawk, or expose for sale, or shall purchase eggs of any game birds in any part of this Colony, under the penalty of any sum not exceeding four pounds sterling for the first offence, and not less than eight pounds sterling, nor exceeding ten pounds sterling for every subsequent offence; and the said eggs shall be confiscated to

Penalty for taking away, &c., eggs of game birds, or for selling or purchasing the same.

No. 36—1886.

Governor may grant permit to take young birds, eggs, &c., for certain purposes.

Number and denomination of birds, eggs, &c., to be stated in permit.

Any one exceeding terms of permit guilty of contravention, &c.

No person to kill, &c., game on any land without landowner's permission.

Permission subsequent to commission of the act sufficient.

No penalty unless landowner have given notice personally or in *Gazette*, &c., of intention to preserve game.

Act 11, Sec. 8.

Burthen of proof in case of shooting, &c., without a licence to rest with person charged.

Government in whose custody soever the same may at any time be found, and may be seized *brevi manu* by any landowner, occupier of land, justice of the peace, field-cornet, constable, or police officer: Provided, always, that it shall be lawful for the Governor to permit under his hand any fit or proper person or persons to take, or carry away the eggs of any game bird, or the young of any game, whether bird or other game, for the purpose of rearing or breeding the same, or for the purpose of acclimatization or scientific investigation; and any person so obtaining the Governor's written permission as aforesaid may himself obtain or take the said eggs, birds, or animals: Provided, always, that such writing shall distinctly state the number and denomination of such eggs, birds, or animals which the holders are employed to obtain or take, which shall collectively not exceed the number specified by the Governor's permission aforesaid. And any person obtaining or taking a greater number or other kinds of such eggs, birds, or animals than those specified in the Governor's permission as aforesaid, or giving or affecting to give any person or persons authority to take or obtain, together with what he shall himself take or obtain in the whole, more than the number or other than the kinds specified in such permission as aforesaid, shall be held guilty of wilfully taking all such young or eggs as he shall have taken or obtained, or shall have given or affected to give authority in the whole to take or obtain.

7. No person shall at any time, either with or without a game licence, kill, catch, capture, pursue, hunt, or shoot at any game on any lands within this Colony, without the permission of the owner of such lands, if private property, under the penalty of any sum not exceeding five pounds sterling for the first offence, and not exceeding ten pounds sterling for every subsequent offence, in addition to any penalty, if any, to which he may be liable under any other section of this Act, the penalty provided by this section to be paid to the owner of the land; but any permission given by such owner after the event with reference to the offence shall be as valid as if given before the offence. But no penalty under this section shall in any case be enforced unless notice and warning shall have been given, either personally or by letter, or in the *Gazette*, or in a local newspaper, by the owner that he is desirous to preserve the game thereon.

8. Whenever any person shall be charged with killing, capturing, pursuing, hunting, or shooting at, selling, hawking or exposing for sale game in any part of the Colony without a licence, and shall allege in defence that such game was injuring crops in cultivated lands or gardens, the proof of the truth of such allegation shall be with the person charged.

9. In any case prosecuted under this Act every game animal shall be presumed to have been wild until shown to have been domesticated.

No. 36--1886.
Game animals presumed to be wild.

10. The several fines above mentioned may be recovered by any person, on behalf as well of himself as of the Crown, in all cases where the fine shall not exceed twenty-five pounds sterling, in the Court of the Resident Magistrate of the district where the offence may have been committed, and in other cases in the Supreme Court, the Court of the Eastern Districts or the High Court of Griqualand, as the case may be, or the Circuit Court for the district where the offence may have been committed; and a moiety of any fine imposed upon any offender, on conviction, for contravening any of the provisions of this Act, shall, save as is hereinbefore otherwise specially provided, be paid to the person on whose information such conviction shall have taken place, provided such person be not an accessory.

How fines to be recovered, and to whom paid.

Repealed by 1908 Act. 11 Sec. 14

Moiety of fine to go to informer.

11. It shall be lawful for the Governor, by proclamation in the Gazette, to proclaim and declare as to any parts of this Colony that any bird or animal, to be specified in such proclamation, shall be protected and not destroyed for any number of years not exceeding three, to be mentioned in such proclamation, and also to extend to any such bird or other animal the protection of this Act, as if the same were included among the game animals in this Act defined, or to extend to any such bird or other animal the protection of such of the provisions of this Act as may be specified in such proclamation, as if such bird or other animal were expressly protected by name in such provisions respectively; and also from time to time to revoke, alter, or amend such proclamation.

Governor may by special Proclamation protect certain game animals for any time not exceeding three years.

12. It shall be lawful for the Governor, on good cause shown by the Divisional Council of any of the divisions of the Colony to suspend, by proclamation in the Gazette, in whole or in part, as may seem right, the operation of this Act, or any part or parts thereof, in the said division, for any time or with regard to any animal, or both, for any time and with regard to any animal to be specified in the said proclamation.

Governor on advice of Divisional Councils may suspend operations of this Act.

13. Any offender being convicted for contravention of any of the provisions of this Act, in default of payment of the fine imposed upon him, and in default of other provision in that behalf in this Act specially provided, shall be liable to imprisonment for any period not exceeding one month, with or without hard labour, unless the fine be sooner paid.

Penalties for contravention of Act not specially provided for.

14. In any prosecution for infringement of any section of this Act, by doing anything without licence, it shall be

What shall be prima facie evidence of non-possession of licence.

No. 37—1886.

*Repealed by
909 Act 11, Sec. 1.*

prima facie sufficient for the prosecutor to show that the accused does not appear as the holder of a licence in the list of persons to whom the requisite licence in such case shall have been issued, respectively, kept in the office of the resident magistrate before whom or in whose district such case shall be brought for trial in any court; but it shall be lawful for such accused person to rebut such evidence by proof that he was in fact, at the time of the commission of the offence charged, the lawful holder of such a licence.

Until otherwise proclaimed, close season to be that by law now existing.

15. Until otherwise proclaimed by the Governor, under the provisions of this Act, the fence or close season at present established by law shall continue to be such fence or close season.

No licence required for shooting on own land.

16. No landowner shall require a game licence for the purpose of shooting game on his own land.

Short title.

17. This Act may be cited as the "Game Law Amendment Act, 1886."

*sealed by
18 Act 11 Sec. 16*

No. 37—1886.]

[Reserved.]

ACT

To Provide for the Annexation to the Colony of the Country known as the Xesibe Country.

Preamble.

WHEREAS by Resolution passed in both branches of the Legislature it has been declared to be expedient that the country situated between the district of Kokstad in Griqualand East and Pondoland East, known as the Xesibe Country, comprised in the district now called Mount Ayliff, 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 a 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, and to determine and signify the limits of the said country so annexed, 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 Xesibe Country to be annexed to the Colony and form part of Griqualand East.

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, or so much of the said country as shall be defined in or by any such proclamation, and with the limits and name in any such proclamation signified, shall be annexed to and become a part of that portion of the Colony known as Griqualand East, and be subject to the laws for the time being in force in such portion of the Colony.

No. 37—1886 .

2. This Act may be cited as the “Xesibe Country Annexation Act, 1886.”

Short title.



ACTS OF THE CAPE PARLIAMENT.

No. 1—1887.]

[Promulgated 1st July, 1887.

Spent.

ACT

To Apply a Sum not exceeding Four Hundred Thousand Pounds Sterling towards the Service of the Year ending the 30th day of June, 1888.

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

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending the 30th June, 1888, with a sum not exceeding four hundred thousand pounds sterling (£400,000), which sum shall be applied towards the service of the said year in conformity with the estimates of the expenditure for the said year which have been presented to Parliament. Revenue charged with £400,000 towards service of year ending 30th June, 1888.

2. This Act may be cited for all purposes as “The Appropriation (part 1887-88) Act, 1887.” Short title.

No. 2—1887.]

[Promulgated 30th June, 1887.

Spent.

ACT

For applying a further Sum not exceeding Forty-three Thousand Nine Hundred and Fifty-eight Pounds Sterling for the Service of the year ending the 30th June, 1887.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred during the year ending on the 30th June, 1887, in addition to the sums provided by the Act No. 27 of 1886: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:— Preamble.

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending on the 30th June, 1887, with a further sum of Forty-three thousand Nine hundred and Fifty-eight pounds sterling, in addition to the several sums provided for by the said Act No. 27 of 1886. Public Revenue charged with £43,958

2. The money granted by this Act shall be applied to the purposes and services expressed in the schedule annexed hereto, How to be applied.

B

No. 2—1887.

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 1886-'87 Act, 1887."

Schedule.

SCHEDULE.

Additional Appropriation, 1886-'87.	Establishments.	Services, exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
1. Ministerial Department of Colonial Secretary	40	12,069	12,109	12,109
2. Ministerial Department of Treasurer of the Colony .. .. .	..	5,423	5,423	5,423
3. Ministerial Department of Attorney-General .. .. .	..	..	..	..
4. Ministerial Department of Commissioner of Crown Lands and Public Works ..	300	10,474	10,774	10,774
5. Ministerial Department of Secretary for Native Affairs	25	15,627	15,652	15,652
Grand Total	365	43,593	43,958	43,958

No. 3—1887.]

[Promulgated 8th July, 1887.

ACT

To Authorise the Expropriation of Land, the Property of Private Persons, for Defence Purposes.

Preamble.

WHEREAS it is desirable that power should be granted to Government to expropriate, for defence purposes, land the property of private persons: 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:—

Land required for defence purposes may be expropriated with compensation to the owner, to be determined by arbitration.

1. Whenever it shall appear to the Governor that any land, the property of a private owner, or land to the unobstructed use of which any neighbouring owner of land, or other person or persons, have a prescriptive right, is required for defence purposes, it shall be lawful for the Commissioner of Crown Lands and Public Works, on being authorised by the Governor so to do, to take possession of such land on payment to the proprietor thereof of such sum of money in compensation as may be mutually 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 proprietor of the land and one by the Government, with power to such arbitrators to appoint a third as umpire; and in case of difference of opinion between the original arbitrators, the decision of such umpire shall be final.

No. 3—1887.

2. In all other respects, the provisions of the "Lands and Arbitration Clauses Act, 1882," shall apply to arbitrations under this Act. Land and Arbitration Clauses Act to apply.

3. This Act may be cited as the "Lands Expropriation Act, 1887." Short title.

No. 4—1887.]

[Promulgated 8th July, 1887.

ACT

To Make provision with respect to manufacturing, keeping, selling, carrying, and importing Explosive Substances.

Repealed by Act 8/11/81

WHEREAS it is expedient to make provision with respect to manufacturing, keeping, selling, carrying and importing explosive substances: 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.

PRELIMINARY.

1. This Act may be cited as the Explosives Act, 1887.

Short title.

2. The term "explosive" or "explosives" in this Act—

(1) Means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting-powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and

Meaning of term "explosive."

(2) Includes fuses, rockets, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined.

LAW RELATING TO MANUFACTURE OF EXPLOSIVES.

3. The manufacture of explosives shall not, nor shall any process of such manufacture, be carried on except at a factory for explosives licensed for the same under this Act.

Explosives to be manufactured only at factory licensed for that purpose.

Provided that nothing in this section shall apply to the making of a small quantity of explosives for the purpose of chemical experiment and not for practical use or for sale.

If any person manufactures explosives or carries on any process of such manufacture at any place at which he is not allowed by this section so to do, he shall be deemed to manufacture explosives at an unauthorised place.

No. 4—1887.

Penalty for manufacture at unauthorised place.

Where explosives are manufactured at an unauthorised place—

- (1) All or any part of the explosives or the ingredients thereof which may be found either in or about such place or in the possession or under the control of any person convicted under this section, may be forfeited; and
- (2) The person so manufacturing shall be liable to a penalty not exceeding one hundred pounds a day for every day during which he so manufactures.

LICENSING OF FACTORIES AND MAGAZINES IN CONNECTION WITH
FACTORIES FOR EXPLOSIVES.

Application for licence for factory or factory magazine.

4. A factory for explosives or magazine in connection therewith (hereinafter called a factory magazine) shall not be established except on the site and in the manner specified in a licence for the same granted under this Act.

The licence shall specify such of the following matters as are applicable, namely—

- (a) The boundaries of the land forming the site of the factory or factory magazine and either any belt of land surrounding the site which is to be kept clear, and the buildings and works from which it is to be kept clear, or the distances to be maintained between the factory or factory magazine, or any part thereof, and other buildings and works; and
- (b) The situation, character, and construction of all the mounds, buildings, and works on or connected with the factory or factory magazine, and the distances thereof from each other; and
- (c) The nature of the processes to be carried on in the factory and in each part thereof, and the place at which each process of the manufacture, and each description of work connected with the factory or factory magazine, is to be carried on, and the places therein at which explosives and any ingredients of explosives, and any articles liable to spontaneous ignition, or inflammable or otherwise dangerous, are to be kept; and
- (d) The amount of explosives and of ingredients thereof wholly or partly mixed to be allowed at the same time in any building or machine or any process of the manufacture or within a limited distance from such building or machine, having regard to the situation and construction of such building, and to the distance thereof from any other building or any works; and
- (e) The situation of each factory magazine, and the maximum amount of explosives to be kept in each factory magazine, and
- (f) The maximum number of persons to be employed in each building in the factory; and

- (g) Any special terms which the Governor may deem fit by reason of any special circumstances arising from the locality, the situation or construction of any buildings or works, or the nature of any process, or otherwise.

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5. Every application for a licence shall set forth fully the requirements of the applicant in regard to the matters specified in the sub-sections of the preceding section, and upon receipt of any application for a licence the Governor may reject the application, or cause a copy thereof to be transmitted to the local authority, who shall cause notice to be published by the applicant in manner directed by this Act of the application and of the time and place at which they will be prepared to hear the applicant, and any persons objecting to such establishment.

Application for licence and proceedings thereon.

Upon the hearing of the application, or any adjournment thereof, the local authority may dissent altogether from the establishment of such factory or factory magazine on the proposed site, or assent thereto, either absolutely or on any conditions requiring additional restrictions or precautions.

6. Where the site of the proposed factory or factory magazine is situate within or within one mile of the limits of the jurisdiction of any urban sanitary authority, or of any harbour authority, the applicant shall serve on such authority, if they are not the local authority, notice of the application and of the time and place of hearing fixed by the local authority.

Proceedings where site is within or within limits of the jurisdiction of urban sanitary authority or harbour authority.

The said notices shall be published and served by the applicant not less than one month before the hearing.

The local authority shall fix the time and place of hearing as soon as practicable after the application made to them, and the time so fixed shall be as soon as practicable after the expiration of the said month from the publication and service of the notices by the applicant, and their final decision shall be given as soon as practicable after the expiration of the said month.

7. Where the site of the proposed factory or factory magazine is situate partly within the jurisdiction of one local authority and partly within the jurisdiction of another, the assent of both local authorities shall be applied for in manner provided by this Act.

Assent in case site situate within jurisdiction of more than one local authority.

8. If on the hearing of the application for the establishment of a factory or factory magazine the local authority assent thereto either absolutely or on conditions submitted to by the applicant, they shall report the result to the Colonial Secretary, with the addition (if the assent was on conditions) of the additional restrictions and precautions required by those conditions.

Local authority to report to Colonial Secretary and proceedings thereon, including grant of licence.

If the local authority assent on any conditions not submitted to by the applicant, or dissent, the applicant may lodge an appeal with the Colonial Secretary, giving notice of such appeal to the local authority, and requiring them to state in writing their

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reasons for such conditions or dissent; and the Governor, after considering the reasons (if any) so stated, and after such inquiry, local or other, as he may think necessary, may if the local authority dissented, refuse the licence, or may in either case grant the licence applied for in or with such modifications and additions as he may consider required to meet the reasons (if any) so stated by the local authority.

Confirmation of licence.

9. As soon as the Governor is satisfied that the factory or factory magazine is sufficiently completed to justify the use thereof the said licence shall issue, but until then the licence shall not come into force.

Meaning of factory or factory magazine in licence.

10. The land forming the site bounded as described in the licence shall with every mound, building, and work thereon for whatever purpose, be deemed, for the purposes of this Act, to be the factory or factory magazine referred to in the licence.

REGULATION OF FACTORIES AND FACTORY MAGAZINES FOR EXPLOSIVES.

Regulation of factories and factory magazines for explosives.

11. In every factory and factory magazine for explosives—
- (1) The factory or factory magazine, or any part thereof, shall not be used for any purpose not in accordance with the licence; and
 - (2) The terms of the licence shall be duly observed, and the manufacture or keeping or any process in or work connected with the manufacture or keeping of explosives shall not be carried on except in accordance with those terms; and
 - (3) The factory or factory magazine and every part thereof shall be maintained in accordance with the licence; and any material alteration in the factory or factory magazine by enlarging or adding to the site, or by externally enlarging or adding to any building, or by altering any mound otherwise than by enlargement, or by making any new work, shall not be made except in pursuance of an amended licence granted under this Act.

In the event of any breach (by any act or default) of this section in any factory or factory magazine—

- (a) All or any part of the explosives or ingredients thereof in respect to which, or being in any building or machine in respect to which, the offence was committed, may be forfeited; and
- (b) The occupier shall be liable to a penalty not exceeding in the case of the first offence fifty pounds, and in the case of a second or any subsequent offence one hundred pounds, and in addition fifty pounds for every day during which such breach continues.

The occupier of a factory shall not be deemed guilty of a breach of this section for using in a case of emergency, or temporarily, one building or part of a building in which any process of the manufacture is, under the terms of the licence, carried on, for another process of the manufacture, if he do not carry on in such building or part more than one process at the same time, and if the quantity of explosives or ingredients thereof in such building or part do not exceed the quantity allowed to be therein, or any less quantity allowed to be in the building or part of a building in which such other process is usually carried on: and if upon such use being continued after the lapse of twenty-eight days from the first beginning of such use he send notice of such use to the Civil Commissioner of the Division and the said Civil Commissioner do not require the discontinuance of such use.

12. In every factory and factory magazine for explosives the following general rules shall be observed:—

General rules for factories and factory magazines.

- (1) In a factory every factory magazine shall be used only for the keeping of explosives and receptacles for or tools or implements for work connected with the keeping of such explosives; and
- (2) Every factory magazine and expense magazine in a factory shall have attached thereto a sufficient lightning conductor, unless by reason of the construction by excavation or the position of such magazine or building, or otherwise, the Colonial Secretary considers a conductor unnecessary, and every danger building in a factory shall, if so required by the Colonial Secretary, have attached thereto a sufficient lightning conductor; and
- (3) Charcoal, whether ground or otherwise, and oiled cotton, oiled rags, and oiled waste, and any articles whatever liable to spontaneous ignition, shall not be taken into any danger building, except for the purpose of immediate supply and work or immediate use in such building, and upon the cessation of such work or use shall be forthwith removed; and
- (4) There shall be constantly kept affixed in every danger building, either outside or inside, in such manner as to be easily read, a statement of the quantities of explosives or ingredients allowed to be in the building, and a copy of these rules, and of any other part of this Act required by the Colonial Secretary to be affixed, and of such part of the licence and special rules made under this Act as apply to the building; and with the addition in a factory of the name of the building, or words indicating the purpose for which it is used; and

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- (5) All tools and implements used in any repairs to or in a danger building shall be made of safe and suitable material; and
- (6) Due provision shall be made, by the use of suitable working clothes without pockets, suitable shoes, searching, and otherwise, or by some of such means, for preventing the introduction into any danger building of fire, lucifer matches, or any substance or article likely to cause explosion or fire, but this rule shall not prevent the introduction of an artificial light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (7) No person shall smoke in any part of the factory or factory magazine, except in such part (if any) as may be allowed by the special rules; and
- (8) Any carriage, boat, or other receptacle in which explosives, or the wholly or partly mixed ingredients thereof, are conveyed from one building to another in a factory or factory magazine, or from any such building to any place outside of such factory or factory magazine, shall be safely and suitably constructed and shall contain only the explosives and ingredients, and shall be closed or otherwise properly covered over; and the explosives and ingredients shall be so conveyed with all due diligence, and with such precautions and in such manner as will sufficiently guard against any accidental ignition; and
- (9) A person under the age of sixteen years shall not be employed in or enter any danger building, except in the presence and under the supervision of some grown-up person; and
- (10) In a factory the ingredients in course of manufacture shall be removed with all due diligence from each working building so soon as the process connected with those ingredients which is carried on in such building is completed, and all finished explosives shall with all due diligence either be removed to a factory magazine, or sent away immediately from the factory, and such ingredients and explosives shall be loaded and unloaded with all due diligence; and
- (11) In a factory all ingredients to be made or mixed into explosives shall, before being so made or mixed, be carefully sifted, for the purpose of removing therefrom, as far as practicable, all dangerous foreign matter.

Governor may
make rules as to
factories or factory
magazines.

The Governor may, from time to time make, and when made rescind and alter, such other general rules as may appear to him to be necessary.

In the event of any breach (by any act or default) of the general rules in any factory or factory magazine,—

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Penalty for breach of rules.

- (a) All or any part of the explosives or ingredients thereof in respect to which, or being in any building or machine in respect to which, the offence was committed, may be forfeited; and
- (b) The occupier shall be liable to a penalty not exceeding ten pounds, and in addition (in the case of a second offence) ten pounds for every day during which such breach continues.

13. Where the occupier of any factory or factory magazine for explosives desires that any alteration should be made in the terms of his licence, or any material alteration made in the factory or factory magazine by enlarging or adding to the site or by externally enlarging or adding to any building, or by altering otherwise than by enlargement, or by making any new work, he may apply for an amending licence.

Alteration of terms of licence and alterations in factories and factory magazines.

If he satisfy the Colonial Secretary that the alteration may be properly permitted, having regard to the safety of the persons employed in the factory or factory magazine, and will not materially either increase the danger to the public from fire or explosion, or diminish the distance of any danger building in the factory or factory magazine from any building or work outside and in the neighbourhood of the factory or factory magazine, or increase the amount of explosives allowed to be kept in the factory magazine, or in any building in such magazine, the Colonial Secretary may grant the amending licence of his own authority, but, save as aforesaid, the provisions of this Act with respect to the application for and grant of a new licence shall apply to such amending licence.

14. A factory or factory magazine licence shall not be avoided by any change in the occupier of the factory or factory magazine; but notice of the name, address, and calling of the new occupier shall be sent to the Colonial Secretary within one month after the change, and in default such new occupier shall be liable to a penalty not exceeding twenty shillings for every week during which such default continues.

Devolution and determination of licence.

A factory or factory magazine licence may be revoked by the Governor and such licence shall be determined by a discontinuance of the business carried on in pursuance of any such licence if such discontinuance continues for a period of _____, or if the factory or factory magazine is used for any purpose not authorised by the licence.

15. The occupier of every factory, and factory magazine for explosives, and every person employed in or about the same, shall take all due precaution for the prevention of accidents by fire or explosion in the same, and for preventing unauthorised persons having access to the factory, or factory magazine, or to the explosives

Occupiers of factories and factory magazines to take due precautions.

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therein, and shall abstain from any act whatever which tends to cause fire or explosion and is not reasonably necessary for the purpose of the work in such factory or factory magazine.

Any breach (by any act or default) of this section in any factory, or factory magazine, shall be deemed to be a breach of the general rules applying thereto.

LICENSING OF OTHER MAGAZINES OR STORES FOR KEEPING
EXPLOSIVES.

Licensing of magazines or stores, other than factories or factory magazines, for keeping explosives.

16. Explosives shall not be kept at any place except as follows ; that is to say,

- (1) Except in the factory licensed for the same under this Act in which they are manufactured ; or
- (2) Except in any magazine or store now licensed for the storage of gunpowder, or any other magazine or store for explosives for the keeping of which the Colonial Secretary shall have issued a licence to be renewed or otherwise dealt with at his discretion on the 1st day of January in each year.

Provided that this section shall not apply—

- (1) To gunpowder or blasting powder, percussion caps, or ammunition of any description, or to any other explosive regarding the keeping of which provision is now made by law, the intent of this section being not to interfere with the existing law in that behalf.
- (2) To fuses ordinarily known as “safety fuses,” or to detonators in case the detonators do not exceed in number ten thousand.
- (3) To a person keeping for his private use and not for sale explosives other than those in the preceding sub-section of the proviso mentioned to an amount not exceeding on the same premises five pounds ; or
- (4) To the keeping of any explosives by a carrier or other person for the purpose of conveyance, when the same is being conveyed or kept in accordance with the provisions of this Act with respect to the conveyance of explosives.

Penalty for keeping explosives in unauthorised place.

Any explosives kept in any place other than as above in this section mentioned shall be deemed to be kept in an unauthorised place.

Where any explosive is kept in an unauthorised place—

- (1) All or any part of the explosives found in such place may be forfeited ; and
- (2) The occupier of such place, and also the owner of, or other person guilty of keeping the explosives, shall each be liable to a penalty not exceeding two shillings for every pound so kept.

SALE OF EXPLOSIVES.

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17. Explosives shall not be hawked, sold, or exposed for sale upon any highway, street, public thoroughfare, or public place. Sale of explosives not allowed in public places or to children.

If any explosive is hawked, sold, or exposed for sale in contravention of this section—

- (1) The person hawking, selling, or exposing for sale the same shall be liable to a penalty not exceeding forty shillings; and Penalty.
- (2) All or any part of the explosive which is so hawked or exposed for sale, or is found in the possession of any person convicted under this section may be forfeited.

Explosives shall not be sold to any child apparently under the age of thirteen years; and any person selling explosives in contravention of this section shall be liable to a penalty not exceeding five pounds.

CONVEYANCE OF EXPLOSIVES.

18. The following general rules shall be observed with respect to the packing of explosives for conveyance: Conveyance of Explosives and general rules as to packing for conveyance.

- (1) The explosives, if not exceeding five pounds in amount, shall be contained in a substantial case, box, or other receptacle, made and closed; and
- (2) The explosives, if exceeding five pounds in amount, shall be contained either in a single package or a double package. A single package shall be a box, barrel, or case of such strength, construction, and character that it will not be broken or accidentally opened, or become defective or insecure whilst being conveyed. If the explosive is packed in a double package the inner package shall be a substantial case, or other receptacle made and closed, and the outer package shall be a box, barrel, or case of wood or metal or other solid material, and shall be of such strength, construction, and character that it will not be broken or accidentally opened, or become defective or insecure whilst being conveyed; and
- (3) Every package, whether single or double, when actually used for the package of explosives, shall not be used for any other purpose; and
- (4) On every package there shall be affixed the word "explosives," together with the name of the explosive, in conspicuous characters by means of a brand or securely attached label or other mark.

In the event of any breach (by any act or default) of any general rule in this section, the explosives in respect of which the breach is committed may be forfeited, and the person guilty Penalty.

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of such breach shall be liable to a penalty not exceeding twenty pounds.

Rules may be made
by Governor.

The Governor may from time to time make, and when made, repeal, alter, and add to, rules for the purpose of rescinding, altering, or adding to the general rules contained in this section.

Bye-laws by harbour
authority as to con-
veyance, loading,
&c., of explosives.

19. Every harbour authority shall, with the sanction of the Governor, make bye-laws for regulating the conveyance, loading, and unloading of explosives within the jurisdiction of the said authority, and in particular for declaring or regulating all or any of the following matters within the jurisdiction of the said authority; namely,

- (1) Determining the notice to be given by ships and boats conveying, loading, or unloading explosives as merchandise within the said jurisdiction; and
- (2) Regulating the navigation and place of mooring of such ships and boats; and
- (3) Regulating, subject to the general rules with respect to packing in this Act contained, the mode of stowing and keeping explosives on board any such ship or boat, and of giving notice by brands, labels, or otherwise, of the nature of the package containing the explosives; and
- (4) Regulating the description, construction, fitting up, and licensing of the ships, boats, or carriages to be used for the conveyance of explosives, and the licensing and dress of the persons having charge thereof; and
- (5) Prohibiting in cases where the loading or unloading of explosives within the jurisdiction of such authority appears to be specially dangerous to the public such loading or unloading, and fixing the places and times at which the explosives are to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one ship, boat, or carriage; and
- (6) Regulating the mode of and the precautions to be observed in conveying any explosives, and in the loading or unloading any ship, boat, or carriage conveying explosives as merchandise, and the time during which explosives may be kept during such conveyance, loading, or unloading; and
- (7) Fixing the times at which lights or fires are to be allowed or not allowed on board such ships or boats, as before mentioned, or at which a constable or officer of the harbour authority is to be on board them; and
- (8) Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

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The penalties to be annexed to any breach or attempt to commit any breach of any such bye-laws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just according to the gravity of the offence, and according as it may be a first or second or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the explosives in respect of which, or found in the ship, boat or carriage in respect of which, the breach of bye-law has taken place.

Penalties for breach of bye-laws made by harbour authorities.

In the event of any breach of a bye-law under this section in the case of any ship, boat, carriage, or explosives whether there has or has not been any conviction for such breach, it shall be lawful for the harbour-master, or other officer named in the bye-laws, or any person acting under the orders of the harbour authority, to cause such ship, boat, carriage, or explosive, at the expense of the owner thereof, to be removed to such place or otherwise dealt with in such manner as may be in conformity with the bye-laws, and all expenses incurred in such removal may be recovered in the same manner as a penalty under this section, and any person resisting such harbour-master or officer or other person in such removal shall be liable to the same penalties as a person is liable to for obstructing the harbour-master in the execution of his duty.

On any part of the coast or in any tidal water for which there is no harbour authority, the Governor may make bye-laws under this section for that part or water as if it were a harbour and by such bye-laws define the area within which such bye-laws are to be observed, and the authorities and officers by whom such bye-laws are to be enforced and carried into effect within such area, and every such authority and officer shall for the purposes of this Act, other than making bye-laws or assenting to a site for a new factory or magazine, have the same power within the said area as a harbour authority and an officer of a harbour authority have respectively under this Act in a harbour.

Bye-laws made by Governor where no harbour authority.

20. The Governor may in case of the Government railways, and, in the case of other railways, the railway company or body or the person owning such railway may with the sanction of the Governor make bye-laws for regulating the conveyance, loading, and unloading of explosives on the railway and in particular for declaring and regulating all or any of the following matters in the case of such railway; that is to say:

Bye-laws as to conveyance, loading, &c., of explosives in case of Government and other railways.

- (1) Determining the notice to be given of the intention to send explosives for conveyance as merchandise on the railway, and
- (2) Regulating, subject to the general rules with respect to packing in this Act contained, the mode of stowing and

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- keeping explosives for conveyance and of giving notice by brands, labels, or otherwise of the nature of the package containing the explosives, and
- (3) Regulating the description and construction of carriages to be used in the conveyance of explosives; and
 - (4) Prohibiting or subjecting to conditions and restrictions the conveyance of explosives with any articles or substances, or in passenger trains, carriages, ships, or boats; and
 - (5) Fixing the places and times at which the explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time, and
 - (6) Determining the precautions to be observed in conveying explosives and in loading and unloading the carriages used in such conveyance, and
 - (7) Generally for protecting, whether by means similar to those above mentioned or not, persons and property from danger.

Such bye-laws, when confirmed by the Governor, shall apply to the railway, agents, and servants of the company making the same, and to the persons using such railway or the premises connected therewith and occupied by or under the control of such company.

Penalties for breach of railway bye-laws.

The penalties to be annexed to any breach or attempt to commit any breach of any such bye-laws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second, or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence and ten pounds for each day during which the offence continues, and forfeiture of all or any part of the explosive in respect of which, or being in the carriage or train of carriages in respect of which, the breach of bye-law has taken place.

Bye-laws as to conveyance, loading, &c., explosives in other cases.

21. The Governor may from time to time make, and when made, rescind, alter, or add to, bye-laws for regulating the conveyance, loading, and unloading of explosives in any case in which bye-laws made under any other provision of this Act do not apply, and in particular for declaring or regulating all or any of the following matters; that is to say:

- (1) Regulating the description and construction of carriages to be used in the conveyance of explosives as merchandise; and
- (2) Prohibiting or subjecting to conditions and restrictions the conveyance of any explosive with any articles or substances, or in passenger carriages; and

- (3) Fixing the places and times at which the explosive is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage; and
- (4) Determining the precautions to be observed in conveying explosives, and in loading and unloading the carriages used in such conveyance, and the time during which the explosives may be kept during such conveyance, loading and unloading; and
- (5) Generally for protecting, whether by means similar to those above mentioned or not, persons or property from danger; and
- (6) Adapting, on good cause being shown, the bye-laws in force under this section to the circumstances of any particular locality.

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The penalties to be annexed to any breach, or attempt to commit any breach, of any such bye-laws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second, or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the breach continues, and forfeiture of all or any part of the explosives in respect of which, or being in the carriage in respect of which, the breach of bye-law has taken place.

Penalties for breach of bye-laws made under this section.

For the purpose of any mode of conveyance which is not a conveyance by land this section shall be construed as if ship and boat were included in the term carriage.

22. With respect to the importation from any place out of the Colony of any explosive (other than gunpowder, cartridges made with gunpowder, percussion caps, fireworks, and any explosive prescribed by the Governor by Proclamation), the following provisions shall have effect; that is to say,

Provisions relating to importation of explosives.

- (a) The owner and master of any ship having on board any such explosive shall not permit the same to be unloaded and delivered to any person who does not hold a licence from the local authority to import such explosive.
- (b) Such licence shall be granted by the local authority to any person owning or in occupation of a magazine for the receipt of such explosives, whether duty paid or in bond.
- (c) The licence shall bind the person licensed to comply with the regulations of the local authority or authorities.
- (d) The holder of such licence may cause to be landed, transhipped, or delivered on arrival all explosives consigned to him in any vessel, provided he immediately give

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notice to the local authority of the quantities and descriptions of such explosives and the place where they are to be stored, transhipped, or delivered.

- (e) Should any case or package containing such explosives be found on the vessels breaking bulk to be leaky or in any way damaged, such case or package shall not be landed until due authority be obtained by the master of the vessel from the harbour or other local authority.
- (f) In the event of such explosives arriving consigned to unlicensed persons, such person or persons shall not be allowed to receive, land, or in any way dispose of, the said explosives, until they shall have taken out a licence and in all respects complied and engaged to comply with the regulations of the local authority.
- (g) Customs officer shall have the same power with respect to any such explosive, and the ship containing the same, as they have for the time being with respect to any article on the importation of which restrictions are for the time being imposed by the law relating to the Customs, and the ship containing the same, and the enactments for the time being in force relating to the Customs or any such article or ship shall apply accordingly.

SPECIALLY DANGEROUS EXPLOSIVES.

Prohibition of specially dangerous explosives by proclamation.

23. Notwithstanding anything in this Act the Governor may, from time to time, by Proclamation to be published in the *Gazette*, prohibit, either absolutely, or except in pursuance of a licence of the Colonial Secretary, or may subject to conditions or restrictions the manufacture, keeping, importation from any place out of the Colony, conveyance, and sale, or any of them, of any explosive which is of so dangerous a character, that, in the judgment of the Governor, it is expedient for the public safety to issue such Proclamation;

Penalty for contravention of Proclamation.

Any explosive manufactured or kept in contravention of any such Proclamation shall be deemed to be manufactured or kept, as the case may be, in an unauthorised place.

Any explosive conveyed in contravention of any such Proclamation shall be deemed to be conveyed in contravention of a bye-law made under this Act with respect to the conveyance of explosives.

If any explosive is imported or sold in contravention of any such Proclamation,—

- (1) All or any part of such explosive may be forfeited; and
- (2) The owner or master of the ship in which it was imported shall be liable to a penalty not exceeding ten shillings for every pound of such explosive brought in the ship; and

- (3) The person to whom it was delivered and the person selling the same shall be liable to a penalty not exceeding ten shillings for every pound of such explosive delivered or sold or found in his possession.

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Customs officers shall have the same power with respect to any such explosive, and the ship containing the same, as they have for the time being with respect to any article prohibited to be imported by the law relating to the Customs, and the ship containing the same, and the enactments for the time being in force relating to the Customs, and any such article or ship shall apply accordingly.

Powers of Customs Officers.

PROVISIONS IN FAVOUR OF CERTAIN MANUFACTURERS AND DEALERS.

24. The occupier of a factory for any explosive who manufactures a new explosive or new form of explosive similar to the one specified in his licence, shall not be deemed to have manufactured the same in an unauthorised place if he manufacture the same on a small scale, and exclusively for the purpose of trial and not for sale, and he send notice of the same, as soon as he has manufactured it, to the Colonial Secretary, and if he observe the provisions of this Act, so far as they are applicable.

Provision in favour of makers of new explosives for experiment.

25. No gunmaker, gun or ammunition merchant or occupier of a magazine, or store, for any explosive shall be required by this Act to take out a factory licence by reason that in connexion with his magazine, or business premises or store, he fills for sale or otherwise any cartridge for small arms with the said explosive, so that he observe the following regulations; namely,

Provision in favour of gun-makers, &c.

- (1) There shall not be in the room in which such filling is being carried on more than ten pounds of gunpowder, or the prescribed amount of any other explosive, except it is made up into safety cartridges; and
- (2) Any work unconnected with the making of the cartridges being of a dangerous nature shall not be carried on in the room while such filling is being carried on; and
- (3) There shall not be in the room while such filling is being carried on any fire nor any artificial light, except a light of such construction, position, or character as not to cause any danger of fire or explosion; and
- (4) In the case of a magazine or store, the room in which the filling is carried on shall be detached from the magazine or store, but in the immediate neighbourhood thereof, and at such distance therefrom as may be specified in the case of a magazine by the licence, and in the case of a store by any Proclamation relating to stores; and
- (5) The occupier shall give notice in the case of a magazine to the Colonial Secretary, and in the case of a store or

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business premises to the local authority that he intends to carry on such filling of cartridges as is allowed by this section.

The regulations in this section and any conditions so made by the Colonial Secretary as last aforesaid, shall be deemed to be general rules under this Act relating to the magazine, store, and business premises respectively, and the breach of them shall be punished accordingly.

Provision in favour
of owners of mines,
quarries, &c.

26. The occupier of any magazine or store for any explosive shall not be required by this Act to take out a factory licence by reason that, in connection with such magazine or store, he, by filling cartridges, making charges, drying, shifting, fitting, or otherwise, adapts or prepares the said explosive for use exclusively in his mine or quarry, or in some excavation or work carried on by him or under his control, so that he observes the following regulations; namely,

(1) There shall not be in the workshop in which such adaptation or preparation is carried on more than one hundred pounds of gunpowder, or the prescribed amount of any other explosive; and

(2) Any work unconnected with such adaptation or preparation shall not be carried on in the said workshop while such adaptation or preparation is being carried on; and

(3) The said workshop shall be detached from the magazine or store, but in the immediate neighbourhood thereof.

(4) The occupier shall give notice in the case of a magazine to the Colonial Secretary, and in the case of a store to the local authority, that he intends to carry on such adaptation or preparation as is allowed by this section.

Provision in favour
of small firework
manufacturers.

27. A firework factory shall not be deemed to be a factory for explosives for the purposes of this Act if there is not upon the same factory at the same time—

(a) More than one hundred pounds of any explosive other than manufactured fireworks and coloured fires and stars; or

(b) More than five hundred pounds of manufactured fireworks, either finished or partly finished; or

(c) More than twenty-five pounds of coloured fires or stars not made up into manufactured fireworks.

The occupier of such firework factory or of any place for storing or keeping fireworks not exceeding the above limit, shall not be subject to this Act.

Powers of Civil
Commissioner or
other officer regard-
ing inspection, &c.

28. The Civil Commissioner of the division or any officer authorised by him shall have power to make such examination and enquiry as may be necessary to ascertain whether this Act is complied with, and for that purpose,—

(1) He may enter, inspect, and examine any factory, magazine, or store of any explosive, and every part there-

- of, at all times by day and night, but so as not to unnecessarily impede or obstruct the work in such factory, magazine, or store, and may make inquiries as to the observance of this Act and all matters and things relating to the safety of the public or of the persons employed in or about such factory, magazine, or store; and
- (2) He may enter, inspect, and examine any premises and every part thereof, in which any explosive is kept, or is reasonably supposed by him to be kept, at all reasonable times by day; and
 - (3) He may require the occupier of any factory, magazine, store, or premises which he is entitled, under this section, to enter, or a person employed by such occupier therein, to give him samples of any explosive or ingredients of an explosive therein, or of any substance therein, the keeping of which is restricted or regulated by this Act, or of any substance therein which he believes to be an explosive, or such ingredients or substance.

The occupier of every such factory, magazine, store, and premises, his agents and servants, shall furnish the means required for every such entry, inspection, examination, and enquiry.

Any person who fails to permit such Civil Commissioner or officer to enter, inspect, examine, or make enquiries in pursuance of this section, or to comply with any requisition in pursuance of this section, or who in any manner obstructs such Civil Commissioner or officer in the execution of his duties under this Act, shall be liable to a penalty not exceeding one hundred pounds for each offence.

Penalty for preventing exercise of powers.

LOCAL SUPERVISION.

DEFINITION AND POWERS OF LOCAL AUTHORITY.

29. The local authority, for the purposes of this Act, shall be— Definition of local authority.

- (1) In any municipality or borough the Town Council or Commissioners;
- (2) In any village under management, the Board of Management;
- (3) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority before in this section mentioned, the harbour authority, to the exclusion of any other local authority; and
- (4) In any place in which there is no local authority as before in this section defined, the Divisional Council.

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GENERAL POWER OF SEARCH.

Search for explosive when in any place in contravention of this Act, or when an offence is being committed with respect to it.

30. Where any of the following officers,—namely, any justice of the peace, field-cornet, or any constable or any officer of the local authority, if such constable or officer is specially authorised either (a) by a warrant of a justice of the peace (which warrant such justice may grant upon reasonable ground being assigned on oath), or (b) (where it appears to a commissioner or other officer of police of equal or superior rank, that the case is one of emergency, and that the delay in obtaining a warrant would be likely to endanger life), by a written order from such commissioner or officer,—has reasonable cause to believe that any offence has been or is being committed with respect to an explosive in any place (whether a building or not, or a carriage, boat, or ship), or that any explosive is in any such place in contravention of this Act, or that the provisions of this Act are not duly observed in any such place, such officer may enter at any time, and if needs be by force, and as well on Sunday as on other days, the said place, and every part thereof, and examine the same, and search for explosives therein, and take samples of any explosive and ingredient of an explosive therein, and any substance reasonably supposed to be an explosive, or such ingredient which may be found therein.

Penalty for obstructing searching officer.

Any person who, by himself or by others, fails to admit into any place occupied by or under the control of such person any officer demanding to enter in pursuance of this section, or in any way obstructs such officer in the execution of his duty under this section, shall be liable to a penalty not exceeding fifty pounds, and shall also be liable to forfeit all explosives, and ingredients thereof, which are at the time of the offence in his possession or under his control at the said place.

Where a constable or officer of the local authority specially authorised by written authority other than a warrant of a justice of the peace, enters and searches as above provided, a special report in writing of every act done by such constable or officer in pursuance of that authority, and of the grounds on which it is done, shall be forthwith sent by the person by whom or under whose authority it was done to the Civil Commissioner of the division.

Seizure and detention of explosives liable to forfeiture.

31. Where any of the following officers, namely, any justice of the peace, field-cornet, or any constable, or any officer of the local authority, has reasonable cause to believe that any explosive or ingredient of an explosive or substance found by him is liable to be forfeited under this Act, he may seize and detain the same until some court has determined whether the same is or is not so liable to be forfeited, and with respect thereto the following provisions shall have effect :

- (1) The officer seizing may either require the occupier of the place in which it was seized (whether a building or not,

or a carriage, boat, or ship) to detain the same in such place or in any place under the control of such occupier, or may remove it in such manner and to such place as will in his opinion least endanger the public safety, and there detain it, and may, where the matter appears to him to be urgent and fraught with serious public danger, and he is authorised by an order from the Colonial Secretary, cause the same to be destroyed or otherwise rendered harmless; but before destroying or rendering harmless the same he shall take and keep a sample thereof, and shall, if required, give a portion of the sample to the person owning the explosive, or having the same under his control at the time of the seizure; and any such occupier who, by himself or by others, fails to keep the same when he is required in pursuance of this section to detain it, and any such occupier or other person who, except with the authority of the officer seizing the same, or in case of emergency for the purpose of preventing explosion or fire, removes, alters, or in any way tampers or deals with the same while so detained, shall be liable to a penalty not exceeding fifty pounds, and shall also be liable to forfeit all explosives, and ingredients thereof, which are at the time of the offence in his possession or under his control at the said place:

- (2) The proceedings before a court for determining whether the same is or is not liable to forfeiture shall be commenced as soon as practicable after the seizure; and
- (3) The receptacles containing the same may be seized, detained, and removed in like manner as the contents thereof; and
- (4) The officer seizing the same may use for the purposes of the removal and detention thereof any ship, boat, or carriage in which the same was seized, and any tug, tender, engine, tackle, beasts, and accoutrements, belonging to or drawing or provided for drawing such ship, boat, or carriage, and shall pay to the owner a reasonable compensation for such use, to be determined in case of dispute, by the Civil Commissioner, and to be recovered in like manner as penalties under this Act; and
- (5) The same shall, so far as practicable, be kept and conveyed in accordance with this Act, and with all due precaution to prevent accident, but the person seizing, removing, detaining, keeping, or conveying the same shall not be liable to any penalty, punishment, or forfeiture under this or any other Act, or to any damages,

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for keeping or conveying the same, so that he use all such due precautions as aforesaid; and

- (6) The officer seizing the same, or dealing with the same in pursuance of this section, shall not be liable to damages or otherwise in respect of such seizure or dealing, or any act incidental to or consequential thereon, unless it is proved that he made such seizure without reasonable cause, or that he caused damage to the article seized by some wilful neglect or default.

Inspection of wharf, carriage, boat, &c., with explosives in transitu.

32. Any of the following officers, namely, any justice of the peace, field-cornet, or any officer of police, and any officer appointed by the local authority, may, for the purpose of ascertaining whether the provisions of this Act with respect to the conveyance, loading, unloading, and importation of an explosive are complied with, enter, inspect, and examine at any time, and as well on Sundays as on other days, the wharf, carriage, ship, or boat of any carrier or other person who conveys goods for hire, or of the occupier of any factory, magazine, or store, or of the importer of any explosive, on or in which wharf, carriage, ship, or boat he has reasonable cause to suppose an explosive to be for the purpose of or in course of conveyance, but so as not to unnecessarily obstruct the work or business of any such carrier, person, occupier, or importer.

Seizure for offence against this Act.

Any such officer, if he find any offence being committed under this Act in any such wharf, carriage, ship, or boat, or on any public wharf, may seize and detain or remove the said carriage, ship, or boat, or the explosive, in such manner and with such precautions as appear to him to be necessary to remove any danger to the public, and may seize and detain the said explosive, as if it were liable to forfeiture.

Special power of officer in cases of emergency.

Any officer above mentioned in this section, who has reasonable cause to suppose that any offence against this Act is being committed in respect of any carriage (not being on a railway) or any boat conveying, loading, or unloading any explosive, and that the case is one of emergency, and that the delay in obtaining a warrant will be likely to endanger life, may stop, and enter, inspect, and examine, such carriage or boat, and by detention or removal thereof or otherwise take such precautions as may be reasonably necessary for removing such danger, in like manner as if such explosive were liable to forfeiture.

Every officer shall for the purpose of this section have the same powers and be in the same position as if he were authorised by a search warrant, and any person failing to admit or obstructing such officer shall be liable to the same penalty.

LEGAL PROCEEDINGS.

Exemption of occupier from penalty upon proof of another being real offender.

33. Where any offence under this Act for which the occupier of any factory, magazine, store, or registered premises

is liable to a penalty or forfeiture has in fact been committed by some other person, such other person shall be liable to a penalty not exceeding twenty pounds.

Where such occupier is charged with an offence so committed by some other person, the occupier shall be exempt from any penalty and forfeiture upon proving that he had supplied proper means and issued proper orders for the observance and used due diligence to enforce the observance of this Act, and that the offence in question was actually committed by some other person without his connivance, and if the actual offender be alive, that he has taken all practicable means in his power to prosecute such offender to conviction.

Where any officer of the law or an officer of the local authority, is satisfied, before instituting a proceeding for any offence under this Act against an occupier, that such occupier, if such proceeding were instituted against him, would under the foregoing provisions of this section, upon taking all practicable means in his power to prosecute the actual offender to conviction, be exempt from any penalty and forfeiture, and the occupier gives all facilities in his power proceeding against and convicting the person whom the inspector, officer, or local authority believes actually to have committed the offence, the inspector, officer or local authority shall proceed against that person in the first instance, without first proceeding against the occupier.

Where any offence under this Act for which any warehouseman, carrier, occupier of a wharf or dock, or owner or master of any ship, boat, or carriage, is liable to a penalty or forfeiture, has in fact been committed by some other person, this section shall apply in like manner as if the warehouseman, carrier, occupier of a wharf or dock, owner, or master were such an occupier as above in this section mentioned.

34. Where a carrier or owner or master of a ship or boat is prevented from complying with this Act, by the wilful act, neglect, or default of the consignor or consignee of the explosive, or other person or by the improper refusal of the consignee or other person to accept delivery of the explosive, such consignor, consignee, or other person who is guilty of such wilful act, neglect, default, or refusal shall be liable to the same penalty to which the carrier, owner, or master is liable for a breach of this Act, and his conviction shall exempt the carrier, owner, or master from any penalty or forfeiture under this Act.

Exemption of carrier and owner and master of ship where other person is in fault.

35. Where a court before whom a person is convicted of an offence against this Act has power to forfeit any explosive owned by or found in the possession or under the control of such person, the court may, if it think it just and expedient, in lieu of forfeiting such explosive, impose upon such person, in addition to any other penalty or punishment, a penalty not exceeding such sum as

Supplemental provisions as to forfeiture of explosive.

No. 4—1897.

appears to the court to be the value of the explosive so liable to be forfeited.

Where any explosive, or ingredient of an explosive, is alleged to be liable under this Act to be forfeited, any indictment, information, or complaint may be laid against the owner of such explosive or ingredient, for the purpose only of enforcing such forfeiture, and where the owner is unknown, or cannot be found, a court may cause a notice to be advertised, stating that unless cause is shown to the contrary at the time and place named in the notice, such explosive will be forfeited, and at such time and place the court, after hearing the owner or any person on his behalf (who may be present), may order all or any part of such explosive or ingredient to be forfeited.

Definition of harbour and tidal waters.

36. For all the purposes of this Act—

- (1) Any harbour, tidal water, or inland water which runs between or abuts on or forms the boundary of the jurisdiction of two or more divisions shall be deemed to be wholly within the jurisdiction of each of such courts; and
- (2) Any tidal water not included in the foregoing descriptions, and within the territorial jurisdiction of and adjacent to or surrounding any part of the shore of the Colony, and any pier, jetty, mole, or work extending into the same, shall be deemed to form part of the shore to which such water or part of the sea is adjacent, or which it surrounds.

Prosecution of offences.

37. Every offence under this Act may be prosecuted and every penalty under this Act may be recovered, and all explosives and ingredients liable to be forfeited under this Act may be forfeited either on indictment or before a Court of Resident Magistrate.

Provided that the penalty imposed by a Court of Resident Magistrate shall not exceed one hundred pounds exclusive of costs, and exclusive of any forfeiture or penalty in lieu of forfeiture, and the term of imprisonment imposed by any such court shall not exceed one month.

Ship may be seized by distress.

38. Where the owner or master of a ship or boat is adjudged to pay a penalty for an offence committed with or in relation to such ship or boat, the court may, in addition to any other power they may have for the purpose of compelling payment of such penalty, direct the same to be levied by distress or arrestment and sale of the said ship or boat and her tackle.

Provisions regarding disposal of forfeited explosives.

39. Any explosive or ingredient forfeited in pursuance of this Act may be sold, destroyed, or otherwise disposed of, in such manner as the court declaring the forfeiture or the Colonial Secretary may direct.

The receptacle containing any such explosive or ingredient may be forfeited, sold, destroyed, or otherwise disposed of, in like manner as the contents thereof.

The provisions of this Act with respect to an explosive, or ingredient of an explosive, seized in pursuance of this Act, and to the officer seizing, removing, detaining, keeping, or conveying, or otherwise dealing with the same, shall apply to any explosive and ingredient declared by any court to be forfeited, and to the officer removing, detaining, keeping, conveying, selling, destroying, or otherwise disposing of the same.

The court declaring the forfeiture, or the Colonial Secretary directing the sale or other disposal of any forfeited explosive or ingredient, and the receptacles thereof, may require the owner of such explosive or ingredient to permit the use of any ship, boat, or carriage, containing such explosive or ingredient for the purpose of such sale or disposal, upon payment of a reasonable compensation for the same, to be determined in case of dispute by the Civil Commissioner of the division; and where the explosive or ingredient is directed to be destroyed, the owner and the person having possession of such explosive or ingredient, and the owner and master of the ship, boat, or carriage containing the same, or some or one of them, shall destroy the same accordingly, and if the court or Colonial Secretary so order, the ship, boat, or carriage may be detained until the same is so destroyed; and if the Colonial Secretary is satisfied that default has been made in complying with any such direction by him or by a court, and that the detention of the ship, boat, or carriage will not secure the safety of the public, and that it is impracticable, having regard to the safety of the public or of the persons employed in such destruction, to effect the same without using such ship, boat, or carriage, or otherwise dealing with such ship, boat, or carriage, in like manner as if it were a receptacle for an explosive forfeited under this Act, the Colonial Secretary may direct such ship, boat, and carriage, or any of them, to be, and the same may accordingly be, so used or dealt with.

EXEMPTIONS AND SAVINGS.

40. This Act shall not apply—

- (1) To any factory, magazine, store, premises, wharf, place, or explosive under the control of a department of the Government or otherwise held for the service of the Crown, or to the manufacture, keeping, or importation of such explosive; or
- (2) To any of Her Majesty's ships, boats, or carriages; or
- (3) To the keeping or making up, or adapting for use of any explosive issued by or by the authority of, the Governor for the use of any volunteer corps or administrative regiment; or
- (4) To the conveyance of any explosive under the control of the Governor, or to the conveyance of any explosive otherwise held for the service of the Crown:

What factories &c.
exempt from provi-
sions of this Act.

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Provided that every person who enters without permission or otherwise trespasses upon any fortification, battery, factory, magazine, or storehouse or the land immediately adjoining thereto in the occupation of the Crown or a department of the Government, or if it adjoin such a storehouse in the occupation of the officer or person in whom such storehouse is vested, and any person found committing any act tending to cause explosion or fire in or about such fortification, battery, factory, magazine, or storehouse, shall be liable to the like penalty, and may be removed and arrested in like manner as if this section had not been enacted and this Act applied to such fortification, battery, factory, magazine, or storehouse, as above in this section mentioned.

This Act not to apply to keeping of rockets for certain purposes.

41. This Act shall not apply—

- (1) To the keeping of any rockets for use in any apparatus for saving life; or
- (2) To the keeping of any explosive kept for the purpose of signalling at or near a station on the sea coast.

Nor to ship-master &c., in certain cases.

42. Nothing in this Act shall render liable to any penalty or forfeiture the owner or master of any ship or boat, or any carrier or warehouseman, or the person having charge of any carriage, for any act done in breach of this Act, if he prove that by reason of stress of weather, inevitable accident, or other emergency, the doing of such act was, under the circumstances, necessary and proper.

This not to exempt from liability to civil action.

43. This Act shall not, save as is herein expressly provided, exempt any person from any action or suit in respect of any nuisance, tort, or otherwise, which might, but for the provisions of this Act, have been brought against him.

Nor to derogate from powers otherwise conferred.

44. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on any local authority by Act of Parliament.

DEFINITIONS.

Governor may declare substance to be an explosive under this Act.

45. The Governor may, by Proclamation declare that any substance which appears to him to be specially dangerous to life or property by reason either of its explosive properties, or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act, and the provisions of this Act (subject to such exceptions, limitations, and restrictions as may be specified in the Proclamation) shall accordingly extend to such substance in like manner as if it were included in the term explosive in this Act.

Who to be deemed a manufacturer of explosives.

46. Any person who carries on any of the following processes, namely, the process of dividing into its component parts or otherwise breaking up or unmaking any explosive, or making fit for use any damaged explosive, or the process of re-making,

altering, or repairing any explosive, shall be subject to the provisions of this Act as if he manufactured an explosive, and the expression "manufacture" shall in this Act be construed accordingly.

No. 5—1887.

No. 5—1887.]

[Promulgated 8th July, 1887.

ACT

Repealed by 1916 Act 22.

To Extend the Powers given to Harbour Boards and others under the "Ports and Harbours Regulations Act, 1877."

WHEREAS it is desirable that powers should be given to make regulations for the due and proper Navigation of Tidal Rivers and Bar Harbours, and to inflict penalties for the breach of such regulations: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. In addition to the powers given by the "Ports and Harbours Regulations Act, 1877," it shall be lawful for the commissioners of any Harbour Board, or where no such body exists for the Governor, from time to time to make all such regulations as may seem fit and proper for the due and proper management of the navigation of tidal rivers, bar harbours, and the entrance to such harbours, and for the preservation from injury of any works, buoys, dredgers, tugs or other property connected therewith, and from time to time to alter and amend any such regulations: Provided that no such regulations made by any such commissioners as aforesaid shall be of any force unless and until the same shall be approved of by the Governor: And provided also that before such regulations shall be submitted to the Governor for confirmation the same shall be published in the *Gazette* for six weeks, so as to enable the public to submit to the Governor any objection to such regulations.

Harbour Boards or Governor to make regulations for navigation of tidal rivers and bar harbours.

2. It shall be lawful for such regulations to provide that persons contravening any of the same may on conviction be sentenced by the Resident Magistrate of the district to pay a fine not exceeding ten pounds sterling, and in default of payment of any such fine, to be imprisoned with or without hard labour for any period provided by such regulations during which the fine may remain unpaid, not exceeding three months, and all fines so levied shall be paid unto the Public Treasury.

Penalties for contravening such regulations.

3. Every person convicted under the provisions of the last preceding section shall, in addition to the penalties he may thereby incur, be further liable to pay and make good the damage he has caused to any of the works or property mentioned in the first section

Persons injuring harbour, &c., property to be liable to civil action for damage done.

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of this Act, and the amount of such damage may be sued for in any competent court by the commissioners of the Harbour Board, or where no such body exists, by the Commissioner of Crown Lands and Public Works.

Regulations under this Act to be published in *Gazette*.

4. All regulations which shall be made as in the first section of this Act provided, shall be published in the *Gazette*, and shall thereafter have the force of law.

Short title.

5. This Act may be cited as the "Ports and Harbours Navigation Regulations Act, 1887."

No. 6—1887.]

[Promulgated 8th July, 1887.

ACT

To provide for the Taxation of Costs relating to Private Bills in Parliament.

Preamble.

WHEREAS it is expedient to make provision for taxing the costs and expenses to be charged by Parliamentary Agents and others in respect of Private Bills in Parliament, and of preparing, bringing in and carrying through, or in opposing the same in the Legislative Council and the House of Assembly, or in either of them: 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

1. For the purpose of this Act the following words and expressions shall, unless it be otherwise specially provided, have the following meanings assigned to them—that is to say:—

- (a) The expression "Private Bill" shall mean and include the several Bills to which the Standing Orders of the Legislative Council and the House of Assembly relating to Private Bills are respectively applicable.
- (b) The expression "Taxing Officer" shall mean the Taxing Officer of the Legislative Council or of the House of Assembly, according as the costs to be taxed by such officer relate to proceedings had or taken in the Legislative Council or the House of Assembly.
- (c) The word "Committee" shall mean a Committee of the Legislative Council or of the House of Assembly, according as the proceedings in respect of which costs may be incurred be had or taken in the Legislative Council or the House of Assembly.
- (d) The expression "the Promoters" shall mean and include all persons whose names appear in any Petition or Bill as promoting the same.
- (e) The expression "the Petitioner" shall mean any person who may present a petition against a Private Bill or against any provision or statement therein.

2. The President of the Legislative Council shall appoint a fit person to be the Taxing Officer of the Legislative Council, who shall hold his office during the pleasure of the President and execute the duties of his office conformably with such directions as he may from time to time receive from the President.

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Taxing officer for
Legislative Council.

3. The Speaker of the House of Assembly shall appoint a fit person to be the Taxing Officer of the House of Assembly, who shall hold his office during the pleasure of the Speaker, and execute the duties of his office conformably with such directions as he may from time to time receive from the Speaker.

Taxing officer for
House of Assembly.

4. The President and the Speaker may from time to time prepare and alter tables of such charges as it shall appear to them respectively that Parliamentary Agents and others may justly make with reference to the several matters comprised therein, and such charges shall be the utmost charges to be allowed upon the taxation of any bill of costs in respect of the several matters therein specified.

Preparation of list
of charges.

5. When the Committee on a Private Bill shall decide that the preamble is not proved, or shall insert in such Bill any provision for the protection of any petitioner, or strike out or alter any provision of such Bill for the protection of such petitioner, and further unanimously report, with respect to any or all of the petitioners against the Bill, that such petitioner or petitioners has or have been unreasonably or vexatiously subjected to expense in defending his or their rights proposed to be interfered with by the Bill, such petitioner or petitioners shall be entitled to recover from the promoters of such Bill his or their costs in relation thereto, or such portion thereof as the Committee may think fit, such costs to be taxed by the Taxing Officer, or the Committee may award such a sum for costs as they shall think fit, with the consent of the parties affected.

When Committee
report "Preamble
not proved," oppo-
nents to be entitled
to recover costs.

6. When the Committee on a Private Bill shall decide that the preamble is proved, and further unanimously report that the promoters of the Bill have been vexatiously subjected to expense in the promotion of the said Bill by the opposition of any petitioner or petitioners against the same, then the promoters shall be entitled to recover from the petitioners, or such of them as the Committee shall think fit, such portion of their costs of the promotion of the Bill as the Committee may think fit, such costs to be taxed by the Taxing Officer, or such a sum for costs as the Committee shall name, with the consent of the parties affected; and in their Report to the House the Committee shall state what portion of the costs, or what sum for costs, they shall so think fit to award, together with the names of the parties liable to pay the same, and the names of the parties entitled to receive the same: Provided always that no landowner who *bonâ fide* at his own sole risk and charge opposes a Bill which proposes to

When Committee
report unanimously
"opposition un-
founded," promoters
to be entitled to re-
cover costs.

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take any portion of the said petitioner's property for the purposes of the Bill, shall be liable to any costs in respect of his opposition to such Bill.

Taxing officer to tax bills on application of the party chargeable or others.

7. If any person on whom any demand shall be made by any parliamentary agent or other person for any costs, charges or expenses in respect of any proceedings in the Legislative Council or the House of Assembly, or both, relating to any Private Bill and the preparing or bringing the same in or carrying the same through, or in opposing the same, or if any parliamentary agent or other person who feels aggrieved by the non-payment of any such costs, charges or expenses, makes application to the taxing officer for the taxation of such costs, charges or expenses, the said taxing officer on receiving a true copy of the bill of such costs, charges, and expenses which has been duly delivered to the party charged therewith, shall in due course proceed to tax and allow the same.

If either party neglects to attend taxation to be made *ex parte*.

8. If either party to such taxation, having due notice thereof, neglects to attend such taxation, the taxing officer may proceed to tax and settle such bill of costs *ex parte*; and if pending such taxation any action or other proceeding is commenced for the recovery of the amount of such costs, the court or judge before whom the same is brought shall stay all proceedings thereon, until the amount thereof has been duly certified by the President of the Legislative Council or the Speaker of the House of Assembly, as hereinafter provided.

Taxing officer to report to President or Speaker.

9. In all cases of taxation under this Act, the taxing officer shall report his taxation to the President or the Speaker, as the case may be, and in such report shall state the amount fairly chargeable in respect of such costs, charges and expenses, together with the amount of costs and fees payable in respect of such taxation.

President or Speaker may require further report if either party object to taxation.

10. If either party to the taxation, within twenty-one days after such report has been made, shall deposit with the President or Speaker, as the case may be, a petition complaining of such report or any part thereof, the President or Speaker may, if he think fit, refer the same together with such report to the taxing officer and may require a further report in relation thereto, and on receiving such further report may direct the taxing officer to amend his first report: And if no such petition shall be deposited, or as soon as the matter complained of shall have been finally adjusted, the President or Speaker shall, upon application made to him deliver to any party concerned therein, a certificate of the amount so ascertained, which certificate shall be binding and conclusive on the parties as to the matters comprised in such taxation, and as to the amount of such costs and charges, and as to the amount due on the same and on the costs and fees payable for such taxation in all proceedings at law, and such

amounts shall be recoverable in any competent court upon the production of such certificate. No. 7—1887.

11. For the purpose of any such taxation as is provided for in this Act, the taxing officer may examine upon oath any party to such taxation, and any witnesses in relation thereto, and may receive affidavits sworn before himself or any justice of the peace relative to such costs, charges or expenses, and any person who on such examination upon oath or in any such affidavit shall wilfully or corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury. Taxing officer may examine parties and others on oath.

12. The taxing officer shall be empowered to call for the production of any books or writings in the hands of any party to such taxation relating to the matters of such taxation. Taxing officer may call for books and papers, &c.

13. It shall be lawful for the taxing officer to demand and receive for any taxation such fees as the President of the Legislative Council and the Speaker of the House of Assembly respectively, may from time to time authorise and direct, and to award the costs of taxation against either party to such taxation, or in such proportion against either party as he may think fit, and all such fees as aforesaid shall be paid by revenue stamps, to be affixed on such bills of costs, and such stamps shall be duly cancelled by such taxing officer. What fees to be taken by taxing officer.

14. This Act may be cited as the "Parliamentary Costs Taxation Act, 1887." Short title.

No. 7—1887.]

[Promulgated 15th July, 1887.]

ACT

To prevent the Manufacture or Issue of Counterfeit Postage Stamps of the United Kingdom of Great Britain and Ireland or of any Foreign Country or of any British Colony or Possession other than the Colony of the Cape of Good Hope.

WHEREAS it is expedient to prevent the manufacture or issue within this Colony of Counterfeit Postage Stamps of the United Kingdom of Great Britain and Ireland or of any Foreign Country or of any British Colony or Possession other than this Colony (in regard to which provision already exists): 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. If any person shall

(1) Forge, alter or imitate, or assist in forging, altering or imitating any postage stamp of the United Kingdom Offences and Penalties.

No. 8—1887.

of Great Britain and Ireland or of any Foreign Country or of any British Colony or Possession other than this Colony, or shall use, offer, utter or dispose of any forgery or imitation of any such stamp, knowing it to be forged or with a fraudulent intent: or

- (2) Engrave or in any wise make upon any plate or material whatever any such postage stamp: or
- (3) Make or cause to be made or assist in making or have in his custody or possession without lawful excuse (the proof whereof shall lie on the person accused) any mould, frame or other instrument having thereon any words, figures, marks, lines or devices peculiar to paper provided for or used for any such postage stamp; or make or procure to be made or assist in making, or have in his custody or possession without lawful excuse (the proof whereof shall lie on the person accused) any paper in the substance of which shall appear visible any words, letters, figures, marks, lines or devices peculiar to paper provided for any such postage stamp, and intended to imitate or pass for the same:

he shall on conviction be liable to imprisonment, with or without hard labour, for any period not exceeding one year.

2. For the purposes of this Act the words "postage stamp" shall be taken to mean any stamp for denoting any rate of postage of the said United Kingdom or of any of Her Majesty's Colonies or Possessions other than this Colony, or of any Foreign Country.

3. Nothing herein contained shall be taken to affect the law of this Colony regarding postage stamps of this Colony or any crime or offence relating thereto.

4. This Act may be cited as the "British and Foreign Post Offices Protection Act, 1887."

Interpretation clause.

Law regarding Postage Stamps of this Colony not affected.

Short title.

No. 8—1887.]

[Promulgated 22nd July, 1887.]

ACT

To Transfer and convey the Rights, Powers and Privileges conferred and the Duties and Obligations imposed on "The Green Point and Sea Point Railway Company (Limited)" by Act No. 31 of 1884 to "The Cape Town and Suburban Railway Company (Limited)," and to amend certain portion of the said Act, and to provide for a necessary deviation in the direction of the Line of the said Railway.

Preamble.

WHEREAS by Act No. 31 of 1884, "The Green Point and Sea Point Railway Company (Limited)" was and is

authorised and empowered to construct, equip, maintain and work a line of railway from Cape Town to Sea Point in the manner and under the terms and conditions in the said Act set forth.

And whereas the Articles of Association of the said Railway Company have been duly settled and the said railway has been commenced.

And whereas the Provisional Committee of the said Company have agreed and arranged with the “Cape Town and Suburban Railway Company (Limited)” of London, incorporated under the Companies Acts 1862 to 1886, that subject to the approval and consent of the Parliament of this Colony the said “Cape Town and Suburban Railway Company (Limited)” shall acquire the rights and property of the said “Green Point and Sea Point Railway Company (Limited)” and all the privileges, powers and authority now vested in and conferred upon that Company by the said Act.

And whereas it is expedient that the time fixed by the 12th section of the said Act within which the said line of railway from Cape Town to Sea Point should be completed and which expires on the 24th day of July, 1887, should be extended.

And whereas the exigencies of the public interests require a deviation of a portion of the line of railway authorised under the Act No. 31 of 1884: 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. From and after the taking effect of this Act all and singular the rights, powers and privileges granted to and all the duties and obligations imposed upon the “Green Point and Sea Point Railway Company (Limited)” and the provisional committee or directors thereof in and by Act No. 31 of 1884 shall be and the same are hereby transferred and granted to and imposed upon the said “Cape Town and Suburban Railway Company (Limited)” and the directors thereof, as fully, entirely and effectually as if the said last named Company and the directors thereof were the Company in the said Act mentioned instead of the said “Green Point and Sea Point Railway Company (Limited)” and the said provisional committee and directors thereof.

Rights, powers &c. of Green Point and Sea Point Railway Company (Limited), transferred to “Cape Town and Suburban Railway Company Limited.”

2. The time fixed by the 12th section of Act No. 31 of 1884 within which the railway from Cape Town to Sea Point shall be completed, is hereby extended until 31st day of December, 1888: Provided that unless the contract or agreement mentioned in the next succeeding section of this Act shall be entered into and executed within six months from the passing of this Act the rights, powers and privileges by this Act transferred to and conferred upon the City and Suburban Railway Company (Limited) shall *ipso facto* cease and determine.

Time for completion of Railway extended to 31st December, 1888, subject to extension of certain agreement.

No. 9—1887.

Agreement for deviation over land of Town Council of Cape Town, the Imperial Government, or Table Bay Harbour Board, if assented to by Imperial Government, the Governor, Town Council and Cape Town and Suburban Railway Company, to be valid.

3. Any contract or agreement providing for any deviation in the direction of the line of the Green Point and Sea Point Railway as defined and set forth in section 2 of Act No. 31 of 1884, by which deviation the portion of line whose direction is changed shall cross only land vested in the Town Council of Cape Town, in Her Majesty's Imperial Government, or in the Table Bay Harbour Board, and to which contract or agreement Her Majesty's Imperial Government, the Governor of this Colony, the said Town Council, the said Harbour Board, and the Cape Town and Suburban Railway Company (Limited) shall have given or shall give their consent, shall as between the parties thereto be deemed and taken to be a valid and binding contract, to have the effect of sanctioning such deviation and of authorising, in terms of such contract or agreement, the use of such land so required for the purpose of effecting such deviation in the direction of the said line; provided, however, that a copy of such contract or agreement and of a plan exhibiting fully such deviation shall be filed in the office of the Commissioner of Crown Lands, and published once in the *Gazette* within six months from the passing of this Act; provided that any land released by any such deviation, shall upon the completion of such contract be freed from the operation of the Act No. 31 of 1884, and of this Act.

Short title.

4. This Act shall be read as one with the Act No. 31, 1884, and may be cited for all purposes as "The Green Point and Sea Point Railway Transfer Act of 1887."

ACT No. 9 of 1887.]

[Promulgated 22nd July, 1887.]

ACT

To Reduce the Excise Duty on Spirits.

Preamble.

WHEREAS it is expedient to reduce the Excise Duty now payable on spirits: 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:—

Acts 15 of 1884 and 20 of 1885 repealed.

1. The "Excise Spirit Duty Act, 1884," and the "Excise Spirit Duty Amendment Act, 1885," are hereby repealed.

Duty on spirits distilled from other materials than wine, &c., reduced to 2s. per gallon.

2. From and after the taking effect of this Act there shall be payable to the Colonial Revenue upon every gallon of spirits distilled or manufactured from materials other than wine, grape juice, grapes, husks of grapes, or raisins, the produce of this Colony, an excise duty at the rate of two shillings per gallon, if the spirits do not exceed the strength of proof, with a proportionate increase in case the spirit be of greater strength: Provided that upon every gallon of spirits which, having been distilled or manufactured within the Colony, shall be in an approved warehouse, and shall be on and after the passing of

this Act taken out for consumption, the above mentioned duties shall be respectively charged on every gallon of the strength of proof, and so in proportion for any greater or less degree of strength, or for any greater or less quantity.

No. 10—1887.

3. This Act may be cited as “The Excise Duty Act, 1887,” and shall be read as one with the “Excise Spirits Act, 1884.”

Short title.

No. 10—1887.]

[Promulgated 22nd July, 1887.

ACT

To authorise the Municipality of Aliwal North to raise a Sum of Money not exceeding £2,500 for the Repayment of certain Advances made by the Standard Bank of South Africa, and for the completion of an Irrigation Furrow to the Mineral Springs.

WHEREAS the Council of the Municipality of Aliwal North duly elected under the provisions of Act No. 45 of 1882, and acting under the provisions of that Act, did from time to time borrow and take up from the Standard Bank of South Africa certain sums of money amounting in the whole to Seventeen Hundred and Fifty Pounds Sterling, which sum was applied partly to the suppression of Small Pox and partly to the construction of Public Works and other Municipal purposes in the interests generally of the inhabitants of the said Municipality.

Preamble.

And whereas it has become necessary that the said sum of £1,750 or so much thereof as may be due to the said Bank shall be repaid, and whereas the said Council is further desirous of completing the construction of the Main Irrigation Furrow from the Township of Aliwal North to the Mineral Springs within the limits of the said Municipality, and that in order to obtain funds for the repayment of the said sum and for the completion of the said Irrigation Furrow, the Council elected or hereafter to be elected under the provisions of the aforesaid Act should be authorised and empowered to raise by debentures on the security of the said Municipality a sum not exceeding £2,500 sterling.

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

1. It shall be lawful for the Council of the Municipality of Aliwal North now or hereafter duly elected under the provisions of the Act No. 45 of 1882, or any other Act under which the said Municipality may hereafter be constituted, and the said Council is hereby empowered in one or more sums from time to time to borrow or take up at interest not exceeding six per cent. from any person or persons, company or companies, such sum not

Council empowered to raise a loan not exceeding £2,500.

No. 11—1887.

exceeding in all the sum of Two Thousand and Five Hundred Pounds Sterling as shall be necessary for repaying the amount advanced as aforesaid by the Standard Bank of South Africa Limited, and for the other purposes aforesaid. Provided the sum so borrowed shall be applied exclusively first to the repayment of the sum advanced by the Standard Bank of South Africa aforesaid and the balance after such repayment to be applied to the continuation and completion of the Main Irrigation Furrow from the Township of Aliwal North to the Mineral Springs within the limits of the said Municipality, and for the purpose of securing the principal and interest of the sum so borrowed to mortgage or charge by debentures or otherwise to the person or persons, company or corporate body lending the same, so much as may by the said Council be deemed sufficient of the rates of the said Municipality. Provided it shall be lawful to apply to the payment of the interest or principal or to both of the said debt, any funds or moneys coming to the said Council from any source whatsoever and not specially appropriated or required for any other object.

How such loan is to be applied.

A loan under this Act to be a just debt under Public Bodies Debts Act, 1867.

2. Any loan obtained by the said Council for the purposes of the Act shall be deemed to constitute a just debt and liability of the said Council within the meaning of the Public Bodies Debt Act, 1867.

How costs of this Act to be paid.

3. The necessary costs, charges and expenses incurred in obtaining the passing of this Act shall be paid out of the ordinary revenue of the Council.

Short title.

4. This Act may be cited as "The Aliwal North Municipality Loan Act, 1887."

No. 11—1887.]

[Promulgated 26th July, 1887.

Superseded by No 0 of 1889 Sec. 36 sub. v. ACT + d.

To amend the "Divisional Councils Act, 1865."

Preamble.

WHEREAS it is expedient to amend the "Divisional Councils Act, 1865," in regard to the taking of polls at the election of members of the Divisional Council: 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 provisions.

1. So much of the "Divisional Councils Act, 1865," as may be repugnant to or inconsistent with this Act, is hereby repealed.

Where convenience requires it, Governor may appoint places for taking the poll in addition to those provided by Divisional Councils Act.

2. Whenever it shall be made to appear to the Governor that by reason of the extent of any field-cornetcy, the voters cannot with ease and convenience repair to the residence of the field-cornet or to the Court-room of the Resident Magistrate, as the case may be, for the purpose of voting at the election of any member for the Divisional Council of any division, it shall be

lawful for the Governor to appoint one or more additional polling places in such field-cornetcy: And as often as any such additional polling places shall have been appointed by the Governor, the Civil Commissioner of the division shall appoint such polling officers as may be required for taking the polls therein.

No. 12—1887.

3. This Act may be cited as the "Divisional Councils Act Amendment Act, 1887."

Short title.

No. 12—1887.]

[Promulgated 26th July, 1887,

ACT

Repealed by Act 4 of 1887

To Alter and Amend a certain Section in the "Dog Tax Amendment Act, 1885."

WHEREAS it is desirable that persons convicted of offences against "Dog Tax Act, 1884," and the "Dog Tax Amendment Act, 1885," should be compelled to pay the costs incurred in prosecuting them: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The last two concluding words of Section 9 of Act 15 of 1885, being the words "such Council," shall be expunged, and the following words substituted, "the person convicted, and the Court before which such person has been tried and convicted, is hereby authorised to make the payment of costs by such person a part of the sentence against him."

Alteration of Sec. 9 of Act No. 15 of 1885.

Persons convicted under the Act to bear the costs of prosecution.

2. This Act may be cited as the "Dog Tax Further Amendment Act, 1887."

Short title.

No. 13—1887.]

[Promulgated 26th July, 1887.

Repealed

ACT

To Continue for another Year the Fourth Section of "The Vineyards Protection Act Amendment Act, 1886."

WHEREAS it is expedient that the provisions of the Fourth Section of "The Vineyards Protection Act Amendment Act, 1886," should be continued for another year: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The provisions of the Fourth Section of "The Vineyards Protection Act Amendment Act, 1886," shall continue and be in force until the 30th June, 1888, and no longer, anything in the tenth Section of the said Act to the contrary notwithstanding.

Section 4 of Act No. 6, 1886, to be in force till 30th June, 1888.

No. 14—1887.]

[Promulgated 26th July, 1887.

ACT

To make better Provision for the Registration of Persons entitled to the Electoral Franchise under the Constitution Ordinance.

Preamble.

WHEREAS it is desirable to make better provision than at present exists for the proper and complete registration of persons entitled to vote at the election of members of the Legislative Council and the House of Assembly, and for the exclusion of unqualified persons from the lists of registered voters: 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:—

Taking effect of the Act.

1. This Act shall take effect from the first day of September, 1887.

Repeal of existing conflicting laws.

2. So much of every Act, Ordinance or other statutory enactment having the force of law, which shall be in conflict with the provisions of this Act, is hereby repealed.

Existing lists of voters to be abolished

3. From the day of the taking effect of this Act, all existing rolls or lists of persons qualified to vote at the election of members of either House of the Legislature (except in the Electoral Division of Cape Town), shall cease to have any effect and be null and void.

Governor to appoint registering officers.

4. The Governor shall 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 (except the Electoral Division of Cape Town), an alphabetical provisional list of all persons entitled to vote at Parliamentary elections within such field-cornetcy. And, upon the issue of such proclamation the Civil Commissioner of every Electoral Division, except as aforesaid, shall cause a notice in the terms of the Schedule C, to this Act annexed, to be inserted in some newspaper or newspapers circulating within the said divisions, or to be given in such other manner as he may deem best fitted for the purpose of general information.

How every field-cornetcy list to be framed.

5. 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 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. No person's name shall be so inserted in the said list, unless the Registering Officer is satisfied that such person possesses the necessary qualification to

vote at Parliamentary elections, as provided by the Constitution Ordinance.

No. 14—1887.

6. Upon the completion of such lists, within the time to be named by the Governor in the notice for that purpose, it shall be further the duty of the Registering Officer to post and affix the same on the door of, or in some conspicuous place near to his office or dwelling-house or in some other public place or places within the field-cornetcy for which such list is framed there to remain for general information during not less than fourteen days: And if any person shall during such space of fourteen days, wilfully tear down, cover over, deface or obliterate, either wholly or in part, any such list or any such other list or notice as may be hereinafter mentioned such person shall upon conviction be liable to be imprisoned with or without hard labour for any period not less than one month and not exceeding three months.

Such lists to be posted in public place.

Penalty for tearing down, &c., any such list.

7. Subjoined or annexed to every such list so framed, posted or affixed as aforesaid, a notice shall be written signed by the Registering Officer, which notice shall be written both in the English and Dutch languages, and shall be in substance as follows:—

How notices to claimants & persons objecting to be given.

“Notice is hereby given that if any person whose name is not inserted in the above list shall claim to be entitled to have his name inserted therein; or if any person shall object to the right of any other person whose name is inserted in the said list to have such name inserted therein, every such claimant or objector may attend personally or by an agent authorised in writing (which agent, if for a claimant, must be able to state in full the claimant's christian name or names, if any, his surname, residence, and his trade, profession, or other description, and to give proof of the claimant's qualification to be registered) at (here name some convenient place within the field-cornetcy), on the _____day of _____ (here name some date not less than ten or more than twenty-eight days after the day of posting the notice), in order that such claim or objection may be considered and dealt with as the law directs.

Form of notice.

Given under my hand this _____ day of _____, 188_____.”

And every such claim shall be in writing, and shall be in substance as follows:—

Form of claim.

“To the Registering Officer appointed to make out the list of voters in the field-cornetcy of _____, in the division of _____.

Please take notice that I claim to have my name inserted in the list of voters in the above field-cornetcy, and that my qualification arises from (here insert the grounds of

No. 14—1887.

the claim with full particulars of the nature of the qualification).

(Signed) A. B.,

of (here give the place of residence)."

In case the qualification of the claimant shall be "salary" or "wages" the claim shall specify the name of the employer, from whom and the period of employment during which the necessary amount of salary or wages was earned.

Form of objection.

And every such objection shall also be in writing, and shall be in substance as follows:—

"To the Registering Officer appointed to make out the list of voters in the field-cornetcy of _____, in the division of _____.

Please take notice that I object to the name of _____ being retained on the list of voters in the above field-cornetcy, and that I shall support my objection at the time fixed by law for that purpose, the ground of my objection being (here state the ground of objection).

Dated the _____ day of _____.

(Signed) A. B.,

of (here state place of residence)."

Registering Officer to decide on claims and objections to voters' list and to examine claimants and objections if necessary.

8. At the time and place fixed by the notice in the last preceding section for the reception of claims or objections, every Registering Officer as aforesaid shall enquire into and decide upon such claims or such objections, and in doing so it shall be lawful for him to explain to any person claiming as aforesaid the nature of the qualifications entitling persons to be registered as voters at Parliamentary elections, and to interrogate such person so far as may be reasonably necessary, to ascertain that such person comprehends the nature of such qualifications, and distinctly avers that he possesses the particular qualifications by him alleged. Any person who shall falsely, knowingly, and wilfully, aver to such Registering Officer, whether in answering questions put to him or otherwise, that such person possesses a certain qualification to be registered which he does not in fact possess, shall, upon conviction, be liable to a fine not exceeding ten pounds, and, in default of payment, to imprisonment with or without hard labour for any period not exceeding two months. If any claimant shall refuse or decline to answer any proper and reasonable question put to him by the Registering Officer for the purpose of ascertaining the existence of the qualification which such person shall allege that he possesses, then the name of such claimant shall not be inserted, or, if inserted, shall be expunged.

Completed list to be forwarded to Civil Commissioner.

9. As soon as the Registering Officer shall have inquired into and decided upon the claims and objections as aforesaid, and shall or shall not have added to, or expunged from the provisional list,

names in accordance with such enquiry and decision, he shall transmit to the Civil Commissioner of his division a complete alphabetical list of persons who shall in his judgment be entitled to be registered as voters in the form prescribed in Schedule A to this Act, and shall transmit therewith any original writings containing claims and objections.

10. On the receipt of the said list and writings in the last preceding section mentioned, the Civil Commissioner shall give notice by letter posted through the Post Office to all persons whose written claims to be registered shall have been rejected by the Registering Officer as aforesaid of such rejection and of the date fixed as hereinafter required for the purpose of finally revising, amending, and settling the voters' lists for the said division, and shall appoint some day by notice in the *Gazette* on which he will attend in his Court-room, for the purpose of revising, amending and settling the lists of voters in his division, and the day to be named in such notice shall not be less than fourteen days from the date of publication of such notice, and upon the day so named the Civil Commissioner shall attend in his court, and it shall be lawful for any person not inserted in the voters' list as posted, who shall have claimed in writing to be inserted therein, and for any person who shall in writing have objected to the right of any person inserted in the said list to be so inserted, and for any person who shall have been so objected to, to come before such Civil Commissioner, and such Civil Commissioner shall hear all such parties and if he shall think fit, take their evidence upon oath, and may, should he think fit, summon before him and examine upon oath, any person whom he shall in the course of such inquiry deem it necessary to examine, and may impose a fine not exceeding ten pounds on any person duly summoned who shall, without lawful cause, refuse or neglect to attend; and such Civil Commissioner shall finally determine all questions brought before him, and revise and amend the voters' list as so posted as aforesaid, according as justice shall require. The Civil Commissioner may if necessary adjourn his sitting from time to time.

Civil Commissioner to hold Court to settle voters' list.

11. Every person who shall have claimed as aforesaid to be inserted in the list aforesaid shall be bound to prove his qualification to the satisfaction of the Civil Commissioner; and should such claimant not appear, either in person or by his general agent, or by some agent specially authorised in writing by such claimant, the claim of such person shall be dismissed.

Claimants to prove claim.

12. If the person who shall have objected to the right of any other person to be inserted in the list aforesaid shall not, either in person or by some agent specially authorised in writing by such objector, appear to make good his objection, such objection shall, without requiring any appearance or proof on the

Claims and objections of persons not appearing to be dismissed.

No. 14—1887.

part of the person objected to, be dismissed. If the objector shall appear and if the person objected to shall not appear in person, and the ground of objection shall be one peculiarly within the knowledge of the person objected to, then, in case the objector, or, should he have appeared by agent, his agent, shall make oath to the belief of the deponent that such ground of objection does really exist, the Civil Commissioner may either at once allow the objection or make some further inquiry as shall appear just.

Costs may be awarded.

13. It shall be lawful for the Civil Commissioner, should it appear right and fitting so to do, to adjudge to any person objecting or objected to such reasonable costs against the adverse party as such Civil Commissioner shall tax and allow, to be recovered in like manner as if costs between party and party in a civil action tried and determined in the Court of the Resident Magistrate of the district.

List settled by the Civil Commissioner to be final.

14. As soon as the Civil Commissioner aforesaid shall, in manner aforesaid, have revised and amended the voters' list aforesaid, he shall cause to be made out the said list as so revised and amended in the form in Schedule B to this Act, and such list shall be and remain the list of registered voters for such Electoral Division, until a fresh list shall have been framed in manner as hereinafter provided.

How if electoral division comprises more than one fiscal division.

15. Should any Electoral Division comprise within it more Fiscal Divisions than one, then the duties hereinbefore mentioned shall be performed by the Civil Commissioner of every such Fiscal Division, save and except that every such lastmentioned Civil Commissioner shall, after having revised and amended the voters' list for his division in the manner aforesaid, transmit to the Civil Commissioner of every Electoral Division of which such Fiscal Division or any portion of such Fiscal Division forms part, a list, certified under his hand to be correct, of all persons in such Fiscal Division registered as voters for such Electoral Division; and the Civil Commissioner of every such Electoral Division shall thereupon proceed to frame the list for such Electoral Division, in accordance with the last preceding section.

Biennial registration.

16. The provisions of this Act shall be acted upon and carried into effect in every second year from and after the year one thousand eight hundred and eighty-seven in manner and form as hereinbefore described in regard to that year.

Communal or tribal occupation of land not to qualify for registration.

~~**17.**~~ No person shall be entitled to be registered as a voter by reason of his sharing in any communal or tribal occupation of lands or buildings unless he shall be in actual occupation for the period required by the eighth section of the Constitution Ordinance, of a house or other building, whether situated or not situated on land held on tribal or communal tenure, which house or building separately or together with land occupied therewith

see 1909 Act 29

Sec. 14.

17 unrepealed.

held upon other than tribal or communal tenure shall be of the value of twenty-five pounds sterling. No. 14—1887.

18. This Act may be cited as the "Parliamentary Voters' Registration Act, 1887." Short title.

SCHEDULE A.

Schedule A.

ELECTORAL LIST.

List of persons appearing to be qualified to vote at the Election of Members of the Legislative Council and House of Assembly in the Field-cornetcy of _____ in the Division of _____.

Dated this _____ day of _____.

A. B.,
Registering Officer.

Christian Name (if any), and Surname in full.	Trade, Profession, or other Description.	Qualification.	Situation of Property in respect of which qualification exists.
A. B.	Farmer	Householder	
C. D.	Storekeeper	Householder	
E. F.	Clerk	Salary	
G. H.	Farm Labourer	Wages	

SCHEDULE B.

Schedule B.

ELECTORAL DIVISION OF _____.

Electoral Roll of Persons qualified to Vote for the Election of Members of the Legislative Council and House of Assembly for the Electoral Division of _____, of which I am Returning Officer.

Dated this _____ day of _____.

A. B.,
Civil Commissioner and Returning Officer.

Christian Name (if any), and Surname in full.	Trade, Profession, or other Description.	Qualification.	Situation of Property in respect of which qualification exists.
A. B.	Farmer	Householder	
C. D.	Storekeeper	Householder	
E. F.	Clerk	Salary	
G. H.	Farm Labourer	Wages	

No. 15—1887.
Schedule C.

SCHEDULE C.

FORM OF NOTICE.

Electoral Division of

Notice is hereby given to the inhabitants of the several field-cornetcies of this division, that the Registering Officers will now commence, in accordance with the provisions of the Parliamentary Voters' Registration Act, 1887, to make out in and for each field-cornetcy a Provisional List of all persons entitled to vote at Parliamentary Elections.

In order to secure the most complete List possible, and to prevent danger of exclusion of qualified persons from the List, all persons claiming to vote at Parliamentary Elections are invited either to send in their claims to the respective Registering Officers, or to ascertain whether their names have been placed upon the Provisional List on or before the date fixed for the completion of such List.

The Registering Officers for the several field-cornetcies of this division are those named at the foot hereof.

Dated this _____ day of _____, 188____
(Signed) _____ A.B.,
Civil Commissioner.

Electoral Division of

	FIELD-CORNETCY.	REGISTERING OFFICER.	RESIDENCE.
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

Date for completion of List.

The _____ day of _____ 188____
(Signed) _____ A.B.,
Civil Commissioner.

No. 15—1887.]

[Promulgated 29th July, 1887.

ACT

For Regulating the manner in which the Crown Lands of the Colony shall be disposed of.

Preamble.

WHEREAS it is expedient to amend the law regulating the manner of disposal of the Crown lands of 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:—

Repeal of repugnant laws. re-

1. The Act No. 5 of 1870, entitled "An Act to amend in certain respects the Act No. 19 of 1864, entitled 'An Act to provide for the Leasing of Crown Lands and other purposes,'" and

the Act No. 14 of 1878, entitled "An Act for regulating the manner in which the Crown Lands of the Colony shall be disposed of," and the Act No. 10 of 1881, entitled "An Act for the Conversion of Lease Lands into grants under the Crown Lands Act No. 14 of 1878," and the sixteenth, seventeenth and eighteenth sections of the Act No. 37 of 1882, entitled "An Act to consolidate and amend the Agricultural Lands Acts," are hereby repealed, save and except in so far as the provisions of the said Acts shall have repealed previous Statutes, or shall relate to the lands disposed of prior to the taking effect of this Act, or to the disposal of lands for which proceedings are pending at the time of the taking effect of this Act; all of which lands shall be dealt with as if this Act had not been passed.

No. 15—1887.

2. From and after the taking effect of this Act, all Crown Lands within this Colony shall, except as is hereinafter provided, be disposed of by public auction in the following manner:—

Crownlands to be sold by public auction.

(a) The auction shall be held at such time and place as the Governor shall appoint.

(b) A notice of every auction shall be published in the *Gazette*, and in some newspaper published in or near to the division in which the land is situated, at least once in each week for a period not less than two months before the day appointed for holding such auction, and shall be posted at the office of the Civil Commissioner or Resident Magistrate of such division, and also at the residence of the Field-cornet in whose ward such land is situated. Such notice shall describe the position and extent of the said land and shall state a minimum or upset price, (to be fixed by the Commissioner of Crown Lands and Public Works after reference to the Divisional Council of the division) below which such land shall not be sold, and shall also state the amount of expenses of title deeds, survey, and erection of beacons to be paid by the purchaser: Provided that it shall not be necessary to state the said expenses of survey, erection of beacons and title deeds in every such notice of sale, but only in such notices or advertisements as shall be published a month prior to the date appointed for the auction.

Two months notice of sale to be given.

Amended by 1922 Act 8 Sec. 1.

(c) The highest bidder who shall have offered not less than the minimum or upset price shall be declared the purchaser, and every such purchaser shall have the option of paying either the whole or a part of the purchase money on the day of sale: Provided

How payment to be made by purchaser.

(i) That if no payment be made on the day of sale, one-tenth of the purchase price shall be paid at six, and one-tenth at twelve months from the day of sale.

No. 15—1887.

Amended by
1922 Act-8, Sec. 1.

Payment of interest and instalments to be secured.

Survey expenses.

How if purchaser fail to fulfil his obligations.

Purchaser to pass mortgage bond.

Special servitudes.

Conditions of sale.

(ii) That if less than one-tenth of the purchase price be paid on the day of sale, the balance of such one-tenth shall be paid at the expiration of six months, and the remaining one-tenth at the expiration of twelve months from the day of sale.

(iii) That if the amount paid on the day of sale be one-tenth or any sum between one-tenth and one-fifth of the purchase price, the balance of one-fifth of the purchase price shall be paid at the expiration of twelve months from the day of sale.

(d) Interest on the instalments mentioned in sub-section (c) shall be paid at the rate of four per centum per annum; and the payment of the instalments, together with the 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 payment as sureties *in solidum* and co-principal debtors, renouncing the exceptions of excussion and division.

(e) The expenses of survey, erection of beacons, and of the title deed, shall be paid to the Civil Commissioner or other duly authorised person in that behalf on the day of sale.

(f) If the purchaser shall fail to fulfil the obligations mentioned in sub-sections (d) and (e) the land shall be declared not sold and shall be again immediately put up to auction.

(g) The purchaser shall be bound to pass a mortgage bond bearing interest at the rate of four per centum per annum in favour of the Government for four-fifths of the purchase price, unless he shall have paid on the day of sale more than one-fifth thereof, in which case the amount of the bond shall be for the balance of the purchase price, the purchaser having the right to pay off the amount of the bond, or any portion thereof, not being less than fifty pounds at any time.

3. The land shall be sold subject to such special servitudes, conditions, and stipulations as may be set forth in the conditions of sale.

4. The said conditions of sale, together with the description of the situation and extent of the land, and such special servitudes, conditions and regulations as may be annexed thereto, shall be printed in the English and Dutch languages and affixed at some convenient place at or near the place of sale; and before putting up any lot the auctioneer shall read, or cause to be read, in both these languages, the terms, conditions, stipulations, and servitudes on or under which the said land shall be sold, and shall also exhibit a plan showing the extent and position of the said land in relation to adjacent or neighbouring lands.

5. The said lands shall in addition to any special servitudes, conditions and stipulations as aforesaid be sold subject to the following general conditions, viz. :
- (a) All roads and thoroughfares being or existing on the land, described in the plan or diagram of the same, shall remain free and uninterrupted : unless the same be closed or altered by competent authority. No. 15—1887.
General conditions
of sale.

Roads preserved.
- (b) If at any time it should appear to the Governor upon petition of any adjacent or neighbouring proprietor that such adjacent or neighbouring proprietor requires a way or road of necessity to or from the land of such adjacent or neighbouring proprietor, the owner of land purchased under this Act, upon which such road is required, shall be bound to grant such way or road of necessity, and to point out the direction and width thereof : Provided that in case of a dispute or difference regarding such road, or its sufficiency, the direction and width of the road shall be decided upon by the Divisional Council of the division in which the land is situated : Provided further that the said owner shall not be bound to allow such road or thoroughfare across land which shall at the time be in a state of cultivation or improvement, and that compensation for the right of way and any damage done shall be paid for by the person or persons for whose benefit and upon whose application the said road is made according to determination by arbitration. Roads of necessity
- (c) The Governor shall at all times have the right to make roads, railways, dams, aqueducts, drains, and to conduct telegraphs over the land for the benefit of the public, and to take materials for these purposes, also to establish convenient outspans for the use of travellers, on payment to the proprietors of such sum of money as compensation as may be determined by arbitration : Provided that the arbitrators may set off against the loss or damage caused to the proprietor, the benefit, instant or prospective, which he shall or may derive in consequence of the construction of any of the said works. Right of Governor
to make roads, &c.
- (d) The Governor shall at all times have the right of resuming the whole or a portion of the land hereby granted, if required for public purposes, on payment to the proprietor of such sum of money in compensation as may be mutually agreed upon by the parties concerned, or, failing such agreement, as may be determined by arbitration. Right of resump-
tion for public pur-
poses.
- (e) All rights to gold, silver, and precious stones found or discovered at any time on or in lands sold under this Act, shall be reserved to the Crown together with a right of ingress to and egress from any mines or works under- Rights to precious
stones and minerals.

No. 15—1887.

taken for mining or prospecting purposes by any person or persons authorised by the Commissioner. The further right shall be reserved to the Crown to resume proprietorship of any portion of such lands and of the water supply thereof as may be required for the convenient working of mines or works for gold, silver, or precious stones, on payment of such sums of money in compensation as may be mutually agreed upon by the parties concerned, or failing such agreement, as may be determined by arbitration.

Grants for special purposes with concurrence of Parliament.

6. Grants or reserves of land may be made by the Governor for special public purposes, but no such grant or reserve shall be made until the Legislative Council and House of Assembly shall have communicated to the Governor their concurrence therein.

Grants for trading stations, &c.

7. The Governor may with the like concurrence reserve and set apart

(a) Trading stations within native locations or elsewhere on Crown land and sell or grant the same on perpetual quitrent to traders who may be entitled thereto by previous occupation or otherwise.

(b) Land required as sites for fishing stations and watering places on Crown land along the coast or on the banks of tidal rivers, and may dispose by sale or lease, on such terms as may be found expedient, of any part of such lands, or extend any existing leases on the terms and conditions upon which such lands may have been let, prior to the passing of this Act, and confirm any existing occupation, duly authorised, on such terms and conditions as may be deemed by him to be equitable or expedient.

Disposal of islands and rocks.

8. The Commissioner may dispose of islands and rocks containing sea-fowls' eggs, seals, or deposits of guano, by lease after public tender on such terms and conditions as he may deem expedient.

Lands irrigable from public dams.

9. The Governor may dispose of Crown land irrigable from public dams or reservoirs by sale or lease on such terms and conditions as he may deem expedient with the concurrence mentioned in section six.

Grants to Municipalities.

10. Grants or reserves may be made by the Governor for the benefit of the inhabitants of any municipality of any Crown lands within the limits of the said municipality, provided that the lands so granted, or the proceeds thereof, shall not be used for or on account of the ordinary expenditure of such municipality, but shall be applied for the use and benefit of the said inhabitants in such manner and upon such works or improvements as the Governor may approve.

Grants for defence purposes.

11. Grants or reserves of Crown land required for purposes of defence may be made by the Governor for such purposes of defence.

12. Land claimed by any registered owner of adjacent land as part of his property by reason of any alleged defective title deed or supposed landmarks or beacons of the said adjacent land, land occupied *bonâ fide* and beneficially without title deed at the date of the extension of the colonial limits beyond it, land conditionally occupied or claimed under any general notice or regulation of the Government, or under any promise or order of a Government officer, duly authorised at the time to make such promise, or give such order, shall not be considered or treated as Crown land for the purpose of this Act, until the claim thereto, in each case, shall have been decided on by the Governor, who shall have the power of satisfying such claim, by grant of the land or compensation out of the purchase money when the said land shall have been sold or otherwise, as shall appear equitable: Provided, always, that due notice of the nature of the claim, and reasonable proof that it can be substantiated, be received at the office of the Commissioner in sufficient time to admit of the withdrawal of the lot from sale, and that the claimant use reasonable diligence to lay the proofs in support thereof before the person or persons to whom the question may be referred by the Governor.

No. 15—1887.

What lands shall not be deemed Crown land for purposes of this Act, subject to notice and proof of claim.

13. As often as any land shall be put up for sale under the provisions of this Act, and the land so put up shall fail to obtain a purchaser at the upset price placed thereon, it shall be lawful for any person within one year of the date of such sale to make application in writing for the purchase of such land, subject to the rights of the lessee, if any, as hereinafter mentioned, and if the applicant shall fulfil the conditions required by this Act, the Commissioner may accept the said applicant as a purchaser in the same manner as if he had become a purchaser at public auction under this Act at a price not less than the upset price at which the said land was offered for sale: Provided that when lands shall have been put up to auction under this Act, and the minimum upset price shall not have been obtained, or if from special circumstances the Commissioner should deem it inexpedient to dispose of any land by sale under this Act, then such lands may be let on lease for any term not exceeding three years at the highest rent that can be obtained for them at public auction, should such rent be deemed sufficient, and on such terms and conditions as may be imposed. Provided also that it shall be lawful for any such lessee of land previously offered for sale under the second section of this Act at any time during the subsistence of his lease to make application in writing for the purchase of the land leased to him, and if the applicant shall fulfil the conditions required by this 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 this Act.

Disposal of lands not sold at auction, by lease.

No. 15—1887.

Provisions as to
lands lying between
private farms.

14. As often as a piece or portion of Crown land shall lie contiguous to or between farms belonging to private persons, and it shall be for the common advantage of such persons and the public, owing to the situation of such Crown land, and the circumstances connected with it, that it should be attached to one or more of the contiguous farms, then any such person may apply to the Surveyor-General, stating the position of such Crown land, and the extent thereof so far as the same shall be known to such applicant, and may request the Surveyor-General, after making all such inquiries into the facts as he shall deem necessary, to certify to the Commissioner that such piece or portion of Crown land should, in the opinion of the said Surveyor-General, be dealt with under the provisions of this section.

Proceedings in case
of application under
last section.

15. As often as the Surveyor-General shall certify to the Commissioner that any piece or portion of Crown land should, in the opinion of the Surveyor-General, be dealt with under the provisions of the last preceding section, and the Commissioner shall have sanctioned its being so dealt with, the Surveyor-General shall cause to be published in the *Gazette* a notice stating the name of the applicant, situation and boundaries of the land in question, and the extent thereof if then surveyed, and if not surveyed its supposed extent, and stating that the application of such applicant will be considered by the Commissioner upon some day to be mentioned in such notice, not being sooner than three months from the day on which such notice was published in the *Gazette*, and a copy of such notice shall be posted at the office of the Civil Commissioner or Resident Magistrate of the district as soon as may be after such publication in the *Gazette* but not later than two months before the day specified in such notice, for the consideration of the application.

Liberty to persons
to support or oppose
application.

16. All persons having or alleging to have an interest in the matter of such application may, in writing, send in to the Surveyor-General, on or before the day specified in such notice, such statements or representations as they shall think fit, either in favour of or against the application made, and the Surveyor-General, after considering all such statements and representations, and after calling for such proofs from any person who shall have made any such statement or representation, as the Surveyor-General shall deem necessary for the just and proper decision of the case, shall report to the Commissioner whether in his opinion the application in question shall be granted, wholly or in part, or whether the piece or portion of land applied for by the applicant should be divided between him and any other person or persons, or should be wholly given to or divided between some person or persons other than the applicant, and the Surveyor-General shall conform to such instructions as the Commissioner after considering the report aforesaid and the circumstances of the case, shall issue in regard to such piece or portion of land.

17. In every case in which any piece or portion of Crown lands shall be allotted to any owner of land under the provisions of the last three preceding sections, the price of such land shall be what the Commissioner shall consider fair and equitable, and such owner shall forthwith pay in cash to the Civil Commissioner or other duly authorised person in that behalf the expenses of survey, erection of beacons and title deed: Provided that in case such owner shall be dissatisfied with the price put upon the said land by the Commissioner, such owner may require that the question in dispute shall be referred to arbitration. When the purchase amount has been determined it shall be settled in the manner provided in the second section.

No. 15—1887.

Expenses of survey in cases under last three sections.

18. It shall be lawful for the lessees of Crown land leased under the provisions of the Act No. 19 of 1864, at any time during the continuance of their respective leases, to purchase the property in the lands held by them on lease, at such price as shall be fixed by the Commissioner, after consultation with the Divisional Council of the division in which such land is situated: Provided that the said price shall in no case be less than a sum which reckoned as a principal sum would after the rate of six pounds sterling per hundred pounds, produce an amount of interest equal to the rent reserved on such lease: Provided, however, that if the price demanded by the Commissioner shall be greater than such principal sum, and the lessee shall decline to purchase at such price, such lessee may require that the amount of the purchase price shall be determined by arbitration in manner hereinbefore provided for.

Terms on which lessees under Act No. 19 of 1864 may purchase the leased lands.

19. Every purchaser of land under the last preceding section shall from and after the date upon which the purchase price of the land shall be determined be deemed and taken to be a purchaser of Crown land, within the meaning of the second section of this Act, as though he had been a purchaser by public auction, and all the provisions of the said section shall, *mutatis mutandis*, apply to every purchase effected under the last preceding section: Provided, however, that every such purchaser shall continue to be bound to the payment of his rent, which shall be taken to be paid on account of such purchase price, and to the satisfaction of the conditions of his lease until he shall receive a title deed to the land in question; and provided that every title deed granted to such a purchaser shall be granted subject to the special servitudes, conditions, and stipulations of his lease, which shall be endorsed upon or registered with his said title deed, and subject also to the general conditions prescribed in the fifth section of this Act.

Such purchasers to be treated as if purchasers under 2nd section of this Act.

20. In fixing the value of land purchased by any lessee as aforesaid, the value of the improvements existing on the said land and made by the said lessee shall not be taken into consideration.

Improvements not to be considered.

No. 16—1887.

Power of subletting.

21. It shall be lawful for any lessee of land under and by virtue of the Act No. 19 of 1864, who shall so desire to sublet the whole or any portion of the land leased: Provided that the existing lease shall not be affected, and that the lessee under the said lease shall continue to be liable to pay rent, and to fulfil all the other conditions set forth in the lease.

Land held under Act No. 10, 1881.

22. In regard to any land which shall be held under the provisions of "The Lease Lands Conversion Act, 1881," the second section of that Act shall be read and construed as if the words "regulating the redemption of quitrent" were omitted.

Disposal of land forfeited under section 15 Act No. 37, 1882.

23. When any lot of land shall be forfeited under the fifteenth section of "The Agricultural Lands Act, 1882," the Surveyor-General shall cause the improvements thereon to be valued, and the land shall be again disposed of, either under the provisions of that Act, or offered for sale by public auction under the provisions of the present Act.

The amount at which the improvements shall have been valued shall, at such time as the Surveyor-General shall determine, be paid in the former case by the new allottee, and in the latter by the purchaser at public auction. And, after deducting from such amount the expenses incident to the forfeiture and re-allotment or sale of the land, the balance shall be handed to the original licensee or his legal representative.

Provision in lieu of section 18 of "The Agricultural Lands Act, 1882."

24. In lieu of the eighteenth section of "The Agricultural Lands Act, 1882," the following shall be substituted:

At the expiration of any licence and on the fulfilment of the terms and conditions of such licence, the licensee shall obtain a title deed on quit-rent tenure at an annual quit-rent equal to the yearly licence-fee and subject to all the conditions stated in the fifth section of this Act.

Arbitrators.

25. In all matters which are under the provisions of this Act to be determined by arbitration, one arbitrator shall be appointed by the proprietor of the land and one by the Governor with power to such arbitrators to appoint a third as umpire.

Interpretation Clause.

26. In the interpretation of this Act the term "Commissioner" shall mean "The Commissioner of Crown Lands and Public Works," and the term "Civil Commissioner" shall mean "The Civil Commissioner of the division in which the land is situated."

Short title.

27. This Act may be cited as the "Crown Lands Disposal Act, 1887."

ACT No. 16 of 1887.]

[Not yet Promulgated.]

ACT

To Amend the Laws relating to Customs Duties.

Preamble.

WHEREAS it is expedient to amend in certain respects the law relating to Customs Duties: Be it enacted by the

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

No. 17—1887.

1. The fourth section of the "Customs Rebate Act, 1884," and so much of "The Customs Tariff Amendment Act, 1884," and 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. No Customs Duties shall be payable in respect of the importation into the Colony across the Inland Border thereof of any articles grown or produced in South Africa other than the following, namely: spirits, coffee, sugar, molasses, and any other article that may hereafter be excepted by proclamation of the Governor.

What goods imported overland liable to duty.

3. The Customs Duty payable on the importation into the Colony across the Inland Border thereof of any spirits produced or manufactured in South Africa shall be equivalent to the Excise Duty payable at the time of such importation on spirits liable to such last mentioned duty when produced or manufactured in the Colony.

Duty on Spirits produced in South Africa.

4. This Act may be cited as "The Customs Duties Amendment Act, 1887."

Short title.

ACT No. 17 of 1887.]

[Promulgated 29th July, 1887.

ACT

Repealed by 1894 Act 20.

To Amend "The Scab Act, 1886."

WHEREAS it is expedient to amend "The Scab Act, 1886," in certain respects: 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 word "Tarka" is hereby substituted for the word "Tarkastad" in the first Schedule to the said Act.

Schedule to Act No. 28, 1886, amended.

2. The provisions of the tenth section of the said Act shall not apply to any person who may be removing any sheep or goats to or from any pound in conformity with the law relating to pounds and trespasses.

Section 10, Act No. 28, 1886, not to apply to sheep or goats removed to or from a pound.

3. From and after the first day of October next after the passing of this Act, every poundmaster shall be bound and obliged to provide and keep separate and distinct kraals or enclosures, for the purpose of therein confining all sheep or goats which shall be infected with scab when received by him, or shall become so infected during the time of their detention; and every poundmaster shall, during both day and night, keep entirely separate and distinct from other impounded animals not infected every sheep or goat so being or becoming infected, and may lawfully dip or dress every such infected sheep or goat while impounded, using for that purpose such wash or chemicals as the Veterinary Surgeon may recommend.

Poundmaster to separate infected sheep and goats, and may dip them.

No. 18—1887.]

[Promulgated 29th July, 1887.

Repealed by 1889 Act 1701.

ACT

To Exempt Machinery imported for Manufacturing Purposes from the Liability to Customs Duties.

Preamble.

WHEREAS it is desirable for the encouragement of the manufacturing industries of the Colony, to relieve machinery imported for such purposes from liability to Customs Duties: 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:—

Machinery imported to be exempt from Customs Duties.

1. From and after the taking effect of this Act, no Customs Duties shall be payable upon the importation into this Colony, of any machinery for manufacturing purposes, of which the motive power is either steam, heat, electricity, gas, water, wind, or cattle.

No. 19—1887.]

[Promulgated 5th August, 1887.

ACT

To Repeal the Tariff relating to Pound Fees numbered 10 in the Second Schedule of Griqualand West Ordinance No. 20 of 1874.

Preamble.

WHEREAS it is desirable to repeal so much of the Griqualand West Ordinance No. 20 of 1874 as relates to pound fees: 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:—

Tariff 10 of Ordinance No. 20, 1874 (Griqualand West) repealed.

1. The tariff relating to pound fees, numbered 10 in the second Schedule to the Ordinance in the Preamble of this Act mentioned, is hereby repealed.

Pound fees payable.

2. The fees and charges prescribed by the several laws relating to pounds and trespasses, subject to the power therein contained to alter or amend the same, shall be payable in the districts formerly constituting the Province of Griqualand West.

Short title.

3. This Act shall come into operation on the first day of January next, and may be cited as "The Griqualand West Pound Fees Act, 1887."

No. 20—1887.]

[Promulgated 5th August, 1887.

ACT

To Incorporate the Saint Andrew's College Council, Graham's Town, to provide for the appointment of Trustees, and for other purposes.

Preamble.

WHEREAS there has been founded and is established in Graham's Town a certain educational institution styled Saint

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Andrew's College: and whereas the control, direction and general management of the said College and its affairs is now vested in a certain Council consisting of nine members: and whereas certain of the property held for the use and purposes of the said College is now vested in trustees who are not members of the said Council, whereby complications and difficulties have arisen impeding the efficient control, direction and management of the said College: and whereas it is expedient to provide for the incorporation of the said Council by Act of Parliament, and for the appointment, now and from time to time as occasion may require, of trustees being members of the said Council for the time being to hold all such property as aforesaid and to represent the said College and Council in legal proceedings: and whereas a certain deed has been duly entered into by and between the members of the said Council and the above first named trustees, whereby *inter alia* provisions are made for the constitution of the said Council and the appointment of trustees and the rights, powers and duties of such Council and such trustees:

No. 20—1887.

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

1. The general direction and management of the said College shall be vested in a Council as provided by a certain deed entered into between the members of the Council and the trustees of the College property, dated the twenty-third and twenty-ninth December, one thousand eight hundred and eighty-six, and the said Council for the time being of the said College shall, for the purposes of this Act, be a corporation under the name or style of "The Council of Saint Andrew's College," and shall have perpetual succession, and shall be capable of doing all matters and things incidental or appertaining to a person or body corporate.

Management of College to be vested in a Council.

2. A copy of the said deed, duly authenticated by the Secretary of the said Council, shall within one month after the passing of this Act be filed in the office of the Registrar of Deeds of this Colony.

Trust Deed to be filed with Registrar of Deeds.

3. A copy, authenticated as aforesaid, of all alterations in or additions to the said deed which may at any time be made in conformity with the provisions therein contained, shall within three months thereafter be filed in the said office.

Alterations in or additions to Trust Deed to be filed.

4. Whenever and as often as any person shall be appointed a member of the said Council, or a trustee of the said College, in the place of any present or future member or trustee, a return duly authenticated as last aforesaid, of such appointment shall within three months thereafter be filed in the said office.

Returns of new appointments to Council or of Trustees to be filed.

5. A copy of or extract from the copy of the said deed and of any alterations therein or additions thereto which may have been

Extracts from Trust Deed under signature of Registrar of Deeds to be received in evidence.

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made and filed as aforesaid, and a copy of or extract from any such returns as aforesaid, which may have been made and filed as aforesaid, purporting to be certified under the hand of the Registrar of Deeds, shall in all proceedings, civil or criminal, be received in evidence as *prima facie* proof of all the matters contained or recited in such certified copy or extract, and of the authority and appointment of the person or persons named therein, whether as member of Council, trustee or otherwise, and of the fact of their being such at the date of such certificate, and such certified copy or extract shall be received in evidence without any proof of the handwriting of the said Registrar or his appointment.

Property shall be vested in Trustees.

6. All property of every sort and description, both movable or immovable, and wherever situate, belonging to the said College or to which the said College shall hereafter become entitled, and all claims for money payable thereto, shall be vested in and become the property of trustees for the time being of the said College appointed by the said Council, and being members thereof, in trust for the use and benefit of the said College. And all property belonging to the said College standing registered in the names of persons, whether as trustees or otherwise, other than the trustees for the time being of the said College, appointed by the said Council, as aforesaid, shall be transferred from such persons to such trustees as last aforesaid, and the said trustees for the time being of the said College shall have the power, when authorised thereto by the said Council, of purchasing and holding property, movable and immovable, and of selling, mortgaging, transferring, or leasing, or otherwise disposing of, any such property, and generally of dealing with the same as if they were the owners thereof, but subject to the authorisation as aforesaid. And all transfers effected as aforesaid by the trustees or other persons in whose names the said lands are at present registered, shall be free of any transfer dues, which, but for this provision, might be payable thereon, and be legally claimable by the Government of this Colony.

Property to be transferred to Trustees.

Trustees to sell, mortgage or lease property.

Transfers to be effected free of duty.

Actions to be brought and defended by Trustees.

7. All actions, suits and legal proceedings of any kind whatsoever, both civil and criminal, and against any person or persons, corporate bodies or others to be brought for or on behalf of the said Council, shall be brought and maintained in the names of the trustees for the time being of the said Council; and all actions, suits and legal proceedings of any kind whatsoever, both civil and criminal, to be brought by any person or persons, corporate bodies or others, against the said Council, shall be brought and maintained against such trustees for the time being, as aforesaid, as the nominal defendants or respondents for and on behalf of the said Council. And no action, suit, or proceeding, as aforesaid, shall abate, discontinue, or be rendered ineffectual by reason of the death, removal, or resignation of the said trustees, or any one of

No action to abate by reason of death, removal, or resignation of Trustee.

them, but in any such event or events, and as often as the same may occur, the name or names of the trustees for the time being shall be substituted in the subsequent proceedings. No proceeding contemplated by this section, whether civil or criminal, shall be brought by the said trustees unless the sanction of the said Council shall have been first obtained thereto.

No. 21—1887.

Council's sanction necessary.

8. This Act may be cited for all purposes as the "Saint Andrew's College Council, Graham's Town, Incorporation Act, 1887."

Short title.

ACT No. 21 of 1887.]

[Promulgated 5th August, 1887.

ACT

To Authorise the Construction and Working of a Passenger and Parcels Tramway within the Boundaries of the Municipality of Beaconsfield.

WHEREAS the inhabitants of the Municipality of Beaconsfield are desirous of obtaining a passenger and parcels tramway within certain parts of the Municipality: and whereas it is expedient and desirable that the same be constructed and worked: and whereas certain persons are prepared to lay down, construct, work and maintain such tramways, and have applied to the Council of the said Municipality of Beaconsfield for permission so to do: Now, therefore, be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

Preamble.

1. The council of the said Municipality shall have full power and authority to grant leave, concession, and permission to any person, or company of persons, association, or body corporate, to construct, lay down, work, maintain, and run, tramways for passenger and parcels traffic on streets and roads within the said Municipality, to which the inhabitants of the said Municipality have or may lawfully acquire a common right, to be drawn or propelled by horse, steam, or other motive power; provided that the speed thereon shall not exceed twelve miles per hour, upon such terms, conditions, stipulations and securities, as the council of the said Municipality shall deem best for the interests of the rate-payers of the said Municipality, and such permission, leave and concession shall be binding on their successors in office.

Council may grant leave to persons to construct, &c., tramways.

Speed limited.

Council may require securities from constructor.

2. The said council shall have power and authority from time to time to make, alter, amend and revoke bye-laws or regulations, and to fix fines and penalties for all or any of the following purposes; (provided that all and singular the provisions of the Municipal Act 45 of 1882, relating to bye-laws and regulations and fines and penalties thereunder shall apply to the said bye-laws and fines and penalties made under and by virtue of this Act) and

Council may frame bye-laws for control of tramway traffic.

Bye-laws to be in accordance with Act No. 45, 1882.

No. 21—1887.

the powers conferred in this Act shall be in addition to the powers conferred by the aforesaid Municipal Act, namely :

- (1) To fix the fares and tolls for passengers and parcels ;
- (2) For preventing obstruction or hindrances to the said tramway traffic and removal of any such obstructions or hindrances ;
- (3) For imposing penalties for wilful obstruction of and interference with servants and officers connected with the tramway in execution of their lawful duty ;
- (4) For imposing penalties for the wilful removing or altering of any portion of the said tramway or works ;
- (5) For the public exhibition and protection of tables of tolls and fares ;
- (6) For the wilful proceeding in any carriage beyond the distance charged for and for the attempting to avoid payment of fare or refusing to pay same ;
- (7) For the refusal to quit any carriage or car at end of journey ;
- (8) For wilfully injuring any carriage or property of the tramway ;
- (9) For retaining goods and articles carried by the tramway owners until charges duly paid :

Bye-laws may impose certain penalties.

Contractor not deprived of his civil remedy by action.

Bye-laws may be in accordance with those of cognate Acts.

No Municipal Toll chargeable.

Beaconsfield Magistrate to have jurisdiction.

Public Act.

No extended power with regard to land.

Short title.

Provided that any such person, company or body corporate, shall, notwithstanding any such bye-law, be entitled to recover in any of the Courts of this province such charges, fares and damages as they may be entitled to. Such bye-laws and regulations may be in accordance with the powers granted in that behalf in the "Port Elizabeth Tramway Company Act, 1879," the "City Tramways Company (Limited) Incorporation Act, 1881," and in accordance with the powers which shall be granted from time to time hereafter by Parliament for protection and regulation of tramways in other portions of this Colony. And all proceedings for the contravention or non-observance of such bye-laws may be prosecuted by the said council.

3. No municipal toll of any kind shall be chargeable upon any tramway, carriage, car or engine.

4. The Additional Resident Magistrate of Kimberley at Beaconsfield shall have jurisdiction under any bye-law of the said Municipality, relating to all traffic on the said streets, roads and tramways for every offence against any such bye-law committed within the said Municipality.

5. This Act shall be deemed to be a public Act, and shall be judicially noticed as such without being specially pleaded.

6. Nothing in this Act shall be deemed to give the council of the said Municipality greater rights within any proclaimed mining area, or of taking land, than they would otherwise possess without this Act.

7. This Act may be cited as the "Beaconsfield Tramway Act, 1887."

No. 22—1887.]

[Promulgated 5th August, 1887.

ACT

To Repeal Section 132 of Ordinance No. 6 of 1843, and Section 37 of Ordinance No. 105, and to make other Provision in lieu thereof.

WHEREAS it is expedient to amend the law relating to the publication of certain notices by the Master of the Supreme Court: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and of the House of Assembly thereof, as follows:—

Preamble.

1. The 132nd Section of Ordinance No. 6 of 1843 is hereby repealed, and the following substituted in lieu thereof:

Section 132, Ordinance No. 6, 1843, repealed.

“The Master of the Supreme Court shall, as soon as may be after the 31st day of March and the 30th day of September in each year, cause to be published in the *Gazette* two lists, showing respectively

Master to publish certain lists every six months.

- (1) The name and residence of every uncertificated insolvent whose estate shall have been placed under sequestration during the preceding six months and in whose estate the account and plan of distribution shall not have been confirmed, together with the date of the order for the sequestration of the estate of such insolvent:
- (2) The name and residence of every uncertificated insolvent in whose estate the account and plan of distribution shall have been confirmed during the preceding six months together with the date of the decree confirming the same:

Repealed by
1916 Act-32

And the cost of publishing such lists as well as of inserting all such notices required by the said Ordinance to be given by the said Master by advertisement in the *Gazette*, shall be defrayed by Government.”

2. The 37th Section of the Ordinance No. 105 is hereby repealed, and the following substituted in lieu thereof:—“The Master of the Supreme Court shall in the month of April in each year cause to be drawn up a full and exact account of the amount of all estates or property which shall be entered in the wards' book and shall belong to any persons unknown, or not residing and not having any known legal representative in this Colony, with a statement of the names and designations of the persons so far as known who are supposed to be interested therein, and shall cause the same to be inserted in the *Gazette* of this Colony, and shall forthwith deliver two or more copies thereof to the Attorney-General who may cause the same or any portion thereof, to be published in such manner as shall be deemed most expedient

Section 37, Ordinance No. 105, repealed.

Master to publish an annual list of moneys belonging to absent or unknown heirs

Repealed
by act 24
51

No. 23-1887.

in any country or countries to which any person or persons interested in such estates or property may be supposed to belong; and in the said advertisements all persons shall be required to submit their claims to the Master of the Supreme Court, and the expenses of such advertisements shall be borne proportionately by the estates to which they relate."

No. 23—1887.]

[Promulgated 5th August, 1887.

ACT

To Prohibit the Payment of the Wages of Artificers and Labourers in Goods, or otherwise than in the Current Coin of the Colony.

Preamble.

WHEREAS it is desirable to prohibit the payment of wages to artificers and labourers employed in and about diamond mining areas in this Colony, otherwise than in the current coin of the Colony, and also to prohibit the sale of goods under certain circumstances and conditions to such artificers and labourers at shops, stores, or otherwise within mining compounds, or in or near any buildings or places wherein or whereat such artificers and labourers may be detained for diamond mining purposes: 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:—

Wages of artificers or labourers payable only in current coin. If otherwise contract null and void.

1. In all contracts to be hereafter made for the hiring of any artificer or labourer employed in or about diamond mining areas in this Colony, the wages of such person shall be made payable in the current coin of the Colony and not otherwise; and if in any such contract the whole or part of such wages shall be made payable in any manner other than the current coin aforesaid, such contract shall be illegal, null and void.

Labour contract declared illegal if it contains any clause stipulating where, how or with whom any portion of wages shall be expended.

2. If in any contract hereafter to be made between any artificer or labourer as aforesaid and his employer, any provision shall be made directly or indirectly respecting the place where, or the manner in which, or the person or persons with whom the whole or any part of the wages due or to become due to any such artificer or labourer shall be laid out or expended, such contract shall be illegal, null and void.

Payment of labourers' wages, by the delivery of goods or otherwise than in current coin illegal.

3. The entire amount of the wages earned by and payable to any such artificer or labourer as aforesaid, shall be actually paid to him in the current coin of the Colony, and every payment made to him by his employer, of or in respect of such wages by the delivery to him of goods, or otherwise than in the current coin aforesaid, shall be illegal, null and void.

4. Every such artificer and labourer as aforesaid shall be entitled to recover from his employer, in any manner by law provided, the whole or so much of his wages as shall not have been actually paid to him in the current coin of this Colony; and in any action, suit, or other proceeding brought by such artificer or labourer, the defendant shall not be allowed to make any set-off or to claim any reduction of the plaintiff's demand by reason or in respect of any goods, wares, or merchandise had or received by the plaintiff, as or on account of his wages, or by reason, or in respect of any goods, wares, or merchandise sold, delivered, or supplied to the plaintiff at any shop or warehouse kept or belonging to the defendant, or in the profits of which the defendant shall have any share or interest.

No. 23—1887.
When whole or part of wages have not been paid in current coin, artificer or labourer is entitled to recover same by action at law.

No "set off" or reduction to the demand of plaintiff to be allowed on account of goods, &c., supplied.

5. No employer of any such artificer or labourer as aforesaid shall have or be entitled to maintain any suit or action against such artificer or labourer, for or in respect of any goods, wares or merchandise delivered or supplied on account of wages, or for or in respect of any goods, wares or merchandise sold, delivered, or supplied to such artificer or labourer at any shop kept by or belonging to the said employer or in the profits of which he should have any share or interest.

Employer cannot maintain action against artificer or labourer in respect to any goods, &c., supplied, on account of wages to said artificer or labourer at any shop in which employer has share or interest.

6. Where artificers or labourers employed as aforesaid are located or resident in any buildings or within any compound or place wherein or whereat they may be detained under any restrictions for the prevention of theft of diamonds or otherwise, it shall not be competent under any circumstances for the employer of such artificers or labourers or for any one acting for such employer or under any agreement with him, to sell any goods, wares, or merchandise other than those that shall be reasonably necessary for the use and well-being of such artificers or labourers during the period they may be detained under such restrictions.

Employer of artificers or labourers employed on compounds may not sell to them.

7. All goods, wares, or merchandise that may be sold within any compound or building, as provided in the preceding section, shall without exception be purchased in the electoral division of Kimberley, and no employer shall derive any benefit directly or indirectly from such purchase.

Goods to be purchased in Kimberley.

8. An officer appointed by the Governor shall at all times have access to the premises of the employer, and it shall be his duty to report any contravention of this Act to the Civil Commissioner of the district.

Inspection by Government Officer.

9. The Courts of the Resident Magistrates, or Additional Resident Magistrates, shall have jurisdiction in cases of prosecution for contravention of this Act, and shall have the power to inflict the several penalties in the next section mentioned.

Magistrates' Courts to have jurisdiction in cases of contravention of this Act.

10. Every employer or other person who shall contravene the provisions of this Act, shall, for the first offence, be liable to a

Penalties.

No. 24—1887.

fine not exceeding five pounds, or to be imprisoned for any time 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.

Short title.

11. This Act may be cited as the "Labourers' Wages Regulation Act, 1887."

No. 24—1887.]

[Promulgated 5th August, 1887.

ACT

To Amend the Law for the Disposal of Derelict Lands.

Preamble.

WHEREAS it is expedient to amend the law relating to the disposal of Derelict Lands: 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:—

Sections 1 and 2 of Act No. 3, 1879, amended.

1. The first and second Sections of the Derelict Lands Act No. 3 of 1879 and the fourth Section of Act No. 28 of 1881, shall be read as if the words "ten years" therein appearing were omitted therefrom and the words "five years" inserted in lieu of the words so omitted.

Short title.

2. This Act may be cited as the "Derelict Lands Act Amendment Act, 1887."

No. 25—1887.]

[Promulgated 2nd September, 1887.

ACT

To Repeal the "Excise Beer Duty Act, 1884," and the "Excise Beer Duty Amendment Act, 1885."

Preamble.

WHEREAS it is expedient to repeal the Act No. 11 of 1884, commonly called the "Excise Beer Duty Act, 1884," and the Act No. 27 of 1885, commonly called the "Excise Beer Duty Amendment Act, 1885:" Be it therefore enacted by the Governor of the Cape of Good Hope, by and with the consent and advice of the Legislative Council and House of Assembly thereof, as follows:—

Repeal of Act No. 11 of 1884, and Act No. 27 of 1885, subject to certain provisos.

1. The Act No. 11 of 1884, and the Act No. 27 of 1885, shall be and the same are hereby repealed; provided, however, that notwithstanding such repeal the original gravity of wort or wash shall, for the purposes of the twenty-third section of Act No. 18 of 1884, be ascertained in accordance with the provisions of the eighteenth section of Act No. 11 of 1884; and provided, further, that, for all the purposes of any law regulating the sale of intoxicating liquors, any liquor included in the definition of beer contained in the second section of the said Act No. 11 of 1884,

Repealed by 1904 Act 36.

IMVANI AND INDWE RAILWAY AND COAL MINING ACT. 415

shall be deemed and taken to be intoxicating liquor : and provided, lastly, that no person shall be relieved by virtue of the repeal of the Acts aforesaid from any liability to pay any duty under the repealed Acts, which duty shall have become due before the passing of this Act.

No. 26—1887.

Duty to be paid up to date of passing of Act.

2. This Act may be cited as the "Excise Beer Duty Repeal Act, 1887."

Short title.

No. 26—1887.]

[Promulgated 5th August, 1887.

ACT *Repealed by 1916 Act. 22.*

To Explain and Amend the Act No. 3 of 1882 as Amended by the Act No. 11 of 1886, being the Imvani and Indwe Railway and Coal Mining Act, 1882.

WHEREAS certain doubts have arisen as to the meaning of the first Section of the Act No. 3 of 1882, as amended by the Act No. 11 of 1886 : and whereas it is desirable to define and declare the same, and to repeal the 19th Section of the said first mentioned Act : 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 :—

Preamble.

1. In case of the failure of any Contractor to carry out the contract mentioned in the first clause of the Act No. 3 of 1882, or of the lapsing or of the rescision of any such contract, the powers of the Governor to enter into another contract under the said Act shall be revived.

Governor's powers under Sec 1, Act No. 3, 1882, revived.

2. The nineteenth Section of the said Act No. 3 of 1882 is hereby repealed.

Section 19 Act No. 3 of 1882 repealed.

3. The Contractor shall be bound to finish and complete the said railway within five 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 the said Contractor shall be bound to commence the said railway not later than one year from and after the making of the contract mentioned in the first Section of the Act No. 3 of 1882 : Failing which all and singular the powers and authorities conferred by the said last mentioned Act shall cease and determine in respect to that contract.

Railway to be commenced within one year and completed within five years.

No. 27—1887.]

[Promulgated 5th August, 1887.

ACT

To Provide for Measures of Relief in respect to Lands held on Perpetual Quitrent under Act No. 14 of 1878 and Act No. 10 of 1881.

WHEREAS it is desirable in certain cases to provide for the resumption of land purchased at public auction, under the

Preamble.

No. 27—1887.

provisions of Act No. 14 of 1878, or held under the provisions of Act No. 10 of 1881, and in certain other cases to give relief in cases of arrear and excessive quitrents: 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:—

Conditions under which holders of quit-rent lands under Act No. 14 of 1878, and Act No. 10 of 1881, may surrender their titles, &c.

1. Whenever any person holding land either under the provisions of Act No. 14 of 1878, or by conversion under Act No. 10 of 1881 of his lease, held under Act No. 19 of 1864, 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 quitrent 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 quitrent or to secure its payment as aforesaid, it shall be lawful for the Governor to remit such quitrent or to grant such relief in regard to such payment as may to him seem expedient.

In case such holders shall be in arrear of quit-rent for 2 years, Government may resume possession.

2. In case any holder of land under the provisions of Act No. 14 of 1878, or of Act No. 10 of 1881, as aforesaid, shall be in arrear with the payment of his quitrent for two or more years, it shall be lawful for the Commissioner of Crown Lands and Public Works 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 quitrent 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.

Relief in case holder unable to pay quit-rent through drought, &c.

3. When any holder of land under Act No. 14 of 1878 or Act No. 10 of 1881, shall have been prevented by drought or some other cause or causes beyond his control from paying his quitrent for one year or more, he may apply to the Treasurer of the Colony for relief in regard to the payment of his arrear quitrent, and thereupon it shall be lawful for the said Treasurer to treat the arrear quitrent as a capital sum to be paid by the said holder in five equal instalments, in five successive years, provided that at the option of the said holder, any instalment may be paid by him at any earlier time.

Payment of arrears by instalments.

When holders may apply for reduction of quit-rents, and proceedings to be taken in regard to such applications.

4. Any holder of land not being land situated within the Transkeian Territories under the provisions of Act No. 14 of 1878, or by conversion under Act No. 10 of 1881, as aforesaid, not being in arrear with payment of quitrent, or being in arrear shall have obtained relief under section three of this Act, who shall consider the annual quitrent payable by him to be in excess of the true annual value of such land may at any time within twelve months from the date of the promulgation of this Act

apply for reduction of such quitrent to the Commissioner of Crown Lands and Public Works, who shall thereupon direct such application to be investigated by a land board, to be appointed by the Governor from time to time as occasion may arise, in manner hereinafter provided, and it shall be the duty of such land board to inquire into and investigate the circumstances of such case, and if upon such investigation it shall appear to the said land board that good and sufficient reason has been shown why the relief sought for should be granted, so to report to the Commissioner of Crown Lands and Public Works, and to state what amount of quitrent would represent in its opinion the true annual value of such land, not taking any account of improvements made upon such land by the holder or his predecessors in title, and upon such report it shall be lawful for the Governor to reduce the quitrent set forth in the original title and to substitute in its stead the amount determined upon by the said land board, from and after the day when quitrent next becomes due and payable; provided always that no application under this section for relief shall be entertained unless the person applying shall have deposited at the office of the Civil Commissioner of the division in which such land is situate, the sum of twenty-five pounds sterling out of which shall be defrayed such expenses as in the opinion of the Commissioner of Crown Lands and Public Works may necessarily be incurred for the purposes of personal inspection of the land in question by the said board or any member thereof, and any balance of the said deposit, not being required for the said purposes of personal inspection shall be refunded to the said depositor, but any disbursement made for the said purposes over and above the said deposit shall be made good by the said depositor.

5. If any person holding two or more adjacent lots of land shall have made application for relief under the last preceding section of this Act, in respect to one lot only, it shall be the duty of the said land board, in determining the annual value of such lot, to take account not only of its absolute value, but also, of the relative value when taken as part of the whole block of the said two or more lots held by one and the same applicant.

When application made in regard to one only of two or more adjacent lots, the value of the latter to be considered as affecting that of the former.

6. The said land board shall consist of three members, to wit:—The Civil Commissioner of the division in which the said land is situate, who shall be the chairman of the said board, and two other members, one to be a member of and to be chosen by the Divisional Council of the division in which the land is situate, and the other being a land-owner in such division, holding by title other than by this Act is dealt with, to be appointed by the Governor, and the said board shall have power to call witnesses, to take evidence on oath, make personal inspection of any land the subject of investigation, and to incur, subject to the approval

Composition of Board of Enquiry and its powers.

No. 27—1887.

of the Commissioner of Crown Lands and Public Works, all such expenditure as may be necessarily required for the purposes of its investigations and proceedings under this Act.

Application of Act to Transkeian Territories.

7. The provisions of the first, second and third sections of this Act shall apply to all lands situated within the Transkeian Territories, and which are or shall be held by a title issued either under the provisions of the aforesaid Acts, or by competent authority, and containing terms, conditions, and stipulations similar to those subject to and upon which lands have been granted under the provisions of Act No. 14 of 1878.

Holders of land in said territories may apply to same board.

8. Any holder of land within the said territories under such title as is referred to in the seventh section may, subject to the provisions of the eleventh section, make application to the land board therein provided for the district wherein such land is situated, and may request a remission of payment of arrear quitrent due and unpaid in respect of such land, and may also request either that the amount of quitrent payable under his existing title shall for the future be reduced or that a new title to the said land shall be issued to him in lieu of his existing title.

How such applications shall be treated.

9. Every such application shall be duly considered by the land board to which it is addressed, and the said land board shall after all proper and possible inquiry and investigation into the circumstances of the case, report thereon to the Commissioner of Crown Lands and Public Works, and in such report shall include such recommendations as may appear just and reasonable with regard to the relief prayed, and if it shall recommend the issue of a new title in any case, then it shall also include an estimate of the capitalised value of the land in respect of which a new title is requested and recommended; and in accordance with the report, recommendation and estimate of such land board, the Governor may remit the payment of the whole, or a portion of such arrear quitrent as aforesaid, and may either reduce the quitrent payable for the future under such applicant's existing title, or issue a new title to such applicant in respect of such land.

Issue of title.

10. Every new title issued to land under the provisions of the ninth section shall be in like manner subject to the law which, for the time being, regulates the disposal of Crown lands by public auction as though the applicant had on the day on which such new title is granted, been, and become a purchaser of Crown lands sold by public auction in this Colony at a price equal to the value of the said land, estimated as aforesaid by the said land board; provided, however, that no fees, charges, or expenses shall be payable by such applicant receiving such new title, save only the amount which would have been payable by way of Stamps Duty in respect of the issue to him of title to Crown land purchased at such price by public auction.

11. Every such application as is referred to in the seventh, eighth, ninth, and tenth sections shall be made to a land board constituted of the Resident Magistrate of the district in which such land is situated and of such person as the Governor shall appoint by proclamation, and no such application shall be received or entertained after the lapse of twelve months from the date to be fixed by a notice in the *Gazette*, calling upon persons desiring to make applications to such land board within the period of twelve months from the date specified so to do, which notice shall also be published in one or more newspapers circulating in such territories, and shall be posted or affixed in a convenient place at or near the offices of the Resident Magistrate, and of every Field-cornet in the district; and the said land board shall thereupon appoint a convenient time and place for the purposes of the enquiry and investigation contemplated in the ninth section, and may adjourn its sittings from time to time as occasion may require.

No. 28—1887.
Composition of
Board of Enquiry.

12. No improvements made by the holder of such title as is referred to in the seventh section, upon the land the subject of such inquiry and investigation, shall be taken into account by such land board recommending any reduction of quitrent, or estimating the value of such land, but the provisions of the fifth section shall be taken to apply, *mutatis mutandis*, to every such inquiry and investigation, and for the purposes of every report, recommendation, or estimate made by such land board.

Improvements not
to be taken into
account by land
board.

13. This Act may be cited as "The Quitrents Relief Act of 1887."

Short title.

ACT No. 28—1887.]

[Promulgated 5th August, 1887.

ACT

To Repeal the Act No. 2 of 1886, and to make provision for the payment of Annual Salaries to the Officers mentioned in the Seventh Section of Act No. 1 of 1872, known as "The Constitution Ordinance Amendment Act, 1872."

WHEREAS it is expedient to repeal the Act No. 2 of 1886, and to make other provision than is therein contained for the payment of annual salaries to the officers mentioned in the seventh Section of the Act No. 1 of 1872: 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 the Act No. 2 of 1886 shall be and the same is hereby repealed, and the second section of the Act No. 32 of 1879 shall be and the same is hereby revived.

Act No. 2 of 1886
repealed, and Act
No. 32 of 1879, Section
2, revived.

No. 29—1887.
Salaries of Ministers fixed.

2. For and in respect of the year ending the thirtieth day of June, eighteen hundred and eighty-eight, and every subsequent year, there shall be paid to the several officers mentioned in the seventh section of the Act No. 1 of 1872, the same sum by way of annual salary, which would have been by law payable to them if the Act No. 2 of 1886 had not been passed.

No. 29—1887.]

[Promulgated 5th August, 1887.

ACT

To Apply a Sum of Money for the Service of the Year ending the 30th day of June, 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:—

Public revenue to be charged with £1,473,843.

1. The public revenue of the Colony is hereby charged towards the service of the year ending the 30th day of June, 1888, with a sum of one million four hundred and seventy-three thousand eight hundred and forty-three pounds sterling, in addition to the sum of four hundred thousand pounds sterling provided for by Act No. 1 of 1887.

How to be applied.

2. The money granted by this Act shall be applied to the purposes and services expressed in the schedule annexed hereto, and more particularly specified and set forth in the estimates and supplementary estimates of the expenditure for the year ending 30th June, 1888, with the notes to such estimates, submitted to and approved by Parliament.

Not to be supplied 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, 1887."

SCHEDULE.

No. 30—1887.
Schedule.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Ministerial Department of Colonial Secretary ..	498,859	435,945	934,804	835,361
II. Ministerial Department of Treasurer of the Colony	47,940	1,184,382	1,232,322	48,147
III. Ministerial Department of Attorney-General ..	57,245	15,950	73,195	59,140
IV. Ministerial Department of Commissioner of Crown Lands and Public Works	47,335	843,904	891,239	884,849
V. Ministerial Department of Secretary for Native Affairs	57,019	6,187	63,206	46,346
Grand Totals ..	708,398	2,486,368	3,194,766	1,873,843
Less amount provided for by Act No. 1 of 1887				400,000
Total required to be voted				£1,473,843

No. 30—1887.]

[Promulgated 9th August, 1887.

ACT

To Provide for the Representation in the Parliament of this Colony of persons in the Transkeian Territories.

WHEREAS it is expedient to make provision for the representation in Parliament of the inhabitants of the Transkeian territories : 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. The words "Transkeian Territories" mean for the purposes of this Act, the following Territories :—The Transkei (including Gcalekaland), Tembuland (including Emigrant Tembuland and Bomvanaland), and Griqualand East (including the Territory on the St. John's River).

Meaning of "Transkeian Territories."

No. 30—1887.

Transkeian Territories to be included in Eastern Electoral Province.

Registered voters to elect one member.

How electoral divisions to be created.

Election of representatives in same manner, *mutatis mutandis*, as other members of Assembly.

Law of Colony as to elections to apply.

Officer appointed by the Governor substituted for Civil Commissioner.

2. The Eastern Electoral Province of this Colony shall include the said Transkeian Territories in addition to the Electoral Divisions mentioned in sub-section 7 of section 2 of Act No. 18 of 1874.

3. Within the said Transkeian territories there shall be two Electoral Divisions of the Colony of the Cape of Good Hope, and each of such divisions shall be entitled to return one member to the House of Assembly of the Colony.

4. One of such divisions shall be styled the Electoral Division of Tembuland, and shall consist of the Transkei (including Gcaleka-land) and Tembuland (including Emigrant Tembuland and Bomvanaland). The other shall be styled the Electoral Division of Griqualand East and shall consist of Griqualand East and the territory of Port St. John's.

5. As soon as may be, after the completion of the lists of registered voters as hereinafter provided, the members to be returned for the said Electoral Divisions shall be elected; and for the purposes of such election the said Electoral Divisions shall be treated and considered as if members had been previously returned for the same to the said House of Assembly and their seats had become vacant by death or resignation, and the fact of the occurrence of such vacancy had been duly notified to the Governor; and the like proceeding shall, *mutatis mutandis*, be taken to fill the said seats as would take place if the said Electoral Divisions had been immediately upon the issue of the said proclamation, Electoral Divisions of the said Colony, and the members elected to fill such seats shall be in the same position in all respects as other members of the said House of Assembly.

6. 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 the 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, apply to the said new Electoral Divisions:) Provided always that for the purposes of such nominations, elections, returns, registration of voters, and other matters and things relating to Parliamentary elections, such person as the Governor may from time to time appoint within the said territories, shall be substituted for the Civil Commissioner where there is no Civil Commissioner, and he shall be the returning officer, and the several Resident Magistrates within the said division shall be substituted for field-cornets where there are no field-cornets, and every Resident Magistrate's district, or portion thereof, where

2
 repealed by
 1918 Act. 12. Sec. 147.

there shall be no field-cornet as¹ aforesaid, shall thereupon be considered to be a field-cornet~~ey~~ for the purposes aforesaid. No. 31—1887.

7. This Act shall take effect on the first day of September, 1887, and may be cited as the Transkeian Territories Representation Act, 1887. When Act to take effect, and short title.

No. 31—1887.]

[Promulgated 9th August, 1887.

ACT

To Increase the Powers of the “Borough Council of Kimberley.”

WHEREAS certain powers were conferred on the Borough Council of Kimberley by the Act No. 11 of 1883 and by Act No. 30 of 1884: And whereas it is found desirable to increase those powers and to authorise and enable the said Council Preamble.

- (a) To make further and better provision for the protection and saving of property from fire and to recover from the owners of property all expenses incurred in saving life or property from fire or in extinguishing fires.
- (b) To authorise the said Borough Council to assess and value for rating purposes from time to time as they may think fit all or any immovable property in the said Borough and to levy a rate thereon.
- (c) To authorise the Borough Council of Kimberley to grant leave to any person or persons to make, alter or keep in repair roads, streets, tramways, drains and such like works, and to make rules and regulations thereto relating.

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:—

I.

1. In addition to the powers conferred on the said Council by the Act No. 30 of 1884 with regard to the prevention and extinguishment of fires the said Council shall have power to take on lease, purchase or otherwise acquire, stations for engines and such other houses, buildings, or land as they may think requisite for the storing of engines and apparatus, or the accommodation of the persons charged with the management thereof, and may from time to time sell any property acquired by or vested in them for those purposes. Powers of Council increased with regard to precautions against fire.

2. The Council may engage and organise a force of firemen to be called the “Municipal Fire Brigade,” which shall be under the command of an officer to be appointed by the Council under the Council to organise Fire Brigade.

No. 31—1887.

name of the Superintendent of the Municipal Fire Brigade, and the Council shall pay the Superintendent and men of such Fire Brigade such salaries or other remuneration as they think expedient.

Regulations for the Fire Brigade.

3. The Council may by bye-laws make regulations for the training, discipline and good conduct of the men belonging to the said Fire Brigade, for their speedy attendance with engines, fire escapes, and other necessary implements and apparatus on the occasion of any alarm of fire, and generally for the maintenance in a due state of efficiency of the said brigade, and may annex to such regulations penalties for any breach thereof. Provided that all such bye-laws shall be made, approved of, and confirmed in manner directed by the Act No. 11 of 1883.

How to be approved of.

Powers of the Superintendent of the Fire Brigade.

4. On the occasion of any fire the Superintendent or other officer in charge of the Fire Brigade may, in his discretion, avail himself of the assistance and take the command of any persons who may voluntarily place their services at his disposal, and may remove or order any fireman to remove any persons who interfere by their presence or otherwise with the operations of the Fire Brigade, and generally he may take any measures that may appear expedient for the protection of life and property, with power by himself or his men to break into or through, or take possession of, or pull down, any premises for the purpose of saving life or property, or putting an end to 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 private property.

Police constables to render assistance to the Fire Brigade.

5. All police constables shall be authorised and required to aid the Fire 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 motion or at the request of the Superintendent or other officer of the Fire Brigade remove any persons who interfere by their presence or otherwise with the operations of the Fire Brigade.

Persons acting under order of the Superintendent indemnified against necessary damage.

6. The Council, the Mayor, the Superintendent and men of the Fire Brigade, as also all police constables and other persons acting under the orders of such Superintendent or other officer in charge of the Fire Brigade, are hereby indemnified and exempted from all claims or demands whatsoever by reason of any damage done upon sufficient necessity to property in the execution of their duties.

Charge for services of the Brigade fixed at £25 and £15.

7. In every case of fire the Council shall be authorised to charge on every shop, store, warehouse, station, hotel, engine-house, shaft manufactory, timber or stoneyard, carpenter's shop or block of offices in which fire breaks out, a sum not exceeding fifteen pounds sterling for the services of the Fire Brigade and the use of the fire engines and appliances, and also the cost of the water supplied from any hydrant, water pipe or other waterworks or water carts

the property or under the control of the Borough Council during the time such water shall be playing upon the said premises or upon the neighbouring premises to prevent the extension of the fire, and also the amount of any damage or loss which may happen or occur to any municipal property by reason of the efforts to extinguish or limit such fire, and on every dwelling-house or other building not above specified in which fire breaks out the Council shall be authorised to charge a sum not exceeding ten pounds sterling for the services of the Fire Brigade and the use of the fire engines and appliances, and also the cost of the water supplied from the municipal hydrants or fire engines during the time that such water shall be playing upon the said dwelling-house or other building or upon the neighbouring premises to prevent the extension of the fire, and also the amount of any damage or loss which may happen or be occasioned to any municipal property by reason of the efforts to extinguish or limit such fire.

8. The amounts charged as aforesaid shall be paid by the owner of such property, and shall be recoverable by action in the name of the Council in the Court of the Resident Magistrate or any court of law having jurisdiction.

By whom such charges are payable.

9. Whenever the Council has incurred any expenses in saving, or removing, or attempting to save or remove merchandise, furniture, or other goods or articles from any fire, or in pulling down or destroying any building in order to prevent the spread of the fire, or otherwise in saving or attempting to save buildings or property adjacent to a fire, the said Council shall be entitled to recover the amounts so expended in equitable proportions, whether the said buildings or property be ultimately saved or not.

Those interested in goods, buildings, &c., adjacent to fire to pay share of expense.

10. In order to decide on the equitable distribution of such expenses, the Town Clerk shall ascertain as near as may be the values of the properties dealt with, and divide the outlay accordingly, and the amounts so apportioned shall be paid by the several owners of the properties dealt with, and shall be recoverable from such owners respectively in any competent court after fourteen days' notice of such apportionment, unless within such fourteen days they shall intimate to the Town Clerk their objections to the same, and agree to submit the whole apportionment of expenses to arbitration.

How an equitable distribution of expenses is to be decided upon.

11. Should any of such owners object to the distribution as arranged by the Town Clerk, or dispute their liability to contribute to such expenses, the whole matter shall be referred to arbitration, and for the purposes of any arbitration the provisions of the Lands and Arbitration Clauses Act, 1882, are hereby incorporated.

Arbitrators in the event of distribution being objected to.

12. Any damage occasioned by the Fire Brigade in the due execution of their duties, and all expenses incurred by them or by the other parties empowered by this Act in the removal or attempted removal of goods, or in operations to save property and extinguish

Damage by Fire Brigade in execution of their duties to be deemed a loss or damage by fire.

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fire, and charged to the owners of property, whether movable or immovable, under this Act, including the charges mentioned in Section seven of this Act, shall be deemed to be loss or damage by fire within the meaning of any policy of insurance of such property or goods against fire.

Charges for water and damages by Fire Brigade to be borne by Council.

13. The cost of all water drawn from all tanks, cisterns, pipes or other supplies of water belonging to or the property of the Kimberley Waterworks Company (Limited) for the purposes of section four of this Act shall be borne and paid for by the Council of Kimberley, and all damage done and caused to the property of the said Kimberley Waterworks Company (Limited) by the Fire Brigade in the execution of their duties or in the removal or attempted removal of goods, or in operations to save property, shall be borne and paid by the said Council, anything in the sixth section of this Act notwithstanding, save and except where the said damage to goods which have been removed or attempted to be removed, or the property which has been saved or attempted to be saved from fire is insured, and the amount of the policy is sufficient to pay for the said damage.

Pension or gratuity to officer in case of injury.

14. Should the Superintendent or any of the officers or men of the Fire Brigade, or any police constable, or other person acting under the orders of such Superintendent or other officer in charge of the Fire Brigade, be injured or lose his life in the discharge of his duty, the said Council shall have the right to pay to him or to his widow or children, if any, or part to his widow, or part to his children, if any, as they may desire, such sum of money by way of gratuity or by way of annual pension as they may think proper.

II.

Whereas doubts have arisen as to the power and authority of the said Borough Council to assess immovable property within the said Borough for rating purposes excepting once in every three years, and whereas it is desirable that such doubts should be set at rest and that the said Borough Council should have the right to make such assessment whenever it may be deemed necessary :

Now therefore be it enacted :

New buildings to be valued; additions or alterations to be re-valued.

15. In case any new building shall be erected within the Borough during any such period of three years, or in case of any addition to or alteration of any building then already rated, or in case of any leasing or capitalising or otherwise dealing with any land within the said Borough increasing or altering the value thereof, the Council shall proceed to have the same valued or re-valued as the case may be, in the same manner as is herein or in the Kimberley Borough Act, 1883, or in the Kimberley Borough Amendment Act, 1884, provided for with regard to the first valuation, and after such valuation is completed the property so valued or re-valued shall be in the same plight and condition as to future rates as if it had

been included in the first or then preceding general valuation. Provided that if during any such period any building shall be removed or destroyed, or altered so that its value shall be depreciated, then and in such case the owner or occupier of such building or of the land on which it is placed shall be entitled to call upon the Council to remove the said building from the assessment roll, or to re-value the same, as the case may be, and thereupon the said Council shall take the necessary steps to carry out the same.

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16. In the several clauses of this Act the word "Council" shall mean the Borough Council of Kimberley, the words "Mayor," "Council" and "Town Clerk," shall respectively mean the Mayor, Council and Town Clerk of the said Borough Council.

Interpretation clause.

III.

17. Subject to the limitation placed upon the powers of the Borough Council of Kimberley within Mining Areas in Section 3 of Act 30 of 1884, the said Council shall be, and hereby is authorised and empowered to grant leave to any person or persons to make, alter, and keep in repair roads, tramways, streets, thoroughfares, dams, ditches, sewers, drains, bridges, and other like works: Provided that the granting of such leave shall not affect the private rights of the owners of land within the said Borough.

Council empowered to grant leave to make, alter, repair roads, &c.

18. The said Council shall have power and authority from time to time to make, alter, amend, or revoke Bye-laws or Regulations, and to fix and impose fines and penalties for all or any of the following purposes (provided that all and singular the provisions of the Kimberley Borough Act of 1883, and the Kimberley Borough Amendment Act of 1884, relating to Bye-laws and Regulations, and the fines and penalties themselves shall apply to the said Bye-laws, and fines and penalties made under and by virtue of this Act), and the powers conferred in this Act shall be in addition to the powers conferred by the aforesaid Municipal Act, viz:—(1) To fix the mode of propulsion of tramways, and the rate of speed at which such tramways may travel. (2) To fix the maximum fares for passengers and parcels. (3) For preventing obstructions or hindrances to any tramway or other traffic and removal of any such obstructions or hindrances and to fix and impose fines or penalties for any breach of such regulations. (4) For imposing penalties for wilful obstruction of and interference with servants and officers connected with any tramway in the execution of their lawful duty. (5) For imposing penalties for the wilful removing or altering of any portion of any tramway or other works. (6) For the public exhibition and protection of notice boards and tables of fares. (7) To impose fines and penalties for the wilful proceeding in any tramway, carriage, cart or other vehicle beyond the distance charged for, and for attempting to avoid payment of fare, or refusing to pay same. (8) To impose fines and penalties for the refusal to quit any tramway carriage, or cart or other vehicle at end of the journey.

Council to have power to make, alter, amend or revoke bye-laws or regulations.

Council's powers increased in regard to tramways and their management.

Power to impose certain penalties.

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(9) To impose fines and penalties for wilfully injuring any carriage the property of any tramway. (10) To impose fines and penalties for the retaining of any goods and articles carried by any tramway carriage, cart, or other vehicle the charges whereof shall have been duly paid; provided that any such persons, company or body corporate, the owners of such tramway carriage, cart, or other vehicle, shall, notwithstanding any such bye-law, be entitled to recover in any of the courts of this Colony such charges, fares and damages as they may be entitled to. And all proceedings in consequence of the breach or non-observance of such bye-laws, shall be prosecuted by the said Council.

Jurisdiction in respect of bye-laws under last section.

19. The Resident Magistrate of Kimberley, or the Additional Resident Magistrate of Kimberley, or Police Magistrate of Kimberley, shall have jurisdiction under any Bye-laws of the said Municipality relating to all traffic on any streets, roads, and tramways, for any offence against any Bye-law committed within the said Municipality. All charges, fines and penalties imposed by this Act, or by any Borough regulations made by virtue thereof, shall be prosecuted for in any competent court by the Council, and shall, when recovered, be paid to the Treasurer of the Borough for Municipal purposes.

How fines and penalties applied.

No extended rights in acquisition of land granted.

20. Nothing in this Act shall be deemed to give the Council of the said Municipality greater rights of taking land than they would otherwise possess without this Act.

Short title.

21. This Act may be cited as an Act to increase the powers of the Kimberley Borough Council, 1887.

~~ACT No. 32—1887.]~~

[Promulgated 9th August, 1887.

ACT

To Repeal a certain Section in the "Roads Act, 1877," and to substitute another in lieu of it.

WHEREAS it is desirable to amend the third Section of the Act No. 11 of 1877, by repealing the same and substituting a new section in its stead: 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 Sec. 3 of "Roads Act, 1877," and substitution of new Section.

1. The third section of the "Road Act" No. 11 of 1877 is hereby repealed, and the following substituted in lieu thereof: "It shall be lawful for the Governor, at the request of any Divisional Council as aforesaid from time to time to declare that any main road, or part of a main road, or any divisional road, or part of a divisional road, in the division of such Divisional Council, now in existence, or which may hereafter be in existence, shall cease to be a main road, or a divisional road, as the case may

be; and such road, or part of a road, shall thereupon cease to be a main road, or a divisional road, accordingly: Provided that as often as any such Divisional Council shall desire that any main road, or part of any main road, shall upon ceasing to be a main road, become a divisional road of such division, it shall be lawful for the Governor to declare the same a divisional road."

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2. Upon such road as is in the last preceding section mentioned ceasing to be a main road or divisional road as aforesaid, the right of the public to travel over the said road shall remain undisturbed, unless such road shall thereafter be closed under the provisions of the fourth section of Act No. 11 of 1877.

Right of public to travel over road remains undisturbed unless road closed.

ACT No. 33—1887.]

[Promulgated 9th August, 1887.

Spent.

ACT

For applying a Sum not exceeding Thirty-one Thousand Five Hundred and Ninety-seven Pounds Eight Shillings and Eightpence Sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

WHEREAS it has been necessary to expend from time to time in the service of this Colony, certain sums of money amounting in the whole to Thirty-one Thousand Five Hundred and Ninety-seven Pounds Eight Shillings and Eightpence Sterling, in addition to and beyond the sums voted and authorised by the Legislature to be so expended: and whereas it is expedient to legalise such unauthorised expenditure: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The Public Revenue of this Colony is hereby charged with a sum not exceeding Thirty-one Thousand Five Hundred and Ninety-seven Pounds Eight Shillings and Eightpence 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, 1886, as described at page 17 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 1885-1886" [G. 2—'87], presented to both Houses of Parliament by command of the Governor, excluding the sum of Seventy-three Pounds One Shilling and Fourpence Sterling specially referred to in the Report of the Select Committee on Public Accounts, dated the 19th July, 1887.

Public Revenue charged with £31,597 8s. 8d.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1887."

Short title.

No. 34—1887.]

[Promulgated 9th August, 1887.

ACT

To Repeal the Table Mountain Water Supply Company Act, 1882, and to vest in and confer upon the Wynberg Municipal Council certain rights, powers, and privileges for the purpose of securing a Supply of Water for the use of the Inhabitants of the Wynberg and certain other Municipalities.

Preamble.

WHEREAS it is desirable that the inhabitants of Wynberg, resident within the limits of the Wynberg Municipality, should be supplied with good water; and whereas it appears from surveys made and measurements taken, that a considerable portion of the water flowing from and down Table Mountain and its slopes could be utilised for that purpose; and whereas a certain Company, styled the Table Mountain Water Supply Company (Limited) was incorporated by the Act No. 47 of 1882, and certain rights and powers were vested in and conferred upon the said Company and the provisional committee thereof; and whereas the said Company has not been formed and the waterworks contemplated by the said Act have not been constructed, but the provisional committee aforesaid disposed of and sold to the Town Council of Cape Town certain plans, surveys, reports and estimates prepared for the purposes of the said Act; and whereas it is expedient to repeal the said Act and to vest in and confer upon the said Council certain rights, powers and privileges in order to enable it the better to carry out a scheme for the supply of good water for the use of the inhabitants resident within the limits of the Wynberg Municipality and subject to the provisions of this Act, also within the Municipalities of Claremont and Rondebosch; and whereas it is expedient to authorise and empower the said Council to borrow a sum of money not exceeding £16,000 to be applied to carrying out the purposes of this Act: 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:—

Act No. 47 of 1882 repealed.

Management of waterworks and all right and property in materials, stock, &c., vested in Council.

Powers of acquisition diversion, &c., of water.

1. The Act No. 47 of 1882 shall be and is hereby repealed.
2. 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, subject to the provisions of section twenty-three of this Act.
3. The said Council shall be empowered to take, impound, divert, appropriate and convey from the Back or Hout Bay River

and its tributaries in the Cape Division, and from surface area, the drainage from which shall flow into the said Back or Hout Bay River or any of its tributaries or into Hout Bay, such a supply of water as they may require for the purposes of this Act. And for the purpose of enabling them to do so, it shall and may be lawful for the Governor to grant to the said Council in full and free property, on such conditions as may be agreed upon, all Government land draining into Hout Bay, or which may form part of the drainage area from whence or over which it is intended that such water shall be so taken, impounded, diverted, appropriated and conveyed: 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 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 hereby authorised he shall be entitled to claim any compensation.

Compensation.

4. No right, power, or privilege by this Act vested in or conferred upon the said Council shall be construed or taken to be so vested or conferred in derogation of or from any right, power, or privilege which may in the present session of Parliament be by Act of Parliament vested in or conferred upon the Town Council of Cape Town with regard to the taking, impounding, diverting, appropriating, or conveying of any of the water in the last section mentioned, but the said Council and the said Town Council may each severally exercise and enjoy every such right, power or privilege so vested in or conferred upon it; provided that if any dispute or difference shall at any time arise between the said Council and the Town Council with regard to the scope, exercise, or enjoyment of any such right, power, or privilege so vested in or conferred upon either, such dispute or difference shall, unless the same shall be terminated by mutual arrangement, be decided by a reference to arbitrators, who shall decide the same as shall to them appear just, fair, and reasonable.

Rights, &c., vested in Town Council of Cape Town by any Act of present Session recognised, subject to provision for arbitration in case of dispute.

5. 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 Wynberg Municipality, all such work 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, 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.

Council's power of construction and maintenance.

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Powers of entry on and taking of Crown Lands, Glebe Lands, Orange Kloof and private lands; powers of purchase, hire, and agreement.

6. 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 for church purposes, commonly called Glebe lands, or any land set apart as commonage lands for the Wynberg Municipality, and also to enter upon, occupy, enclose, take and use the farm Orange Kloof, and any land the private property of any person or persons whomsoever, which may be required for the construction or maintenance of any of the works aforesaid, for the obtaining of the necessary drainage area or for any of the purposes of this Act, and may enter into agreements for the purchase or hire of such farm or 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 private lands and the said farm, or enter into any contract relative to obtaining such farm, lands or materials, or for laying down any pipe or pipes, or other works, upon such terms and conditions as may be or have been mutually agreed upon.

Powers to take lands for protection of sources of supply.

7. The said Council is hereby empowered to acquire, occupy, or take possession of, and use any such land as aforesaid, or any other land which may be required for the purpose of protecting or developing the sources of the Back or Hout Bay River or its tributaries, subject to the right of the owner of any private land to claim compensation.

Powers to lay down pipes &c. along public ways, subject to restoration of convenient access.

8. The said Council is hereby empowered, beyond as well as within the limits of the Wynberg 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 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.

9. 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 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.

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 regard to every such arbitration, and also to the arbitration contemplated in sections four and eleven of this Act, the provisions of the Lands and Arbitration Clauses Act, 1882, shall, *mutatis mutandis*, apply.

Compensation and disputes settled by arbitration under provisions of Lands and Arbitrations Clauses Act, 1882.

11. If by any Act of Parliament passed during the present Session of Parliament, any such rights, powers, and privileges shall be vested in or conferred upon the Town Council of Cape Town as are referred to or contemplated in Section four of this Act, it shall be lawful for either the said Wynberg Municipal Council or the said Town Council to claim from the other a contribution to all and every sum paid by either by way of compensation, either under Section three of this Act or under the provisions of any such Act so passed as aforesaid, in respect of any right of or to any water interfered with or disturbed, and in the absence of agreement, the amount of such contribution shall be determined by arbitration; provided that notice shall be given by either the said Wynberg Municipal Council or the said Town Council, as the case may be, to the other, of every claim for compensation made against the Council giving notice in respect of which compensation such other shall be liable to a contribution under the provisions of this Section, and also notice of all proceedings before the arbitrators assessing the amount of such compensation, and such other shall be entitled to call and examine witnesses and to be heard before such arbitrators; provided, further, that no claim for contribution shall be made against the said Town Council towards any sum paid by the said Wynberg Municipal Council in respect of any right of or to any water interfered with or disturbed solely by the taking, diverting, or appropriating by the Wynberg Municipal Council of the water of the stream commonly known as the "Disa Stream" and its tributaries; and provided, lastly, that no claim for contribution shall be made against the said Wynberg Municipal Council towards any sum paid by the said Town Council in respect of any rights of or to any water interfered with or disturbed solely by the taking, diverting, or appropriating by the said Town Council of water at or above the point on its course at which the Town Council may be authorised by any Act in the present Session of Parliament to take water from the Back or Hout Bay River and its tributaries.

Provision for mutual compensation by Wynberg Council and Town Council.

12. Any person who shall wilfully injure, damage, obstruct, or interrupt any building, erection, conduit, reservoir, dam or

Penalties for injuring Council's property and works.

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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 imprisoned with or without hard labour for any period not exceeding six calendar months, or to both such fine and such imprisonment; providing 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.

13. 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.

14. The offences defined in the two last preceding sections of this Act may be prosecuted in the Court of Resident Magistrate, either at Cape Town or at Wynberg.

Provision for service reservoir.

15. 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 a reservoir or reservoirs, hereinafter called the service reservoir, situated near the Rifle Butts, on or near the Hen and Chickens Hill, or other suitable site or sites, for the purpose of being thence distributed or divided in pursuance of the provisions of this Act.

Tariff of charges.

16. 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, irrigating, industrial, or other purposes, shall be regulated within the limits of the Wynberg 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 of water upon such special terms as it may deem suitable.

Right to enter and cut off supply in order to effect inspection and repair.

17. 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 ten a.m. and four 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.

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18. 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.

Right to cut off supply upon default of payment for water.

19. The cost of the house connection with shut-off cocks and suitable house fittings, and of all repairs shall be borne by the persons 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 way as he may deem fit, subject to any regulations and bye-laws framed by the said Council.

Cost of house connection and repairs borne by consumer.

20. Within twelve weeks from the date of the passing of this Act, the Municipal Councils of Claremont and Rondebosch (hereinafter called the said other Councils), or either of them, being thereto duly authorised in manner provided in the next succeeding section, may give notice in writing to the Clerk of the said Council of the intention of such other Council giving such notice to claim a share of the water supply secured and obtained, or to be secured and obtained, by the said Council under and by virtue of the provisions of this Act.

Claremont and Rondebosch Municipalities may give notice of intention to claim share of water.

21. It shall be lawful for both or either of the said other Councils to give such notice as is referred to in the last section if, and only if, it shall be therein duly authorised by a resolution passed by a majority of ratepayers present at a duly convened meeting of ratepayers of the Municipality represented 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 twenty 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.

Such notice to be lawful only after resolution of ratepayers.

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Rights and liabilities of Council giving notice under sect. 20.

22. Upon due notice being given by both or either of the said other Councils within the time specified in section twenty of this Act, each such other Council giving such notice shall be and become entitled to claim from the said Council the share hereinafter provided of all water secured and obtained or to be secured and obtained under the provisions of this Act, and conducted to, flowing into, stored or collected in the before-mentioned service reservoir, and shall be and from time to time become indebted to the said Council in a proportionate and corresponding share of all costs, charges, and expenses either borne and incurred or hereafter to be borne or incurred by the said Council in and about

- (1) Promoting and attaining the passing of this Act,
- (2) Carrying out all or any of the provisions or purposes of this Act,

save and except only all costs, charges, and expenses borne or incurred by the said Council in distributing water within the limits of Wynberg Municipality from the aforesaid service reservoir; provided that the shares hereinbefore referred to of the water and of the costs, charges, and expenses above specified shall be in the case of the Municipal Councils of Claremont and Rondebosch respectively two-eighths three-eighths of all such water and all such costs, charges and expenses.

Right of other Council to proportionate share of common property of waterworks.

23. Upon such notice as aforesaid being duly given, such other Council shall further be invested with a right to and property in the proportionate and corresponding share mentioned in the provision to the last preceding section share of all and singular the materials, stock, land and everything appertaining to the said waterworks referred to in section two of this Act, exclusive, however, of all such materials, stock, land or appurtenances as may now or hereafter be vested in or acquired by the Wynberg Municipal Council for the purpose of effecting a distribution of water from the aforesaid service reservoir among the inhabitants of Wynberg Municipality.

Powers to agree as to passage of water from one municipality to another.

24. The said Council or either or both of the said other Councils are hereby authorised and empowered to make all such arrangements and enter into all such agreements as they or any two of them may deem expedient or necessary to make or enter into between themselves for the purpose of securing and granting the passage of water by pipes or other appliances from any point within or upon the boundary of any one of the three Municipalities to any point upon or within the boundary of any other; provided that no such arrangement or agreement shall in any way interfere with any existing rights of any private person or body corporate.

Right, &c., within the other Municipalities conferred *mutatis mutandis* upon the other Councils.

25. Upon giving such notice as aforesaid each of the said other Councils shall *mutatis mutandis* have all the rights, powers, and privileges with respect to the distribution and disposal of

water within the limits of the Municipality which it represents which are by this Act vested in or conferred upon the said Council within the limits of the Wynberg Municipality.

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26. 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 Sixteen 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.

Borrowing power to limit of £16,000.

Public Bodies Debts Act, 1867, to apply.

27. 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 per centum shall be annually in vested 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.

Fund for payment of borrowed moneys.

28. 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 as incurred extinguished, be annually prepared up to the 30th of June of each year, and shall be deposited and lie in the Municipal Office for inspection at all reasonable times by any ratepayer of the Wynberg Municipality.

Accounts to be kept of revenue and expenditure.

29. The costs, charges, and expenses of obtaining the passing of this Act may be paid by the said Council out of the moneys borrowed under the provisions of this Act.

Costs, &c., of obtaining Act may be paid out of moneys borrowed.

30. This Act may be cited for all purposes as "The Wynberg Water Supply Act, 1887."

Short title.

No. 35—1887.]

[Promulgated 9th August, 1887.]

See 1908 Act 24.

ACT

To Provide Cape Town with a further Supply of Water and to provide for the Raising of the Sum of £25,000 for that purpose.

WHEREAS it is expedient and necessary that measures be forthwith taken to provide the City of Cape Town and the shipping calling at the Port of Table Bay with a further supply of good water: and whereas surveys have been made and

Preamble.

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measurement taken by which it is shown that a considerable portion of the water now flowing from Table Mountain and its slopes into Hout Bay can be utilized for the benefit of Cape Town: and whereas it is enacted by the 67th and 68th Sections of Act No. 44 of 1882, amongst other things that the said Town Council shall be entitled to take and use any land within the limits of the Municipality of Cape Town, or within the limits of the Cape Division, or to dig out and carry away any materials, or to appropriate or 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 said Municipality or of the Cape Division, who shall not be bound by law to allow the Town Council to do so, and to treat and agree with any such person or persons for the purchase of the same, or for the payment of consequential damages, and in case of difference to settle such amount of recompense or compensation under the provisions of the Lands and Arbitration Clauses Act of 1882: And whereas certain rights and privileges were granted to the Table Mountain Water Supply Company by Act No. 47 of 1882, incorporating the said company for the purpose of collecting, impounding, storing and distributing the supply of water furnished by those parts of Table Mountain which at present discharge their water in Hout Bay, and constructing and maintaining the necessary water works, and supplying with water the villages of Wynberg, Claremont, Newlands, Rondebosch, Mowbray, Papendorp, New Brighton, and the City of Cape Town (the provisions whereof have not been carried into effect), which Act it has become necessary to repeal: And whereas it is also necessary in order to obtain the said further supply of water that the Town Council of Cape Town should be authorised to borrow on Municipal Debentures for this specific purpose, a sum not exceeding Twenty-five Thousand Pounds Sterling:

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:—

Provisions of Act
No. 47 of 1882 re-
pealed.

What waters
Town Council em-
powered to take, im-
pound &c.

1. The "Table Mountain Water Supply Company Act, 1882," shall be and the same is hereby repealed.

2. The Town Council of Cape Town shall be and are hereby empowered to take, intercept, dam, impound, divert, appropriate all the water of the upper source and the tributaries of Hout Bay River known as the Back Stream from above the point indicated on the quitrent place "Orange Kloof," marked R on a certain plan with drawings lodged with the Clerk of the House of Assembly, and from said point R to convey the water by a tunnel or other channel to the western slope of the mountain facing Camps Bay to the point indicated and marked B on the said plan, or as near thereto as most convenient and practicable, and from point B or some other convenient and practicable site to

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convey the water along the western slopes of Table Mountain by channels or pipes to a tank or reservoir to be constructed at or near the Upper Block House on the Kloof Neck as shown by the letter C on the said plan, and from thence to the Molteno Reservoir, Cape Town: Provided that nothing herein or in the next section contained shall be deemed to authorise or empower the said Town Council in any way whatever to interfere with the free flow of all water which would naturally fall into the stream commonly called the Disa Stream or any of its tributaries or into the Back or Hout Bay River or any of its tributaries below the said point R.

Disa stream excepted.

3. The said Town Council is hereby empowered to construct or cause to be constructed all such dams, reservoirs, tunnels, aqueducts and such other works on Table Mountain as shall be necessary from time to time, to dam, impound, store, divert, appropriate, take and convey the said water of the springs, streams, and other sources of water supply for the purposes of this Act, and to lay down all necessary pipes to carry said water to its ultimate destination for the purpose of securing a further supply of water for the use of the City of Cape Town and the shipping of Table Bay.

Town Council empowered to construct works and buildings necessary for this Act.

4. For the purposes of this Act the Town Council are hereby empowered to enter upon, occupy, enclose, take and use any land belonging to Her Majesty the Queen, commonly called "Crown lands," and also to enter upon, occupy, enclose and take possession of, appropriate and use any land the private property of any person or persons whomsoever, or any municipality, with the waters thereof, which may be required for the purposes of this Act, and may agree as hereinafter provided for the purchase or hire of such private lands and water, and may take and use for the purposes of this Act any stone or other material for carrying out the said works, and may excavate or tunnel any land for the purposes of constructing and maintaining any reservoir or reservoirs or for leading out water and laying down pipes or other necessary works.

Town Council empowered to take and use Crown lands and other lands.

5. Any person or persons from whom any water, land or right of way, or any stone, gravel or other material may be required to be taken shall be bound to send in to the Town Clerk of the Cape Town Municipality, at his office, Town House, Cape Town, his, her, or their claim or claims for the purchase amount, hire, recompense or compensation which he, she, or they may claim to be entitled to for such stone, gravel, or other material, water, right of water, land, or right of way required or taken or which shall be required or taken for the purposes of this Act within six months after such taking as aforesaid, and for that purpose the necessary plans, specifications and reports in connection with the said works shall lie at the office of the City Engineer and Superintendent of Water Works of the Cape Town Municipality during

How clauses for compensation to be settled.

No. 35—1887.

the hours of 9 a.m. and 3 p.m. on all business days during the period aforesaid, for the inspection of any person or persons who shall be interested therein, after which period of six months no further claim or claims or any claim which shall not have been sent in, in the manner hereinbefore provided for, shall be recognised, nor shall such claimants be entitled to recover the amount of their claim or claims, or any portion thereof, from the said Town Council by any means or proceedings whatever. And in case the said Town Council shall not consent or agree to pay the amount of such claim or claims, then the amount to be paid by the Town Council shall be determined by arbitration, as in manner provided by the terms of Act No. 6 of 1882.

REBEE

In case of disagreement claims to be settled by arbitration.

Curator or guardian in case property of minor, &c., being taken authorised to treat with Town Council for purchase or hire thereof.

6. In case the said Town Council shall require to take or use any land or water 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 in his capacity as such guardian or curator to treat and agree with the said Town Council for the purchase or hire of the land or materials 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 by agreement or by arbitration be payable by the said Town Council for or on account of any land or materials in this section mentioned, shall be paid by the said Town 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 interest in any such land aforesaid, in which a minor or other such person as 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 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 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 like manner as moneys in the guardian's fund the property of minors or persons under disability

as therein administered: Subject, however, at all times to such orders as the Supreme Court as aforesaid may upon motion of any person having an interest, see fit to make in regard to such money.

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7. 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 or 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 Town Council for each offence a sum 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 fine and imprisonment; provided that nothing in this section contained shall be held or taken to exempt 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.

Penalty for wilful injury, &c., to building, conduit, reservoir, &c.

8. Any person who shall bathe or wash himself in any dam or reservoir belonging to the said Town Council, or in any stream flowing into such dam or reservoir, by means of any watercourse constructed by the said Town 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 anything whatsoever, shall for every offence on being convicted thereof forfeit for the use of the said Town Council, a sum not exceeding five pounds sterling, and in default 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.

Penalty on persons polluting waters of Council.

9. It shall be lawful and competent for the Town Council on the security of the town rates to borrow a sum of money not exceeding twenty-five thousand pounds for the purpose of carrying out the provisions of this Act.

Town Council empowered to borrow £25,000.

10. This Act may be cited as the "Cape Town Municipality Additional Water Supply Act, 1887."

Short title.

No. 36—1887.]

[Promulgated 9th August, 1887.]

ACT

To make better Provision with regard to Returning Officers at Municipal and other Elections.

WHEREAS it is expedient to make provisions to meet any difficulty which may arise in case the Returning Officer at

Preamble.

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No. 37--1887.

any municipal or other election should be a candidate at such election, or unable or unwilling to act as such Returning Officer: 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 may, in certain cases, appoint Returning Officer.

1. In case the person directed by any Act or law to fill the office of Returning Officer at any election shall be a candidate at such election, or unwilling or unable through illness, absence, or otherwise, to act as such Returning Officer, it shall and may be lawful for the Governor, on application of not less than twenty-five of the persons qualified to vote at such election, to appoint some other person to be Returning Officer for the purposes of such election.

No. 37—1887.]

[Promulgated 9th August, 1887.

Repealed by 1896 Act. 36.

ACT

To give Additional Powers to the Commissioners for the Management of the Docks and Breakwater of Table Bay.

Preamble.

WHEREAS it is desirable, for the better management of the Docks and Breakwater of Table Bay, to confer additional powers on the Commissioners entrusted therewith: 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:—

Certain goods landed or shipped may be charged *ad valorem* instead of tonnage rates.

1. Whenever it shall appear to the said Commissioners that, in regard to any classes of goods landed within or shipped beyond or coastwise within the limits of the Colony, it would be more equitable to charge *ad valorem* dues, rates, or charges, instead of the tonnage dues, rates, or charges now authorised to be made by the Act No. 22 of 1872, it shall be lawful for them to substitute for tonnage dues, rates, or charges such *ad valorem* dues, rates, or charges as shall be approved of by the Governor and published in the *Gazette*.

How fractions above a ton are to be charged.

2. Whenever any goods are landed or shipped of more than one, but less than two or more tons, the fractional parts of each excess over the ton shall be charged on the same scale of addition as is now authorised in reduction in the case of goods landed or shipped of less than one ton.

Commissioners empowered to enter into contracts for better supply of water to shipping and works.

3. For the purpose of securing a better supply of water to the shipping frequenting Table Bay and for the purposes of the construction and maintenance of the Harbour and Breakwater Works, and also for the use of persons employed thereon and living within the Dock precincts, it shall be lawful for the said

Commissioners with the consent of the Governor to enter into any contract they may deem necessary with any private parties, public companies, municipalities, or others who may be willing to give such supply.

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4. This Act may be cited as the "Table Bay Harbour Board Additional Powers Act, 1887."

Short title.

No. 38—1887.]

[Promulgated 9th August, 1887.

See 1906 Act 35 Sec. 1.

ACT

See 1908 Act 30
" 1908 Act 39 Sec. 10

To Amend and Explain the Law relating to Stamp Duties and Licences.

WHEREAS it is expedient to amend and explain in certain respects the law relating to Stamp Duties and Licences: 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 several laws mentioned in the first schedule to this Act, 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, or licences granted previously to the commencement of this Act.

Repeal of repugnant laws.

2. All and singular the stamp duties and licences set forth in the second schedule hereto, shall from and after the thirty-first day of December, 1887, become due and payable for and in respect of the several acts, matters and things mentioned and enumerated in the said schedule, and all and singular the several explanations, directions and provisions contained in the said schedule shall be of the same force and effect as if the same had been contained herein, and the provisions of the 6th section of Act No. 13 of 1870 shall *mutatis mutandis* apply to all persons who should, under the provisions of this Act, or the Schedule II hereof take out and possess a licence.

Stamp duties and licences in schedule 2 established.

3. For the purposes of this Act and all other Acts relating to Stamp Duties or Licences the following terms shall, unless the context otherwise requires, have the meaning herein assigned to them, namely:

Definition of terms.

"Auctioneer" means any person who sells any article or thing at any public sale where the highest bidder, whether the bidding be by the rise or by the fall, becomes the purchaser.

Auctioneer.

"Pawnbroker" means any person who carries on the trade or business of taking movable property in pawn or pledge.

Pawnbroker.

"Dealer in gunpowder" means any person who sells gunpowder, explosives, and explosive substances.

Dealer in gunpowder.

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General dealer.

“General dealer” means any person who carries on the trade or business of selling, or offering or exposing for sale, barter or exchange any goods, wares or merchandise, not being the growth, produce, or manufacture of South Africa.

Importer.

“Importer” means every person who imports any goods other than the produce of South Africa for the purpose of trade or barter: Provided that such importation shall be of the value of at least one thousand two hundred pounds sterling during the year ending the 31st day of December.

Agent of a foreign firm.

“Agent of a foreign firm” means any person other than an importer, who sells or offers for sale by sample or otherwise goods of a firm whose place of business is not in this Colony; but shall not include a person who sells or offers for sale goods consigned to him by a foreign firm.

Broker.

“Broker” means every person (other than an importer or an agent for a foreign firm,) who shall in this Colony carry on the trade or business of making bargains and contracts between other persons in matters of trade, commerce, and navigation, for a remuneration commonly called a brokerage.

Certain persons exempt from taking out certain licences and certain existing laws not to be affected by this Act.

4. Under the provisions of this Act no licensed hawker as such, no licensed dealer in intoxicating liquor as such, no licensed apothecary, chemist or druggist as such, no licensed baker as such, no licensed butcher as such, and no licensed buyer of ostrich feathers who shall sell such feathers, shall be bound and required to take out a licence as a general dealer, and no licensed apothecary, chemist or druggist shall be bound or required to take out a licence as an importer of such goods as are now customarily used or sold in the ordinary course of business of an apothecary, chemist or druggist; and nothing in the last preceding section contained shall be taken to authorise any person to do any act or thing for the performance of which any special licence is by law required without having first obtained such special licence: nor shall anything in this Act contained be taken to affect the provisions of any of the following laws, namely: Ordinance No. 44 of 1828, Ordinance No. 92 of 1832, Section 8 of Ordinance No. 11 of 1846, Section 21 of Ordinance No. 16 of 1847, Ordinance No. 6 of 1848, Act No. 10 of 1869, and Act No. 11 of 1871.

Licence for manufacturing jams, &c., not necessary where no rebate of customs duty is applied for.

5. The licence for “manufacturing jams, preserves, and confectionery for purposes of trade or sale,” shall not be required to be taken out by any person who does not propose to apply for a rebate of Customs duty under the provisions of the eighth section of tariff 15 of schedule 2 of Act No. 20 of 1884.

Liquor licence or retail licence covers sale of bread and meat to travellers outside municipalities, &c.

6. The holder of any licence for the sale of wines and spirits or of any licence for dealing by retail in any place not being within a municipality or not being within any town or village under the Village Management Act of 1881 may without any other licence sell meat or bread to supply travellers.

2
repealed by
of Act 16 Sec 2(3)

7. Every broker who shall execute, grant, deliver, or in any way make use of any broker's note, whether bought or sold, not written on duly stamped paper, shall be liable to a fine not exceeding ten pounds sterling.

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Penalty for broker using unstamped note.

8. It shall be lawful for the Governor to direct, in such cases as he may deem fit, that when two or more receipts for the payment of money, required by law to be stamped, are given on one and the same document, one or more stamps representing in value the total amount of stamp duty payable in respect of the receipts so given may be affixed to such document, in lieu of a separate stamp for each receipt.

Repealed by Act No. 30/11
When more than one receipt for money is given stamps denoting total amount payable may be affixed in lieu of separate stamp for each receipt.

9. All "ostrich feather buyers' licences" then current shall cease and determine upon the 31st day of December, 1887, and in case of licences issued for a longer period there shall be refunded to the licensees a proportionate amount of the sums paid for such licences. All "ostrich feather buyers' licences" issued at any time after the 31st day of December, 1887, shall expire on the 31st day of December then next. If any such licence is issued on or after the 1st day of July in any year there shall be payable only one-half of the appointed sum.

All ostrich feather buyers' licences to be annual in future.

10. All "wholesale licences" under Acts Nos. 28 of 1883 and 44 of 1885 then current shall cease and determine on the 31st day of March, 1888, and in case of licences issued for a longer period there shall be refunded to the licensees a proportionate amount of the sum paid. All such wholesale licences issued at any time after the 31st day of March, 1888, shall expire on the 31st day of March then next. If any such licence is issued on or after the 1st day of October in any year there shall be payable only one-half of the appointed sum.

All wholesale wine and spirit licences to be annual in future.

11. Every insurance company, society, or association, not being such a Joint Stock Company as is described in Section 1 of Tariff 17 of the Schedule to Act No. 3 of 1864, as amended by Act No. 20 of 1884, and not being such a mutual assurance company as is referred to in section ten of the said tariff, and not now existing and carrying on business in this Colony, shall, before commencing business, take out a licence for the then current year ending the thirty-first day of December, on which licence the sum of thirty pounds sterling shall be payable; and each such company, society, or association, in respect of the second and every subsequent year during the whole or any part of which it shall carry on business, and also every such company, society, or association, which shall either now be in existence and carrying on business in this Colony, or shall be in existence, but shall have ceased to carry on or discontinued business in this Colony, in respect of every year after the 31st day of December, 1887, may commence, continue, or carry on such business, as the case may be, upon taking out a licence on which there shall be payable the

Licences of Insurance Companies regulated.

Repealed by 1923 Act: 37, Sec. 1

No. 38—1887.

sum of sixpence for every pound sterling or fraction of a pound sterling on the premiums received in this Colony, by such company, society, or association, during the preceding year ending the thirty-first day of December: Provided that, when the amount so calculated payable in respect of any such licence shall not amount to thirty pounds, the sum of thirty pounds and not less shall be payable in respect of every second or subsequent year, or year after the thirty-first day of December, 1887, as the case may be; and provided, further, that in no case shall a greater sum than five hundred pounds sterling be payable for the licence for any one year; and provided, further, that no such assurance company as is referred to in the tenth section of Tariff Seventeen of the Schedule to Act No. 3 of 1864, 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.

Return to be rendered for purpose of determining amount of licence to be paid by Insurance Company.

12. For the purpose of ascertaining the amount of licence duty chargeable for the second and every subsequent year under the provisions of the last preceding section, every insurance company, society, and association shall, by its manager, secretary, or agent, make a return in writing, in such form as the Governor may prescribe, setting forth the amount of premiums received by such company, society, or association at its head office and at all its branch offices, in the Colony during the year ending the 31st day of December preceding such return, and such return shall be made to the officer appointed by the Governor in that behalf on or before the 15th January in each year. Any company, society, or association making a false return, or neglecting or refusing to make a return, shall be liable to a penalty not exceeding one hundred pounds, and such penalty shall be recoverable from the manager, secretary, or agent of any such company, society, or association in any competent court: Provided that the affixing of any sign-board or door-plate at the place of business of the said manager, secretary, or agent of any such company, society, or association, or the issue of any advertisement in a public print, or of any prospectus advertising business for such company, society, or association shall be considered sufficient proof that business is being carried on by the said manager, secretary, or agent on behalf of such company, society, or association: Provided also that any company, society, or association which shall tender the sum of five hundred pounds for its licence for any one year shall not be required to make any such return in respect of that year.

Steam Navigation Companies exempted from licence.

13. Notwithstanding anything contained in the Act No. 3 of 1864, as amended by this Act, no Steam Navigation Company shall be bound or required to take out any licence for or in respect of its carrying trade between this Colony and any place beyond seas, or between any ports of this Colony.

14. Every Assurance Company, whose head office or place of business is or shall not be situated within this Colony, either now established or carrying on business or hereafter becoming established and commencing to carry on business, within this Colony, managed or represented either by a board, secretary, manager or agent, and which either before the passing of this Act has carried on or thereafter shall commence to carry on the business of Fire, Marine, Accident or Life Assurance in this Colony, if such company shall after the passing of this Act continue or commence to carry on such business in the Colony, shall be and is hereby required to deposit, on or before the first day of January in the year succeeding that in which it shall so continue or commence to carry on such business, with the Treasurer-General of this Colony, to his satisfaction, securities to the value of ten thousand pounds sterling; provided, however, that the income derived from such securities may be received by the depositor.

No. 38—1887.
Deposits of £10,000 required from English, Colonial, or Foreign Companies.

Repealed by 1923 Act 37 Sec 5
1908 Act 30 Sec 51(3)

15. Any company may, on giving due notice to the Treasurer-General, withdraw from his custody any securities so deposited, on depositing with him securities of an equal value, and any substituted securities shall for all purposes be treated as securities originally deposited.

Provision for substitution of securities.

Repealed by 1923 Act 37, Sec. 5

16. The Distributor of Stamps and Licences shall not issue any licence to any company, such as is described in section 13, until he has received a certificate under the hand of the Treasurer-General that the provisions of the said section 13 and section 14 of this Act have been complied with by the company applying for such licence.

Certificate of Treasurer-General required before issue of licence.

See 1908 Act 30 Sec 51(3)

17. This Act shall be read as one with the existing Stamp Acts, and may be cited as "The Stamp Acts Amendment Act, 1887."

Short title.

SCHEDULE I.

Schedule I.

ENACTMENTS REPEALED.

No. and Year.	Title.	Extent of Repeal.
Act No. 3 of 1864	"The Stamp Act, 1864"	Section 22, Tariff 6, and Sections 5, 7 and 9 of Tariff 17 of the Schedule.
Act No. 20 of 1884	"The Stamp and Office Fees Act, 1884"	In Tariff 15 of Schedule 2, the items "For Dealing by Wholesale, £15," "For Dealing by Retail, £3," and Section 7.
Act No. 28 of 1883	"The Liquor Licensing Act, 1883" ..	In the Second Schedule the words "to endure for one year from the date of issue thereof," occurring between the words "For a Wholesale Licence," and the words "Thirty Pounds."

No. 39—1887.

Schedule II.

SCHEDULE II.

TARIFF OF LICENCES.

		<i>Annual.</i>	
	For every General Dealer ..	..	£3 0 0
	.. " Importer (over and above his licence as a General Dealer, Auctioneer, Pawnbroker, or Dealer in Gunpowder, or any other licence he may hold) ..	..	12 0 0
	.. " Agent of a Foreign Firm ..	..	25 0 0
	.. " Licensed Retailer of Wines and Spirits, not being	..	
	.. " * licensed as a General Dealer, for the sale of Aerated Waters and Tobacco and Cigars ..	..	1 10 0
	.. " Dealer in Aerated Waters, not being licensed as a General Dealer or as a Retailer of Wines and Spirits ..	..	1 10 0

1. All of the above licences shall, no matter at what period of the year they may be taken out, expire on the thirty-first of December then next. When any such licence shall be issued upon or after the first of July there shall be payable only one-half of the appointed sum. If taken out at any time before the first of July there shall be no deduction.

2. A General Dealer's Licence shall cover all sales heretofore covered by Wholesale and Retail Licences.

3. Every bought and every sold note executed, granted, delivered, or made use of by any broker shall be written on paper duly stamped with a stamp of the value of threepence.

No. 39—1887.]

[Promulgated 9th August, 1887..

ACT

To Exempt Native Registered Voters from the operation of certain disqualifying Acts of Parliament.

Preamble.

WHEREAS it is expedient to exempt every native voter, duly registered as such for the election of members for the Parliament of this Colony, from the operation of certain laws, save in so far as the said laws, or any of them, would have operation in respect of any registered voter of European nationality or extraction: 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. From and after the first day of September, 1887, no person whatsoever be his nationality, tribe, or colour, and whether he be or be not a native, Kafir, Fingo, Basuto, Hottentot, Bushman, or the like, shall, after he shall have been and so long as he shall remain duly registered under the law of this Colony for the time being as a voter at any Parliamentary election for the return of any member for any constituency to the Parliament of this Colony, be in any other way, or to any greater extent, subject to the operation of any laws including the laws mentioned in the Schedule A to this Act, than any such duly registered voter of

Native registered voters subject to the same laws as voters of European race.

Amended by 1908 Act 39, Sec. 1.

Not repealed by sec 4(b) of Act 39 of 1908 vide Rev. Circular 17021, 1911 (Cape Province).

Repealed by Act 30/11 § 11

European nationality or extraction may or might be : provided that any native voter, whose name shall appear on any list framed by any registering officer, may, either personally or by an agent authorised in writing, appear at the time and place duly fixed by such registering officer in accordance with the law for the reception and hearing of claims and objections to such list, and hand in a written objection in the form set forth in the Schedule B to this Act, upon receiving and hearing which objection such registering officer shall, on being satisfied of the identity of the person raising such objection, withdraw and erase the name of such person from such list, and no such person, whose name shall have been erased, shall be deemed to be exempt from the operation of the laws aforesaid merely by reason that his name shall have been at first placed upon the list framed by such registering officer.

No. 39—1887.

But any such voter may claim to be removed from provisional list of voters.

2. No Native, Kafir, Fingo, Basuto, Hottentot, Bushman or the like, who holds a certificate from the Educational Department of qualification as an elementary teacher, or who holds an inspector's certificate that he has reached the fourth standard of instruction as required in aided schools or any higher educational certificate, or who is an Undergraduate or Graduate of the University of the Cape of Good Hope, or who is a Minister of the Gospel, duly admitted as such into any Christian Church, shall be in any other way, or to any greater extent, subject to the operation of any of the laws mentioned in the Schedule A to this Act than if such Native, Kafir, Fingo, Basuto, Hottentot, Bushman, or the like, were of European nationality or extraction.

Natives, holding certain educational or religious qualification subject to the same laws as persons of European race.

3. Nothing in this Act contained shall be deemed to exempt any registered voter from any liability to pay hut tax, imposed upon him by virtue of the provisions of Act No. 37 of 1884 or of any other law of this Colony.

Hut tax not affected.

4. Every person, whether he be or be not a Kafir, Fingo, Basuto, Hottentot, Bushman, or the like, who shall reside or dwell in, or inhabit, any hut or dwelling within the local limits of any Native Location, as defined in the second or seventh sections of the "Native Locations Act, 1884," shall be equally subject to the operation of all the provisions of the said Act as though he were an occupier of such hut or dwelling and were of any nationality referred to in the second or seventh sections.

All persons in a native location equally subject to the operation of all the provisions of the Native Locations Act.

5. Every native duly registered upon any completed list as such voter as aforesaid shall, upon applying either in person or by an agent authorised in writing to the registering officer at the time and place when such list is finally settled and completed, or thereafter to the Civil Commissioner or other proper officer having custody of such completed list, be entitled to claim a certificate in the form prescribed in the Schedule C to this Act, which certificate shall in law be deemed and taken to prove itself on pro-

Native registered voter may claim certificate of registration.

No. 39—1887.

duction in any legal proceedings as a certificate signed by the registering officer, Civil Commissioner, or other proper officer purporting to sign the same, who shall transmit to the Colonial Office, there to be preserved and kept as of record, a counterpart of every such certificate signed by him.

Offence of personation to make objection or obtain certificate.

6. Any person who shall personate without authority any other person provisionally placed on any such list as aforesaid in making any such objection as is referred to in the proviso to the first section of this Act, and any person who shall personate without authority any registered voter in applying for the certificate provided for in the ^{fourth} section of this Act, shall upon conviction before the Resident Magistrate of the division or district in which the offence shall have been committed, be liable to a fine not exceeding ^{ten} pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding two months; and any registered voter who shall transfer any certificate held by him under the provisions of the ^{fourth} section, and also any person other than the person therein named, who shall use or attempt to use for any purpose any such certificate as applicable to himself, shall be liable upon conviction to the penalties hereinbefore set forth.

5/11/87

Penalty.

Offence of transferring certificate or using other person's certificate.

Short title.

7. This Act may be cited for all purposes as "The Native Registered Voters Relief Act, 1887."

Schedule A.

SCHEDULE A.

- Act No. 17 of 1864.
- Act No. 18 of 1864.
- Ordinance No. 10 of 1864 (Kaffrarian).
- Act No. 22 of 1867.
- Act No. 28 of 1883.
- Act No. 37 of 1884.

Schedule B.

SCHEDULE B.

To the Registering Officer appointed to make out the list of voters in the field-cornetcy [or town] of [fill in name] in the division of [fill in name].

Please take notice that I, being a native, object to have my name inserted in the list of voters in the above field-cornetcy [or town].

(Signed) A.B., of (here give the place of residence).

Schedule C.

SCHEDULE C.

I hereby certify that A. B., of [here state place of residence of registered voter] has been and is this day duly registered as a voter at any parliamentary election in the field-cornetcy [or town] of [fill in name] in the division of [fill in name.]

Place
Date

(Signed). C. D., [Registering
Officer, Civil Commissioner, or other
proper officer, as the case may be.]

No. 40—1887.]

[Promulgated 9th August, 1887.

ACT

To Amend in certain respects the Act No. 4 of 1883, commonly called the "Public Health Act, 1883."

WHEREAS it is expedient to amend the definition of "local authority" contained in Section 2 of the "Public Health Act, 1883," and in some respects to amend and add to the provisions of that Act: 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:—

Preamble.

1. Whenever any area within this Colony shall be fixed by the Governor by proclamation under the provisions of the "Public Health Act, 1883," if the whole or any portion of such area shall not be situated within the local limits of any municipality, of any community in which the "Villages Management Act, 1881," is in operation, or of any town or village wherein any Resident Magistrate or Special Justice of the Peace is resident and has jurisdiction, the Divisional Council of the division wherein is included the whole or any portion of such area not so situated within such local limits, shall, for the purposes and within the meaning of the Act No. 4 of 1883, and the Act No. 41 of 1885, especially Section 2 of the first-mentioned Act, be deemed and taken, in respect of such whole or portion of such area so included as aforesaid, to be the "local authority," and no board shall after the passing of this Act be nominated by the Governor under the said section within any such area.

"Local authority" to include Divisional Councils in respect of area not within certain local limits.

Board no longer to be appointed.

2. The Divisional Council of every division is hereby empowered as occasion may require to levy special rates upon all property situated within such division, exclusive of any municipality or community under the Villages Management Act, and liable to be rated by Divisional Council, for the purpose of defraying any expenses incurred or to be incurred under the provisions of the aforesaid Act or of this Act, and such special rate shall be levied and collected in all respects as if such rate were levied and collected for the ordinary purposes of such Divisional Council.

Rating power of Divisional Council.

3. This Act shall be read as one with the Acts abovementioned, and may be cited as the "Public Health Act, 1887."

Short title.

No. 41—1887.]

[Promulgated 9th August, 1887.

ACT

To Authorise the Proclamation of a certain Main Road.

WHEREAS it is expedient to authorise the proclamation of a certain road to be constructed as a Main Road: Be it

Preamble.

No. 42—1887.

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 empowered to proclaim a certain main road.

1. Notwithstanding anything to the contrary contained in the second section of the "Roads Act, 1877," or in that or any other law of this Colony, the Governor may, at any time after the passing of this Act, by Proclamation in the *Gazette* declare the road generally described and set forth in the second section of this Act to be a Main Road, within the meaning of the "Public Roads Act, 1858," and of every other law of the Colony, and thereupon the said road throughout the entire length thereof shall be deemed and taken to be a Main Road declared by Act of the Legislature.

Road described.

2. The said road shall run from a point on the road between Port Alfred and Kei Mouth, declared to be a Main Road by Proclamation No. 139, bearing date the 21st day of August, 1885, at or near the boundary between the Divisions of East London and Komgha, west of Mooiplaats; thence northwards until it touches the Main Road from King William's Town to the Great Kei Bridge, at a point east of the Village of Komgha.

No. 42—1887.]

[Promulgated 9th August, 1887.]

ACT

To Prohibit the Supply of Intoxicating Liquor to Her Majesty's Ships and Vessels without proper consent.

Preamble.

WHEREAS it is expedient to prohibit all persons from bringing or supplying intoxicating liquor on board of any of Her Majesty's ships or vessels: 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:—

Intoxicating liquor not to be brought on board Her Majesty's ships without Commander's consent.

1. No person, whether he be or be not licensed under the law of this Colony to deal in intoxicating liquors, shall bring or supply, or attempt to bring or supply, on board any of Her Majesty's ships or vessels lying in any port or harbour of this Colony or in any water subject to the territorial jurisdiction of any Court in this Colony, any intoxicating liquor whatsoever, unless such person shall first have had and obtained the consent of the officer for the time being in command of such ship or vessel, and it shall be lawful for any Officer in Her Majesty's Naval service, or Warrant or Petty Officer of Her Majesty's Navy, or Non-Commissioned Officer of Marines with or without Seamen or Persons under his command, and also for any constable, policeman, or peace officer in the service of the Colonial Government, to search any boat or vessel hovering about or approaching, or

Right of search of suspected boat or vessel, and right of arrest of persons.

which may have hovered about or approached any such ship or vessel as aforesaid, and, if upon such search any intoxicating liquor be found in or on board of such boat or vessel and there shall be reasonable grounds for suspecting that such intoxicating liquor was intended to be brought or supplied on board any such ship or vessel as aforesaid, to arrest all or any of the persons found in or on board of such boat or vessel and convey him or them, as speedily as circumstances may permit, before the Resident Magistrate having jurisdiction in respect of any offence committed on board any ship or vessel lying in such port or harbour or other territorial water, and every person who shall bring or supply, or attempt to bring or supply, any intoxicating liquor on board any such ship or vessel as aforesaid may be summoned to appear before such Resident Magistrate to answer a charge of contravening the provisions of this section of this Act.

No. 42—1887.

Right of summons.

2. When any person shall be brought before any such Resident Magistrate either under arrest or upon summons under the provisions of the last preceding section of this Act, such person shall be dealt with by such Resident Magistrate and every officer of the law within the local jurisdiction of such Resident Magistrate precisely as though such person were arrested or summoned, as the case may be, for an offence committed on land within the jurisdiction of such Resident Magistrate: Provided that every such Resident Magistrate shall have jurisdiction to try every such person for the offence of contravening the provisions of the last preceding section of this Act, and to sentence him upon conviction to the penalties prescribed by the seventy-second section of the "Liquor Licensing Act, 1883"; and provided, further, that any intoxicating liquor found upon search under the provisions of the last preceding section of this Act, and which such Resident Magistrate shall declare to have been intended to be brought or supplied upon any such ship or vessel as aforesaid, shall be by such Resident Magistrate declared to be forfeited for the benefit of the Colonial Government and may be sold or disposed of accordingly.

Procedure before Magistrate, and penalty.

Forfeiture of liquor.

3. "Intoxicating liquor" in this Act shall have the meaning assigned to it in the "Liquor Licensing Act, 1883."

Meaning of "intoxicating liquor."

No. 43—1887.]

[Promulgated 9th August, 1887.

ACT

To Provide for the Payment of Retiring Allowances to certain Professors, Lecturers, and Teachers, in Colleges and Schools connected with the Department of Public Education, and to Regulate the Amounts of Good Service Allowances payable to Teachers, and to establish a Teachers' Pension Fund.

Preamble.

WHEREAS it is expedient to fix the conditions on which professors, lecturers and teachers shall become entitled to merit grants or good service allowances, and to regulate the amounts of such grants or allowances; and whereas it is expedient to provide for the continuance of merit grants or good service allowances to professors, lecturers and teachers, who may retire from actual service, and to provide for the establishment of a Teachers' Pension Fund: 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:—

Circumstances under which names of professors, &c., may be placed on good service list.

1. No professor, lecturer, or teacher shall be entitled to be put on the good service list, or to draw a merit grant or good service allowance unless the Superintendent-General of Education is satisfied that such professor, lecturer, or teacher has completed five years' continuous and meritorious service in connection with the department of Public Education, and that the college or school or department conducted by such professor or lecturer or teacher is thoroughly efficient.

Governor may remove such names from such list.

2. It shall be competent for the Governor to remove the name of any professor, lecturer or teacher from the good service list whenever the duties of his office are not performed to the satisfaction of the Superintendent-General of Education, and to restore such name to the said list on the recommendation of the Superintendent-General of Education.

Pensions of Professors & Lecturers.

3. Every professor or lecturer who has completed fifteen years' service in connection with the department of Public Education, and who is on the good service list, and is in receipt of a merit grant not exceeding £100 per annum (as fixed by section 6 of the amended schedule (1882) to the Higher Education Act No. 24 of 1874), shall on his retirement from active service, by reason of his reaching 60 years of age or his being incapacitated by ill-health, continue to receive such merit grant annually for the rest of his life, with an addition of 25 per cent. for a service of 15 years and under 20 years, and of 50 per cent. for 20 years' service and upwards.

4. Every teacher who has completed fifteen years' service in connection with the department of Public Education, and who is on the good service list and is in receipt of the good service allowance, shall on his retirement by reason of his reaching 60 years of age or by his being incapacitated by ill-health continue to receive the annual good service allowance for the rest of his life with an addition of 50 per cent. for a service of 15 years and under 20 years; 75 per cent. for a service of 20 years and under 30 years; 100 per cent for a service of 30 years and upwards.

No. 43—1887.
Pensions of Teachers.

5. The scale of good service allowances to teachers shall be as laid down in the schedule hereunto annexed; and no change in the scale shall take effect until it shall have been assented to by both Houses of Parliament.

Scale of good service allowances.

6. From the merit grant or good service allowance of every professor, lecturer, or teacher to whom such grant or allowance may be lawfully assigned, there shall be made an annual deduction at the rate of five (£5) per centum on each such merit grant or good service allowance; and all sums so deducted shall be paid into the Colonial Treasury to the credit of a separate account to be called the Teachers' Pension Fund.

Annual deduction to be made from good service allowance.

7. The provisions of the fourth, fifth, sixth, and seventh sections of the Civil Service Pension Fund Act, 1886, shall *mutatis mutandis* apply to the Teachers' Pension Fund.

Sections 4, 5, 6, and 7, of Civil Service Pension Fund Act, to apply *mutatis mutandis*.

8. It shall be lawful for the Governor from time to time to frame bye-laws, fixing the conditions and times of leave of absence of professors, lecturers and teachers with or without salary; and also regulations under which any professor, lecturer, or teacher may appeal to the Superintendent-General of Education in respect of any Inspector's report which may appear to affect or endanger his claim to a merit grant or good service allowance; and, further, the conditions under which any temporary suspension of employment or any other special circumstances beyond the control of the professors, lecturers, and teachers, shall be held not to deprive them of the benefits contemplated by this Act.

Governor may frame bye-laws.

9. No pension under this Act shall be awarded until after the expiry of twelve months from the taking effect of this Act.

Date of taking effect.

10. This Act may be cited for all purposes as "The Teachers' Pension and Fund Act, 1887."

Short title.

SCHEDULE.

Schedule.

SCALE OF GOOD SERVICE ALLOWANCES.

<i>Public Schools.</i>			
Class I (Boys)	} Principals	{	£25 0 0 after 5 years' service.
and			37 10 0 ,, 10 ,,
Normal College (Boys)			50 0 0 ,, 15 ,,

456 PRECIOUS STONES AND MINERALS MINING LAW ACT.

No. 44—1887.

<i>Public Schools.</i>			
<i>Class I (Boys) Assistants</i>	}		
<i>Class I (Girls) Principals and Vice-Principals</i>			
<i>Class II (Boys) Principals</i>			
<i>Normal Colleges.</i>			
(Boys) Assistants	}	£15 0 0	after 5 years' service.
<i>Deaf and Dumb Schools.</i>			
<i>Principals</i>		22 10 0	„ 10 „
		30 0 0	„ 15 „
<i>Training Schools (Native), Boarding Schools and Normal Colleges, (Girls)</i> } Principals.			
<i>Public Schools.</i>			
<i>Class I (Girls) Assistants</i>	}		
<i>Class II (Girls)</i> } Principals ..		£10 0 0	after 5 years' service.
<i>Class III (Boys)</i> }		15 0 0	„ 10 „
<i>Normal Colleges.</i>			
(Girls) Assistants	}	20 0 0	„ 15 „
<i>Mission Schools</i> Head-Teachers..	}	£6 0 0	after 5 years' service.
<i>Aborigines Schools</i> do. ..		9 0 0	„ 10 „
<i>Approved Infant Schools</i> do. ..		12 0 0	„ 15 „

No. 44—1887.]

[Promulgated 9th August, 1887.

Repealed by Act 31 of 1898 + 11 of 1899. ACT

To Amend and add to the existing Law with regard to Prospecting and Mining for Precious Stones and Minerals.

Preamble.

WHEREAS it is expedient in certain respects to amend and add to the existing law with regard to prospecting and mining for precious stones and minerals: 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:—

This Act to be read as one with other Acts regulating mining for precious stones and minerals. Inconsistent laws repealed.

1. This Act shall be read as one with the Act No. 19 of 1883, the Act No. 22 of 1885, and the Act No. 18 of 1886, provided that anything in any of the said Acts contained, which shall be repugnant to or inconsistent with the provisions of this Act, shall be and is hereby repealed.

Every prospector bound *bona fide* to prospect, otherwise licence cancelled.

2. Every person who shall be the holder of a prospecting licence under the provisions of Act No. 19 of 1883, or of any other law, shall in respect of the Crown lands, if any, specified in his licence, be bound and obliged, within one month from the date of the issue of his licence, to proceed *bona fide* to prospect upon such land to the satisfaction of the Governor, and, if he shall fail so to do, it shall be lawful for the Governor forthwith to cancel such licence without any refund of the amount paid in respect thereof, and

thereupon such holder shall not again be permitted to obtain a prospecting licence in respect of the same lands until after the expiration of a period of six months from the date of the issue of such cancelled licence.

No. 44—1887.

3. Excepting in the case of alluvial diggings as specified in the seventeenth section of Act No. 19 of 1883, nothing in this Act contained shall be taken or construed so as to affect the reservation to the Crown, or any existing legislation with regard to any diamond mine whether heretofore discovered, or which may hereafter be discovered in Griqualand West.

Provisions of Act not to apply to any but alluvial diggings in Griqualand West.

4. The amount payable in respect of the issue or renewal of any prospecting licence after the passing of this Act shall be two shillings and sixpence per month, payable in advance, and the holder of any such licence may at any time keep such licence in full force, subject to the provisions of this Act, by paying in advance to the Civil Commissioner who shall have issued such licence the amount of two shillings and sixpence per month for any period not exceeding six months from the date of such payment, the receipt of which amount shall be acknowledged by such Civil Commissioner upon the licence itself; and the amount payable by the holder in any proclaimed area of any claim situated or being in or upon Crown lands, or lands the title to which is subject to a reservation to the Crown of precious stones and minerals, shall be five shillings per month payable monthly in advance, whether such area shall have been proclaimed before or after the passing of this Act.

Amounts payable in respect of prospector's and claim licences.

5. Every owner of land the title to which is subject to a reservation to the Crown of precious stones and minerals, and which is not included within any proclaimed area, shall be entitled to all the following rights and privileges, that is to say,

Rights of owner of land, which is subject to reservation in favour of Crown, when such land is not within any proclaimed area. Free right to prospect, but discovery must be reported to Civil Commissioner.

- (1) Every such owner may without taking out any licence lawfully prospect for precious stones or minerals in and upon such land, and shall be deemed and taken in law to be entitled, in respect of every discovery of precious stones or 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 within one week give notice to the Civil Commissioner of any division of any discovery made by him of precious stones or minerals in payable quantities upon such land on pain of forfeiting if he shall fail duly to give such notice all rights reserved to him under this Act.

- (2) No such owner shall be bound or obliged to permit or allow any licensed prospector to prospect upon such land without his consent, but every such owner may give and grant to any prospector, duly licensed to prospect upon

No prospector to prospect without owner's consent; right to enter into agreement with such prospector.

No. 44—1887.

No proclamation before three months after request to proclaim, and every proclamation to reserve homestead, cultivated lands, and rights to water.

Rights of such owner of such land upon proclamation of mining area.

"Owners' claims" not exceeding 15 in number, provided for.

Right to homestead, &c., to be respected.

such land, leave to prospect thereon, or upon such portion thereof as such owner may point out for such lawful consideration, and subject to such lawful terms and conditions as may be agreed upon;

- (3) No such land shall be proclaimed by the Governor as forming the whole or any portion of any 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 situated, 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 situated outside that area, and of all cultivated lands, which shall not be deemed to be included in such 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 area being declared.

6. Every owner of land the title to which is subject to a reservation to the Crown of precious stones and minerals shall forthwith upon the proclamation of such land within any mining area be and become entitled further to the following rights and privileges, that is to say,

- (1) Every such owner shall be entitled within ten days from the date of such proclamation, and before and in priority to any person, not being such prospector as is mentioned in the proviso hereto, to select and beacon off upon his land, situated within such proclaimed area, a number of claims to be called "owners' claims," the number of which shall be determined with relation to the extent of such land, that is to say, one claim if such land shall not exceed fifty morgen in extent, two claims if such land shall exceed fifty, but shall not exceed two hundred and fifty morgen in extent, and an additional claim for every additional two hundred and fifty morgen in extent, but not more than fifteen claims in all whatever be the extent of such land; provided that in selecting and beaconing off such claims, such owner shall not interfere with the rights of any duly licensed prospector prospecting on such land with the consent of such owner.
- (2) The rights reserved to such owner under the third subsection of the last preceding section with regard to his homestead, cultivated land, and the use of water shall be respected after the proclamation of such area.

7. If, before the expiration of three months from the date of a written request to the Governor, setting forth that precious stones or minerals have been found in payable quantities, signed either by the owner of any land the title to which is subject to a reservation to the Crown of precious stones and minerals, or by any prospector duly licensed with the consent of the owner to prospect upon such land, and asking that the said land shall be proclaimed a mining area, the Governor shall not see fit to proclaim such area, it shall be lawful for such prospector to beacon off and hold subject to the terms and conditions of any agreement between himself and the owner all claims which he would have been entitled to beacon off and hold had such area been proclaimed by the Governor; provided that no prospector shall be entitled to make such written request as aforesaid without first giving notice to such owner of his intention so to do; and provided that nothing herein contained shall be deemed or taken in any way to interfere with the right and power of the Governor at any time to proclaim a mining area, including such land and the claims so beaconsed off and held by such prospector.

No. 44—1887.

Prospector's rights if Governor does not see fit to proclaim area within three months after request.

Prospector may not ask proclamation without notice to owner.

8. At any time after any such request as is referred to in the last preceding section shall have been made to the Governor, and before the expiration of a period of three months from the date of such request, it shall be lawful for the owner of any such land, as is referred to in the said section, to claim and demand from the Government a mining lease of a proportion of such land not exceeding one-sixth of its entire extent, which lease shall be in writing signed by such owner, and by the Civil Commissioner of the division in which such land is situated, and such lease shall be for a term of not less than two years, nor more than five, and shall 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-sixth portion of such land; 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 land 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 land 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 precious stones or minerals found thereafter in or upon such land; and provided that such lease and every renewal thereof shall forthwith, after its execution, be registered together with the title deeds of such land in the office of the Registrar of Deeds; provided that the extent of ground leased as the said one-sixth portion shall be beaconsed off, and shall be

Owner's right to mining lease of 1-6th of land, if Governor does not see fit to proclaim area within three months after request.

Rent 2s. per morgen.

No royalty to Government in respect of such lease.

Lease to be registered with title deed.

Mode of measuring 1-6th reserved by lease.

No. 44—1887.

bounded by not more than four straight lines, and that for this purpose the existing boundary of any such land, or any portion of any such boundary, shall be deemed and taken to be one straight line.

Holders of land on lease rent, and lessees who hold land, subject to reservation, under stipulation for hire of rights to precious stones and minerals, to have *mutatis mutandis* same rights as owner.

9. Every holder of land on lease from the Crown, under any law, every and lessee of land, the title to which is subject to a reservation to the Crown of precious stones and minerals, 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 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 land the title to which is subject to such reservation as aforesaid under and by virtue of the provisions of the laws referred to in the first section or 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 sixth 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.

But lessee must cede and assign mining lease at termination of his lease to owner.

Lessee of such lands, not protected by such stipulations not to have rights as owner, but may claim compensation for disturbance.

10. No lessee of lands the title to which is subject to a reservation to the Crown of precious stones and minerals, 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 the laws mentioned in the first section or 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 the said laws or 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 Arbitrations Clauses Act, 1882."

Rights under these laws not to be in derogation of other rights of owner.

11. All rights or privileges conferred upon or reserved to any owner or lessee of land, by the provisions of any of the laws mentioned in the first section, or of this Act, shall be deemed and taken to be so conferred or reserved in addition to, and not in derogation from or substitution for the rights or privileges vested in such owner or lessee apart from the provisions of the said laws or of this

Act; and nothing in this Act contained shall be deemed or taken to deprive any prospector, owner, lessee, or any holder of any claim in any proclaimed area of his existing rights.

No. 45—1887.

12. The eightieth section of the Act No. 19 of 1883 shall be and is hereby repealed, and this Act shall not be in operation within the limits of any proclaimed area in Griqualand West.

Section 80 of Act No. 19 of 1883 repealed.

13. 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 the seventh section, all rights and powers conferred upon or reserved to the owner of such land, or to such holders or lessees, by the provisions of the laws mentioned in the first section or of this Act, shall be deemed and taken to be jointly and not severally conferred upon or reserved to such persons.

Term "owner" defined.

14. The term "claim" shall mean within any proclaimed mining area—

"Claim" defined.

- (1) A square figure measuring not more than thirty feet each way if the mining in such area is for precious stones.
- (2) A rectangular figure measuring one hundred and fifty feet along the reef and four hundred feet across or on either side of the reef, if the mining is for minerals along any reef;
- (3) A square figure measuring not more than one hundred feet each way, if the mining is alluvial mining for gold, silver, or platinum.

15. This Act may be cited as the "Precious Stones and Minerals Mining Law Amendment Act, 1887."

Short title.

No. 45—1887.]

[Not yet Promulgated.]

ACT

To Provide for the Annexation to the Colony of the Country known as the Rode Valley.

WHEREAS by resolution passed in both branches of the Legislature, it has been declared to be expedient that the country situated between the districts of Mount Ayliff and Mount Frere, East Griqualand, and Eastern Pondoland, commonly called the "Rode Valley," acquired by the Colonial Government by purchase from the Pondo Chief Umquikela, 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 a 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

Preamble.

No. 45—1887.

annexed to and form part of this Colony, and to determine and signify the limits of the said country so annexed, 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 Rode Val-
ley to be annexed to
the Colony, and to
form part of Griqua-
land East.

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, or so much of the said country as shall be defined in or by any such proclamation, and with the limits and name in any such proclamation signified, shall be annexed to and become a part of that portion of the Colony known as Griqualand East, and be subject to the laws for the time being in force in such portion of the Colony.

Short title.

2. This Act may be cited as the “Rode Valley Annexation Act, 1887.”

ACTS OF THE CAPE PARLIAMENT.

No. 1—1888.]

[Promulgated 29th June, 1888.

ACT

To prevent unauthorised persons from making Sketches, Drawings, Photographs, Pictures, Paintings, Plans or Models of and to prevent trespass upon Defensive Works and Fortifications and Naval and Military Reserves generally.

WHEREAS it is expedient to make provision for the better protection of Defensive Works and Naval and Military Reserves generally: 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 not be lawful for any person to make, or to commence to make, any sketch, drawing, photograph, picture, painting, plan or model of any battery, field-work, fortification, or other defensive work, or of any portion thereof, without having previously obtained the permission in writing of some person appointed for that purpose by the Governor. Such permission shall clearly and expressly state the nature of the sketches, drawings, photographs, paintings, plans or models which may be made by the person to whom such permission is given, and the place or places of which such sketches, drawings, photographs, paintings, plans, or models may be made.

Prohibition of unauthorised Sketching, Drawing, &c., of any Defensive Works, &c.

2. Any person offending against the provisions of the last section may be arrested without warrant by any police constable or Naval or Military policeman, and, upon conviction by the Resident Magistrate of the district, shall be liable to imprisonment with or without hard labour for any period not exceeding three months, or to a fine not exceeding fifty pounds, with the alternative of imprisonment with or without hard labour for any period not exceeding two months, unless such fine be sooner paid, and all sketches, drawings, photographs, paintings, plans or models, and all apparatus, instruments, tools and materials, found in the possession of the offender shall, at the discretion of the said Resident Magistrate, be liable to forfeiture.

Arrest of offender and penalty for contravention of last section.

3. If any person shall be found trespassing within or upon any battery, field-work, fortification, defensive work, or any place, whether fortified or not, which is set apart and enclosed for Naval or Military operations (and of the application to which last mentioned place of this Act the Governor shall give his sanction by notice in the

Forfeiture of sketches, apparatus &c., in possession of offender.

Penalty for trespass on battery, field works, &c., or on any place notified in *Gazette* as set apart for naval or military operations.

No. 1—1888.

Gazette), such person shall upon conviction by the Resident Magistrate of the district, be liable to a fine not exceeding ten pounds, with the alternative of imprisonment with or without hard labour for any period not exceeding fourteen days unless such fine be sooner paid; and if such person shall refuse to give his name and address when requested so to do, or shall give a name or address which there is reason to believe is false, he may be arrested without warrant by any police constable or Naval or Military policeman. If the person so trespassing be found to have in his possession any apparatus, instruments, tools or materials with the intention of contravening this Act, he shall in lieu of the penalty in this section provided be liable to the penalties in the second section mentioned, and may be arrested without warrant by any police constable or Naval or Military policeman.

Person in immediate vicinity of defensive works, &c., and in possession of sketching, &c., apparatus with intent to contravene Act, is liable to arrest and punishment.

4. Any person found in the immediate vicinity of any battery, field-work, fortification or other defensive work as aforesaid, with sketching, drawing, photographic, painting, planning, or modelling materials or apparatus in his possession, with the intention of contravening or evading the provisions of this Act, may be arrested without warrant by any police constable or Naval or Military policeman, and shall be liable upon conviction by the Resident Magistrate of the district, to a fine not exceeding ten pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding fourteen days unless such fine be sooner paid.

Penalty.

Short Title.

5. This Act may be cited as the "Defensive Works Protection Act, 1888."

No. 2—1888.]

[Promulgated 29th June, 1888.

ACT

To apply a Sum not exceeding Four Hundred Thousand Pounds Sterling towards the Service of the Year ending the 30th day of June, 1889.

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 £400,000 towards service of year ending 30th June, 1889.

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, 1889, with a sum not exceeding four hundred thousand pounds sterling (£400,000), which sum shall be applied towards the service of the said 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 1888-89) Act, 1888."

Spent.

No. 3—1888.]

[Promulgated 29th June, 1888.

Spent.

ACT

For applying a further Sum not exceeding One Hundred and Five Thousand Nine Hundred and One Pounds Sterling for the Service of the year ending the 30th June, 1888.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending on the 30th June, 1888, in addition to the sums provided by the Acts No. 1 and 29 of 1887: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. The public revenue of the Colony of the Cape of Good Hope is hereby charged towards the service of the year ending on the 30th June, 1888, with a further sum of One Hundred and Five thousand Nine hundred and One pounds sterling, in addition to the several sums provided for by the said Acts No. 1 and 29 of 1887.

Public Revenue charged with £105,901

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.

How to be applied.

3. This Act may be cited for all purposes as the "Additional Appropriation 1887-'88 Act, 1888."

Short title.

SCHEDULE.

Schedule.

Additional Appropriation, 1887-'88.	Establishments.	Services, exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
1. Ministerial Department of Colonial Secretary	666	23,526	24,192	24,192
2. Ministerial Department of Treasurer of the Colony	465	20,087	20,552	6,352
3. Ministerial Department of Attorney-General	500	..	500	..
4. Ministerial Department of Commissioner of Crown Lands and Public Works ..	300	74,865	75,165	74,865
5. Ministerial Department of Secretary for Native Affairs	300	492	792	492
Grand Total	2,231	118,970	121,201	105,901

No. 4—1888.]

[Promulgated 6th July, 1888.]

Repealed by 1916 Act 9.

ACT

To provide for the Preservation of Copies of Books printed in this Colony and for the Registration of such Books.

Preamble.

WHEREAS it is expedient to provide for the preservation of four copies of every book printed or lithographed in this Colony, and for the registration of such books: 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:—

Section 8 of Act No. 2 of 1873 repealed.
"Book" defined.

1. The eighth section of the Copyright Act of 1873 is hereby repealed, and in this Act unless the context otherwise requires the term "book" shall bear the meaning defined in the ninth section of the said Act, but shall not include any publication which consists merely of a price list, sale catalogue, annual report, trade circular or trade advertisement or any volume, pamphlet, sheet of letter-press, sheet of music, map, chart or plan intended for private circulation, and not for sale, and of which not more than fifty copies shall be printed.

Four copies of every edition of books published in Colony, to be delivered, free of charge, within one month after delivery from the press, to officer appointed by the Governor.

2. Four printed or lithographed copies of the whole of every book which shall be printed or lithographed in this Colony after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be produced, and also of any second or subsequent edition which shall be so produced with any additions or alterations, whether the same shall be in letter-press or in the maps, prints or other engravings belonging thereto, and whether the first edition of such book shall have been produced before or after this Act shall come into force, shall, within one calendar month after the day on which any such book shall first be delivered out of the press for issue and notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered free of any charge, claim or demand whatsoever by the printer, bound, sewed, or stitched together, and upon the best paper on which the same shall be printed or lithographed, at such place and to such officer as the Governor shall, by Notice in the *Gazette*, from time to time direct. The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

Duty of publisher to aid printer in complying with requirements of section.

3. Such officer shall thereupon give a receipt in writing for the copies so received.

Receipt by officer for copies received.

Disposal of copies received.

4. One of such copies shall be delivered to the Librarian of

the South African Public Library and another to the Graham's Town Public Library, and the remaining copies shall be disposed of as the Governor shall direct.

5. The officer receiving the said copies shall forthwith proceed to frame a memorandum of the particulars thereof required for registration by the fourth section of the Copyright Act of 1873, and of such other particulars as the Governor may from time to time direct by Notice in the *Gazette*, and shall transmit such memorandum to the Registrar of Deeds, who shall thereupon, without claim of any fee, enter such particulars as aforesaid, in the registry book kept in his office in accordance with the third section of the said Act, and thereupon the provisions of the third, fourth, fifth, seventh, and ninth sections of the said Act shall *mutatis mutandis* apply as though the entry in the said registry book had been made under the provisions of the said Act; provided, however, that in any proceedings under the fifth section of the said Act it shall not be necessary to join as a party the officer who shall have framed and transmitted such memorandum as aforesaid.

Officer receiving copies to frame memorandum of particulars, according to section 4 of Act No. 2 of 1873, and instructions from the Governor, and transmit memorandum to Registrar of Deeds to be without fee registered by him, and thereupon provisions of sections 3, 4, 5, 7, 9, to apply *mutatis mutandis* to such registration.

6. A transcript of the entries registered in the registry book either under this Act or under the Copyright Act of 1873 shall be prepared quarterly by the Registrar of Deeds, and shall be forthwith published in the *Gazette*.

Quarterly publication in *Gazette* of registered entries under this Act and Act No. 2 of 1873.

7. Every printer who neglects to deliver four copies of any such book as is referred to in the second section of this Act, or of any second or subsequent edition of any such book, to the officer and in the manner hereinbefore prescribed, commits an offence punishable by a fine not exceeding five pounds.

Penalty for printers' contravention of section 2.

8. Every publisher or other person, employing any such printer and neglecting to supply him in manner aforesaid with maps, prints or engravings finished and coloured as aforesaid, which may be necessary to enable such printer to comply with the provisions of the said section, commits an offence punishable by a fine not exceeding five pounds.

Penalty for publishers' contravention of section 2.

9. Every book and every edition of such book printed outside this Colony and published only within this Colony shall, for the purposes of this Act, be deemed to have been printed within this Colony, and for the said purposes the publisher within this Colony shall be taken to be also printer, but no such publisher shall be liable to conviction under the seventh section of this Act, who shall, within one calendar month from the date of publication within this Colony of such book or edition, duly deliver the four copies prescribed by the second section of this Act.

Books printed outside the Colony but published in the Colony only deemed to be printed within this Colony.

10. All pecuniary penalties imposed under this Act may be recovered in the Court of the Resident Magistrate for the place where the book in relation to which the offence has been committed has been printed, lithographed, or published.

Jurisdiction of Resident Magistrate.

No. 4—1888.

Regulations by the Governor to be published in the *Gazette*.

11. The Governor shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter and add to such rules. All such rules and all repeals and alterations thereof and additions thereto shall be published in the *Gazette*.

Power in the Governor to exclude any class of books from operation of whole or part of Act Short Title.

12. The Governor may exclude any book or class of books from the operation of the whole or any part or parts of this Act.

13. This Act may be cited as "The Books Registry Act, 1888."

No. 5—1888.]

[Promulgated 6th July, 1888.

ACT

To Promote the Cultivation of Oyster Fisheries, and the Discovery of Pearl-bearing Oysters.

Preamble.

WHEREAS it is expedient to make provision for the promotion of the Cultivation of Oyster Fisheries and the discovery of Pearl-bearing Oysters: 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:—

Meaning of "Commissioner."

1. In the construction of this Act the term Commissioner shall mean the Commissioner of Crown Lands and Public Works.

Licence for oyster bed by Commissioner.

2. It shall be lawful for the Commissioner to grant a licence to the owner of any land bordering on the sea, or any estuary, or to any person or persons, with the consent of such owner, to form or plant any oyster bed or laying, whether above or below low-water mark: Provided, always, that the forming and planting of such oyster beds shall not give any exclusive right or title to the occupancy of the shore, except for the purposes aforesaid.

Shore rights protected.

Limits of bed to be defined; conditions and limitations on licence.

3. Every such licence shall, by reference to a map, or otherwise, as to the Commissioner shall seem best, define the position and limits of such oyster bed or laying, and may be made subject to such conditions and limitations, and may be perpetual or terminable, as to the said Commissioner shall seem proper.

Provisions as to notice before licence granted.

4. Previously to the granting of any such licence as aforesaid, the said Commissioner shall cause a notice, stating the application for such licence, to be inserted in the *Gazette*, and in some newspaper circulating in or near the district within which such licence may be applied for; and such notice shall also state the time and place (not sooner than three weeks from the date of such notice) when and where the said Commissioner, or any person appointed by him, shall hold an inquiry as to the expediency of granting the same; and every such notice shall be given at least three times in some newspaper circulating in such district, and also posted at or near the office of the Resident Magistrate of the district; and no such licence shall be granted in any place

where the said Commissioner shall be of opinion that the public exercise and enjoy *bona fide* a substantially profitable fishing for oysters; nor shall any such licence in any way prejudice any previously existing private rights or privileges.

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Limitation in power to grant and in effect of licence.

5. When any such licence shall be granted notice thereof shall be given in like manner as aforesaid in respect to the application for any such licence, and a true copy of every such licence so granted by the said Commissioner, signed by the Assistant Commissioner, shall be lodged with the Resident Magistrate of the district; and a copy of such licence, certified under the hand of such Assistant Commissioner or Resident Magistrate, shall be admitted in evidence in all courts of justice in the same manner as if the said copy was the original licence of which it shall purport to be a copy.

Provisions as to notice of licence when granted.

6. At any time within the period of one month after the granting of such licence it shall be lawful for any person or persons dissatisfied with the same, to apply by way of memorial to the Governor that such licence may be vacated; and notice of every such memorial shall be given to the licensee and to the Commissioner; and the Governor may either confirm or vacate such licence as to him shall appear expedient.

Application to the Governor within one month by person interested to vacate licence.

7. Notwithstanding anything contained in any such licence as aforesaid granted by the Commissioner under the provisions of this Act, the same shall be determinable by a certificate of the Commissioner (which certificate he is hereby empowered to make), certifying to the effect that the Commissioner is not satisfied that the licensee is properly cultivating the oyster ground within the limits of such licence; and on any such certificate being made all rights by such licence conferred shall by virtue of this Act, and of the certificate as aforesaid, be absolutely determined, and all the provisions of the Acts hereinbefore recited and referred to, or of this Act, shall cease to operate in relation to such licence as an oyster fishery or otherwise; and for the purposes of this provision the Commissioner may from time to time with respect to such licence or oyster fishery make such inquiries and examinations, and require from such licensee such information as the Commissioner may think necessary or proper; and the licensee shall afford all facilities for such inquiries and examinations, and give such information accordingly.

Commissioner may terminate licence by certificate, if licensee do not cultivate oyster ground properly.

Powers of inquiry and examination vested in Commissioner.

8. It shall not be lawful for any person other than the licensees or their assigns, their agents, servants, and workmen, within the limits of any oyster bed or laying, knowingly to do any of the following things:—

Offences defined.

- (a) To use any implement of fishing except a line and hook or a net adapted solely for catching floating fish, and so used as not to disturb or injure in any manner any oyster bed or oysters, or the oyster fishery:

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- (b) To dredge for any ballast or other substance except under a lawful authority for improving the navigation :
- (c) To deposit any stone, ballast, rubbish or other substance :
- (d) To place any implement, apparatus, or thing prejudicial or likely to be prejudicial to any oyster bed or oysters, or brood or spawn thereof, or to the oyster fishery, except for a lawful purpose of navigation or anchorage :
- (e) To disturb or injure in any manner, except as last aforesaid, any oyster bed or oysters, or brood or spawn thereof, or the oyster fishery :
- (f) To interfere with or take away any of the oysters from such bed without the consent of the licensees or owners or occupiers of such bed.

Penalty for offences.

Any person knowingly contravening sub-section (a) shall be liable upon conviction before the Resident Magistrate of the district to a fine not exceeding five pounds, or imprisonment with or without hard labour for any term not exceeding one month, or to both such fine and such imprisonment; and any person knowingly contravening any of the sub-sections (b), (c), (d), (e) and (f), shall upon conviction be liable to like penalties as though he had been convicted of malicious injury to property; and nothing in this section contained shall be taken to deprive any such licensee of any right to recover damages by civil process in any competent court against any person contravening this section.

Further powers of Commissioner with regard to revocation of licence.

9. In any case where any such licence shall be granted by the said Commissioner, if it shall appear to him that the licensee under such licence, or his assigns, at any time not less than six months from the date of such licence has not taken steps proper in his opinion to form, keep, and cultivate the oyster bed or laying in such licence mentioned, then and in such case it shall be lawful for the said Commissioner, by an order in writing, to revoke such licence, and thereupon all the rights and privileges conferred by such licence shall cease and determine: Provided, always, that previously to the making of such order the said Commissioner shall cause a notice in writing stating his intention to make such order to be served upon the person for the time being entitled to such licence, or in case such person cannot be found, the Commissioner shall cause such notice to be inserted in the *Gazette*, and as an advertisement three times at least in some newspaper circulating in such district; and no such order shall be made till after the expiration of one month from the service of such notice, or from the date of the last of such advertisements, which shall last happen.

Provision for close time to be fixed, and for regulations for improvement and protection of oyster fisheries.

10. It shall and may be lawful for the Governor by proclamation in the *Gazette*, to fix a close time during which dredging for or otherwise taking or removing oysters shall be prohibited either throughout the Colony or at such places as to the said Governor may seem fit, and by like proclamation to make from

time to time regulations for the improvement and protection of oyster fisheries generally, and to impose such penalties for breaches of anything done in contravention of any such proclamation as to him shall seem meet: Provided that no such penalty shall exceed the sum of twenty pounds, with the alternative of imprisonment with or without hard labour for any period not exceeding one month, unless such fine be sooner paid.

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Proc. 488. 1907
 " 5. 1911
 g. of 13. 1. 11.

11. It shall be lawful for the Commissioner to grant a licence to any person to search for pearl-bearing oysters along any extent of coast or shore not exceeding twenty miles in length, below high-water mark, and every licence so granted shall confer upon the licensee a full and exclusive right and privilege, within the prescribed limits, during the period for which such licence is granted, and subject to such conditions and limitations as the Commissioner may impose and insert in or endorse on such licence, to search for pearl-bearing oysters, and to acquire property in all pearl bearing oysters discovered and removed by the licensee under such licence.

Licence to search for pearl-bearing oysters may be granted by Commissioner: rights of licensee.

12. The limits of the shore or coast-line to which any licence granted under the last section relates shall be clearly defined upon such licence, by reference to a map or otherwise, and no such licence shall be deemed to confer upon the licensee any right or privilege as against the owner of any land bound or limited by the sea, or shore, or coast-line within the limits so defined, or any greater or more exclusive right or privilege in respect of the sea-shore below high-water mark than shall be reasonably necessary for protecting the right and privilege of searching for, and removing and collecting such pearl-bearing oysters as may be found by him.

Local limits for exercise of licence to be defined; and limitations on rights under licence defined.

13. No licence shall be valid under the eleventh section unless and until such notices as are provided for in the fourth and fifth sections shall have been given in manner in those sections provided, and the provisions of the sixth, seventh, ninth, and tenth sections of this Act shall *mutatis mutandis* apply to the application for granting, vacation and determination of any licence granted under the eleventh section, to the protection during a close season of pearl-bearing oysters, and to the framing of regulations for the search for and recovery of such oysters: provided that no licence granted shall be held to be determined under the ninth section aforesaid unless the Commissioner shall be satisfied that the licensee or his assign has failed to make reasonable efforts to search for and discover pearl-bearing oysters, or has improperly acted in breach of his licence or any express or implied condition thereof.

Provisions of sections 5, 6, 7, 10, 11, to apply, *mutatis mutandis*, to licence to search for pearl-bearing oysters.

14. Any person who knowingly shall interfere in any way with the free exercise of his exclusive right and privilege by any licensee under the eleventh section shall, upon conviction before the Resident Magistrate of any district bounded by any portion of the shore or coast line defined in such licence, be liable to a fine not

Penalty for interference with free exercise of rights conferred by licence under section 12; rights of licensee with regard to pearl-bearing oysters.

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exceeding fifty pounds, and in default of payment to imprisonment for any term not exceeding three months, and any pearl-bearing oysters found, discovered, or removed by any person other than the licensee or his assign shall be deemed to be the property of the licensee or his assign, who may recover from such person every pearl-bearing oyster so removed or the value thereof.

Short Title.

15. This Act may be cited for all purposes as the "Oyster Fisheries Act, 1888."

No. 6—1888.]

[Promulgated 13th July, 1888.]

Repealed by 1915 Act. 16

ACT

To Incorporate by the name of The South African Mutual Life Assurance Society, the Society heretofore called The Mutual Life Assurance Society of the Cape of Good Hope.

Preamble.

WHEREAS by an agreement dated the Seventeenth day of May, One Thousand Eight Hundred and Forty-five, certain persons associated themselves together to form a society for effecting assurances upon lives at Cape Town under the style of the Mutual Life Assurance Society of the Cape of Good Hope: And whereas it is expedient that provision should be made for enabling the said Society to carry on the business of and connected with a Life Assurance Society in all the various branches thereof: And whereas it is further expedient that the name and style of the society should be altered, and that the society should be incorporated, and hereafter styled The South African Mutual Life Assurance 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:—

I.—INCORPORATION OF THE SOCIETY.

Incorporation of the Society.

1. The present members of the said Mutual Life Assurance Society of the Cape of Good Hope, and all persons hereafter becoming members of the Society, whilst members, are hereby incorporated by the name and designation of The South African Mutual Life Assurance Society, and shall be entitled to carry on the business in this Act mentioned, until dissolved by the members thereof, or by legal process.

Use of name.

2. The said Society may in all matters and proceedings use the said name and designation, and may by the said name sue, or be sued, prosecute or defend in all Courts of Law, and shall have power to purchase, hold or alienate lands and buildings, enter into contracts or agreements, and generally transact all the business of the Society.

3. The principal office of the Society shall be in the city of Cape Town, and until changed, at the Society's Buildings in Darling-street. Place of principal office.

VESTING OF PROPERTY NOW HELD.

4. All immovable property, mortgage bonds, deeds, money, securities for money and other property of every kind now held by the Trustees or Directors of the Mutual Life Assurance Society of the Cape of Good Hope, or to which the said Society has any right or claim, are hereby transferred to and vested in the said "South African Mutual Life Assurance Society." Property vested in the incorporated Society.

LIABILITIES OF THE SOCIETY.

5. The said Society shall be liable for and in respect of every lawful debt or obligation of the said Mutual Life Assurance Society of the Cape of Good Hope. Liability for the debts and obligations of the former Society.

SUITS OR ACTIONS PENDING.

6. All suits or actions, or other proceedings pending at the time of the taking effect of this Act, at the instance of or against the Trustees of the said Mutual Life Assurance Society of the Cape of Good Hope, shall continue as if this Act had not been passed, and any final judgment or order thereon shall enure for the benefit of, or be binding upon the said Society as the case may be. Continuance of pending actions and suits.

II.—BUSINESS OF THE SOCIETY.

7. The object of the Society is by means of funds heretofore accumulated, and hereafter to be raised by mutual contribution of the members, to carry on all the business of and connected with a life assurance society, in all the various branches thereof, which business may include the granting of policies to effect the assurances following:— Business of the Society.

- (1) of sums payable at the death of the assured.
- (2) of sums payable when the assured shall attain a stipulated age, or at death, whichever shall first happen;
- (3) of sums payable at the death of the first or last of two or more persons assured jointly or on the failure of one life before another;
- (4) of endowments, and investments for children;

And may also include the purchase and sale of annuities and of reversions of policies issued by the Society and the issue of policies on the Tontine principle.

INVESTMENTS.

8. The funds of the Society may be laid out and invested from time to time in any of the modes following:— Investment of funds.

- (1) In the purchase of or advance on the public stocks, funds or debentures of the Government of the United Kingdom of Great Britain and Ireland, or Colony of the Cape of

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- Good Hope, Natal, or of any other British Colony, or of the Orange Free State or South African Republic.
- (2) Upon the debentures, or mortgages of any divisional council, municipality, or incorporated body in South Africa authorised to borrow money.
 - (3) Upon first mortgage of immovable property in South Africa.
 - (4) On deposit or current account with or without interest with any bank or joint stock company or society in South Africa.
 - (5) In loans on the security of policies of life assurance, or first mortgage bonds on immovable property with or without other security.
 - (6) In the purchase of immovable property in South Africa, for the protection of the interests of the Society, or for the purposes of the business of the Society.
 - (7) In the purchase of policies granted by the Society, at a sum not exceeding the surrender value thereof.

III.—OF MEMBERS.

What persons are to be members.

9. Every person who is on the taking effect of this Act a member of the Mutual Life Assurance Society of the Cape of Good Hope, and every person who shall thereafter effect an assurance with the Society, other than a temporary or short term assurance without participation in profits, shall be a member. And, subject to any bye-laws to be made under the authority of this Act, every person registered in the books of the Society as the owner of a policy or contract of assurance, as aforesaid, acquired by purchase, cession, or otherwise (not being a person by whom any such policy or contract is held in trust for the purposes of family or other settlement) shall also be a member so long as he shall have an interest in the assurance.

Duration of membership.

10. Every such member shall be entitled to the rights and privileges of membership until his death, unless all claims against the Society in respect of the policy constituting membership are previously satisfied, or such policy shall lapse, be forfeited, or assigned, or unless the right to such policy passes by operation of law, and the person entitled thereto procures himself to be registered as the proprietor thereof, in the books of the Society.

Liability of members limited.

11. The liability of the members is limited to the amount of contribution actually made by them to the funds of the Society.

RIGHTS AND PRIVILEGES OF MEMBERS.

Title to vote at poll.

12. In case of a poll being taken, every member shall be entitled to vote according to the following scale:—

If the holder of an annuity policy, who has paid not less than one hundred pounds sterling, but under five hundred pounds

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sterling, one vote; who has paid five hundred pounds sterling, but under one thousand pounds sterling, two votes, or who has paid one thousand pounds sterling, three votes, and no more. If the holder of any other policy exclusive of bonus additions:—For one hundred pounds sterling and less than five hundred pounds sterling, one vote; five hundred pounds sterling and less than one thousand five hundred pounds sterling, two votes; one thousand five hundred pounds sterling or upwards, three votes and no more. Where two or more persons are jointly members by virtue of any policy, only one of them shall be entitled to vote in person in respect of such policy: such one to be authorised by the other in writing, and failing such authority the member whose name stands first in the register of members shall be so entitled.

13. An insane member, or member under curatorship, may not vote except by his curator. Votes of members insane or under curatorship.

14. Male members not residing within the municipality of Cape Town, and any members, who although residing within the municipality, shall be absent from the Cape district at the time any meeting of the Society is held, and all female members, shall be entitled to vote by proxy upon all questions other than the election of directors. No proxy shall be valid after the expiration of three months from the time of its execution. Votes by proxy.

15. The holder of a General Power of Attorney for transacting the business of any member absent from the Colony may, if a member, vote for his principal, and if not a member, or if not resident within the municipality of Cape Town, he may grant a proxy to a member to represent his principal. The power, or an attested copy thereof, shall be exhibited at the time of voting unless previously produced and noted at the Society's principal office. Votes of members absent from the Colony.

16. Every proxy shall be as nearly as is material in the following form:— Form of proxy.

I, A. B., of———, a member of the South African Mutual Life Assurance Society, hereby appoint C. D., also a member thereof, my proxy to appear and vote for me upon all matters in my absence, at the next meeting of the Society, to be held on the day of 18 , and at any adjournment thereof. Dated at this day of 18 .

17. No member shall be entitled to vote on any question in which he has an interest, other than his interest as a member, at any meeting of the directors or of the Society. Interest to disqualify.

IV.—OF THE DIRECTORS.

18. The business of the Society shall be conducted and managed by a board of nine directors. Nine Directors to form the Board.

19. The continuing directors may act notwithstanding a vacancy in their body. Directors may act notwithstanding vacancy.

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Quorum.
Voting at Board Meetings.

20. Any four of the directors shall constitute a quorum for the transaction of business.

21. Questions arising at any meeting of the board or local board or any committee, shall be decided by a majority of votes, and in case of an equality of votes the chairman shall have a second or casting vote.

Defects in appointment or disqualification of Director not to invalidate proceedings.

22. No proceedings of the board or of any local board shall be invalid by reason of any defect in the appointment of any director or local director, or that any director was disqualified.

POWER AND DUTIES OF THE BOARD.

Board may appoint officers, clerks and manager.

23. Subject to the provisions of this Act, and of any bye-laws made under its authority, the board shall have power to appoint and remove all such officers and clerks, as may be necessary, and generally to manage and transact all the business of the Society.

Chairman of Board.

24. The directors shall elect a chairman and determine the period for which he is to hold office; but if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose a chairman to preside at such meeting.

Committees.

25. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit.

Local Boards.

26. The Board of Directors may delegate so much of their power as they may deem expedient to local boards within the Colony or beyond its limits in South Africa, and may from time to time revoke any such delegated powers.

Committees and local Boards to be subject to Act, bye-laws and regulations.

27. Every committee and every local board shall be subject to this Act, to the bye-laws of the Society, and to any regulations framed by the Board of Directors for the guidance of committees and local boards.

Chairman of Committees and local Boards.

28. A committee, or local board, may elect a chairman of their meetings; if no such chairman be elected, or if he be not present at a meeting the members present may elect one of their number to be chairman of such meeting.

Policies and instruments signed by two Directors and Secretary to be binding.

29. All policies, powers of attorney, deeds or other instruments shall be valid and binding on the Society if signed by any two of the directors and the Secretary.

QUALIFICATION OF DIRECTORS.

Qualification of Directors.

30. No member shall be elected, or if elected continue a director, or a local director, unless he shall be assured with the Society for a reversion of at least five hundred pounds upon his own life.

DISQUALIFICATION.

Disqualifications for office of Director.

31. No member who is a director, manager, agent or auditor of any other Life Assurance Office or who shall be related to

any other director within the second degree of consanguinity or affinity, or who shall be a co-partner, or in the employ of any director, shall be eligible to be elected or to continue a director.

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32. If any director or local director shall resign, die, become insolvent, assign his estate for the benefit of, or compromise with, his creditors, be declared insane, or shall be otherwise disqualified, or shall be absent from the meetings of the board or local board for three consecutive months without leave from the Board of Directors (which leave of absence shall not exceed six months in all), then in every such case his office shall become vacant, and no more than two directors shall have leave of absence at any one time.

What causes shall create vacancy in office of Director.

Leave of absence.

ELECTION AND RETIREMENT OF DIRECTORS.

33. The present directors shall, unless they become disqualified, continue in office until the time for their retirement shall arrive.

Present Directors continue until period of retirement.

34. At each Annual General Meeting three of the directors who have been longest in office shall retire, and each retiring director shall be eligible for re-election.

Retirement of Directors.

35. 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 General Meeting, the vacancy so created may be filled by the Board of Directors.

Vacancies which may be filled by the Board.

36. Any such vacancy which cannot or which shall not be filled by the Board of Directors, shall be filled in the manner hereinafter provided.

And which shall be otherwise filled.

37. It shall be competent for the members by a majority of votes of those present, or represented at a duly convened Special General Meeting, to remove a director from his office and to declare his place vacant.

Removal of a Director.

38. Any director appointed by the Board of Directors or elected to supply a casual vacancy shall continue in office for the remainder of the period during which his predecessor would have continued in office.

Continuance of Directors elected to fill vacancies.

39. No person shall be deemed to be a candidate for election as a director unless he shall be nominated in writing by at least five members within the time appointed for receiving nominations.

Nomination of candidates for directorship.

40. Not less than forty-two days before the date of every Annual General Meeting, and whenever members are to elect directors to supply casual vacancies, 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.

Notice inviting nominations for directorship.

41. The notice in the last preceding section mentioned shall specify a day, not being less than fourteen days from the first

Notice to limit time for receiving nominations.

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publication of such notice in the *Gazette*, as the last day on which nominations will be received.

Election when number of candidates not greater than required.

42. If no greater number of candidates be duly nominated than the number of directors to be elected, the candidates nominated shall be deemed to be elected directors.

Where no candidates or less than the number required.

43. 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 directors to be elected, the candidates nominated (if any) shall be deemed to be elected; and the Board of Directors shall thereupon fill up any vacancy for which no nomination has been made.

Where number of candidates exceeds the number of Directors to be elected.

44. If the number of candidates duly nominated exceeds the number of directors to be elected, the Secretary shall without delay forward to the registered address of every member a circular stating what vacancies exist, and therewith a printed voting paper and an envelope with the address of the Secretary and the words "Voting Paper" printed thereon. The form of the voting paper shall be, as nearly as is material, the following:—

No. of Policy.....
Amount assured £.....
No. of Votes.....

I, A. B.....of.....one of the members of the South African Mutual Life Assurance Society do hereby vote for

C. D.)
E. F.) names of Candidates nominated.
G. H.)

As { a Director } of the said Society.
 { Directors }

Dated at.....this.....day of.....
188.....

Witness:—

(Sign here).....

NOTICE.—There are.....directors to be elected. You may vote for as many candidates as there are vacancies or for a lesser number if you please. Erase the names of the candidates for whom you do NOT intend to vote, and sign this paper in the presence of one witness at least.

The voting paper must be sent direct to the Secretary, and must reach his hand not later than the.....day of18....., if received afterwards your vote will not be reckoned.

No other voting paper will be received unless it is entirely in your own handwriting, and sent by you to the Secretary marked "Voting Paper" on the envelope, with a letter explaining why the printed form is not returned.

No voting paper not in accordance with these directions will be recognised.

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45. The Secretary shall retain all voting papers, addressed to him as aforesaid, unopened, and shall deliver the same to the scrutineers appointed for examining the votes; such scrutineers if not appointed by a General Meeting shall be appointed by the directors.

Scrutiny of voting papers.

46. Upon the completion of the scrutiny the scrutineers shall report the result in writing to the Secretary, and the candidates having the majority of votes shall be deemed duly elected. In the event of an equality of votes the candidates having such equal number shall draw lots in the presence of the Chairman of the Board of Directors, or of the Secretary, and the candidate upon whom the lot shall fall shall be deemed to be duly elected.

Result of the voting.

V.—AUDIT.

47. The accounts of the Society shall be audited at least once a month by two auditors.

Audit.

48. Any auditor may examine the accounts from day to day, and the auditors jointly may at all convenient times call for, inspect, and examine all the books, accounts, vouchers and securities of the Society.

Auditors may at all times examine accounts and inspect books and papers.

49. The present auditors shall, unless they become disqualified, continue until the period for their retirement shall arrive.

Continuance of present Auditors.

50. The auditors shall be elected each year at the Annual General Meeting of the Society.

Election of Auditors.

51. No director nor officer of the Society shall be eligible for appointment as an auditor; and any auditor retiring from office shall be eligible for re-election.

Disqualifications for auditorship.

52. The office of auditor shall become vacant by death, resignation, conviction of any offence punished by imprisonment, or when an auditor shall in the opinion of the Board prove incompetent or neglect his duty.

Vacancies in office of Auditor.

53. The directors may appoint an auditor to supply any vacancy arising as aforesaid, to hold office until the next Annual Meeting.

Filling vacancies.

54. The Board may from time to time appoint or remove an auditor or two auditors in each place other than Cape Town, where the Society may for the time being be carrying on business.

Appointment and removal of Auditors at other places than Cape Town.

VI.—OF GENERAL MEETINGS.

55. An Annual General Meeting of the Society shall be held on the first Monday in the month of September in every year at the Society's principal office, at such hour as the Board may determine.

Annual General Meeting.

56. Other meetings of the Society shall be called Special General Meetings.

Special General Meetings.

- No. 6—1888.
- Chairman at General Meetings. **57.** The Chairman of the Board of Directors shall if present preside at all general meetings of the society, and in his absence any other member of the Society may be appointed by the members present to take the chair.
- Convening of Special General Meetings. **58.** A Special General Meeting may be convened by the Board at any time, and shall be so convened upon a written requisition delivered at the principal office, signed by not less than fifty members who have been members for one year at least, and who are entitled to vote, which requisition shall express distinctly the object for which it is desired that the meeting shall be held.
- Notice of same. **59.** Notice of a Special General Meeting shall be published within ten days after the delivery of any such requisition as aforesaid.
- To be by advertisement. **60.** Thirty days' notice at the least of every meeting of the Society shall be given by advertisement in the *Gazette*, and in such newspapers as the directors shall determine. The notice shall specify the day, the place and hour of the meeting, and in case of a Special General Meeting the nature of the business shall be stated.
- Business limited to that set forth in notice. **61.** No business shall be brought before any Special General Meeting except that set forth in the notice convening such meeting.
- Ordinary and special business at Annual Meeting. **62.** At an Annual Meeting the consideration of the report, accounts, and balance sheet, and the election of directors and auditors shall be deemed ordinary business; all other business shall be deemed special business.
- Consideration of special business. **63.** The directors may, if they think fit, permit the consideration of any special business at an Annual General Meeting, the purport of which shall have been intimated to them in writing by any member at least thirty days before the day of such meeting, the said business to be advertised at least twenty-one days before such meeting.
- Quorum. **64.** At an Annual General Meeting twelve members personally present shall constitute a quorum for the transaction of the ordinary business. At a Special General Meeting, or for the transaction of any business other than the ordinary business at an Annual General Meeting, fifty members personally present shall constitute a quorum.
- Insufficient number present at General Meeting. **65.** If within thirty minutes after the time appointed for a General Meeting a sufficient number of members to form a quorum is not present, the meeting if convened upon the requisition of members shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same hour and place, or to such other day not being more than fourteen days after such meeting as a majority of members personally present may then appoint, and if at such adjourned meeting a quorum be not present, it shall then be dissolved.
- Adjournment of meetings. **66.** The chairman of any duly constituted meeting may, with

the consent of the majority of the members present, adjourn it from time to time and from place to place.

67. No business shall be transacted at any adjourned meeting other than that left unfinished at the meeting from which the adjournment took place.

68. Unless a specified proportion of the votes of the members is required for the determination of any question coming under the consideration of a General Meeting, such question unless a poll be demanded immediately after the declaration of the chairman and before the consideration of any other business shall have been proceeded with, shall be decided by a show of hands, each member counting for one vote, and the declaration of the chairman at such meeting that a resolution has been carried, and an entry to that effect in the minute book of the Society shall be conclusive evidence of the fact.

69. If a poll is demanded by five or more members, or if a specified proportion of the votes of the members is required for the determination of the question, the votes shall be taken by ballot, and the result declared by the chairman and recorded in the minute book of the Society.

70. At any meeting at which a poll is to be taken two scrutineers shall be appointed by the votes of the members present for examining the votes and reporting the result.

71. In the event of an equal number of hands being held up for and against any resolution, or of an equality of votes when a poll is taken, the chairman of the meeting shall be entitled to a casting vote in addition to his vote or votes as a member.

VII.—BYE-LAWS.

72. The present rules, orders, regulations, or bye-laws of the said Mutual Life Assurance Society shall continue in operation as bye-laws of the Society until repealed or altered under the provisions of this Act.

73. The directors may from time to time make and alter such bye-laws as may be necessary or expedient for carrying out the provisions and objects of this Act, for the general management and control of the business and officers of the Society, and for providing pensions or retiring allowances on the retirement of such officers, but no such bye-law shall be repugnant to the provisions of this Act nor contrary to law.

74. Notice shall be given in the *Gazette* and in such newspapers as the directors shall see fit, of the framing of such bye-laws, and that the same are open to the inspection of members at the principal office of the Society, during a period of fourteen days at the least.

75. If such bye-laws are not objected to by at least fifty members entitled to vote before the expiration of the period stated

No. 6—1888.

Business at adjourned meetings.

Mode of voting at General Meetings.

In case of poll votes to be taken by ballot.

Scrutineers.

Equality of votes.

Bye-laws.

Directors may make and alter bye-laws.

Notice of intended bye-laws.

Objections thereto.

No. 7—1888.

Mode of dealing with objections.

in the notice, the same shall then be binding upon the directors, members, and officers of the society, until altered.

76. In case any such bye-law shall be objected to as aforesaid, the directors shall either abandon the same, or submit it to an Annual or Special General Meeting.

Repeal of bye-laws at General Meeting.

77. Any bye-law may be repealed by a majority of votes taken by ballot at a general meeting, of the object of which due notice shall have been given as by this Act provided.

MISCELLANEOUS.

Notice of assignments of policies required.

78. No assignment of a policy shall confer on the assignee therein named, his executors, administrators, or assigns, any right to sue the Society for the amount of such policy, or the moneys assured or secured thereby, until a written notice of the date and purport of such assignment shall have been given to the Society at its principal place of business; and any advance or payment *bona fide* made by the Society upon or in respect of any policy before the date upon which such notice shall have been received, shall be valid and effectual against the assignee or other person giving such notice.

Service of notices and legal process against the Society.

79. All notices, summonses, or other legal process may be served, and shall be effectual against the Society, if served or left at its principal office with any director, officer, or servant of the Society.

Services of notices on members.

80. A notice given by the Society to a member shall be effectual if in writing and either delivered to the member personally, or left at his place of business or residence, or sent through the Post Office stamped and directed to the member at his address, registered in the office of the Society.

Commencement and title of Act.

81. This Act shall come into operation on the tenth day of September, 1888, and may be cited for all purposes as "The South African Mutual Life Assurance Society Incorporation Act, 1888."

No 7—1888.]

[Promulgated 13th July, 1888.

ACT

To Continue for another Year the Fourth Section of "The Vineyards Protection Act Amendment Act, 1886."

Preamble.

WHEREAS it is expedient that the provisions of the Fourth Section of "The Vineyards Protection Act Amendment Act, 1886," should be continued for another year: 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 4 of Act No. 8, 1886, to be in force until 30th June, 1889.

1. The provisions of the Fourth Section of "The Vineyards Protection Act Amendment Act, 1886," shall continue and be in force until the 30th June, 1889, and no longer, anything in the Tenth Section of the said Act, or in the First Section of Act No. 13 of 1887, to the contrary notwithstanding.

Spent.

No. 8—1888.]

[Promulgated 27th July, 1888.

ACT

Repealed by Act 24/135

To Provide for the Recognition in this Colony of Letters of Administration granted in other States.

WHEREAS it is expedient to make provision for the recognition in this Colony of Letters of Administration granted in other States: 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:—

Preamble.

1. In this Act the following terms shall bear the following meanings:

Definition of terms

“State” shall include England, Scotland, Ireland, every British Colony and British Possession wherever situate, and the Orange Free State, and South African Republic.

“State.”

“Letters of Administration” shall include every document issued and delivered, or a copy of every such document duly certified, by any lawful and competent judicial or other public authority in any State, under and by which document any person or body corporate shall be authorised and empowered to act as the personal representative of any deceased person or as executor or administrator, either testamentary or dative, either of the whole estate of any deceased person which shall be legally situate in such State, or of so much of such estate so situate as consists of immovable, movable, real, or personal property as the case may be.

“Letters of Administration.”

“British Consular Court” means any British Court having jurisdiction under an Order in Council made in pursuance of the Foreign Jurisdiction Acts, 1843 to 1878, or any of them.

“British Consular Court.”

2. All or any of the provisions of this Act shall come into force with regard to all letters of administration at any time granted in any State, as and from the date of and during the period if any limited by a Proclamation which it shall be lawful for the Governor to publish in the *Gazette*, declaring that the Legislature of such State has made proper reciprocal provision for the recognition of letters of administration granted in this Colony, and specifying the provisions of this Act which shall so come into force, and any provision of this Act so proclaimed shall continue in like force unless and until either any period so limited as aforesaid shall have expired or been extended by Proclamation in the *Gazette*, or unless and until a further Proclamation shall be similarly published by the Governor declaring that such proper reciprocal provision no longer exists, or that all or any of the provisions of this Act shall no longer apply to letters of administration granted in such State.

Operation of Act only with regard to letters granted in States, making reciprocal legal provision.

No. 8—1888.

* Letters granted in other State on production to Master may be sealed and signed and given effect to in this Colony:

But no letters to be so sealed and signed if any letters already granted here;

Stamps, fees, &c., to be, subject to rule of court, the same as for letters issued by Master;

Jurisdiction of Supreme Court in case Master refuses to sign.

Power of Supreme Court to make rules of Court.

Letters granted by British Consular Courts recognised.

Evidence by copy of letters, certified by Master, and provision for Master's certificate of right to administer estates here situate under letters produced.

3. Whenever letters of administration granted in any State shall be produced to, and a copy thereof deposited with, the Master of the Supreme Court of this Colony, such letters may be sealed with his seal of office and signed by the Master, and shall thereupon be of like force and effect and have as full operation in this Colony, with respect to the entire estate of the deceased here situate, as though the said letters had been letters dative granted by the said Master: Provided, however,

- (1) That the Master shall not seal and sign any such letters so produced in case any letters of administration shall have been already granted by him in respect of the estate of any deceased person which shall be situate in this Colony;
- (2) That, before any such letters are sealed and signed, the same stamps, fees of office, duties, and security shall, in the absence of any rule of court to the contrary, be paid, discharged, and given by the person authorised and empowered to act by the produced letters of administration, which would be required if the said letters had been granted by the Master;
- (3) That in case the Master shall refuse to seal and sign any such letters of administration so produced, it shall be lawful for the person thereby authorised and empowered to act, after notice to the Master, to make application to the Supreme Court for relief, and thereupon the Supreme Court shall make such order as to justice shall appertain, but no such order shall be inconsistent with the provisions of this Act or with rules of court framed hereunder.

4. The Supreme Court may from time to time make, revoke, amend, and vary rules of court regulating the procedure and practice, including rules as to fees and costs, to be observed in and about the carrying out of the provisions of this Act, and all such rules shall come into operation from the date of their proclamation in the *Gazette*.

5. Letters of administration lawfully granted by any British Consular Court shall be deemed and taken to be granted in a State to which all the provisions of this Act apply.

6. A copy certified by the Master of the Supreme Court of the copy of any letters of administration, deposited with him under the third section of this Act, shall be admitted in evidence in all legal proceedings in this Colony, as though such certified copy were the original letters, and a certificate under the hand of the Master to the effect that he has, in accordance with the said section, sealed and signed any letters of administration, authorising and empowering any person to act thereunder, shall be admitted

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in all legal proceedings in this Colony as *prima facie* proof of the legal right and title of such person to administer so much of the estate of the deceased person named in such certificate as is situate in this Colony.

No. 9—1889.

7. Every proclamation under the second and fourth sections of this Act shall be laid before the Legislative Council and House of Assembly within fourteen days after the meeting of the next session of Parliament after its publication.

Proclamations under Act to be laid before Houses of Parliament.

8. This Act may be cited for all purposes as "The Foreign Letters of Administration Act, 1888."

Short title.

No. 9—1888.]

[Promulgated 27th July, 1888.]

ACT

To Provide for the Prohibition under certain circumstances of the Exportation from this Colony of certain Articles.

WHEREAS it is expedient to make provision to prevent the exportation from this Colony of certain articles under certain special circumstances and to obviate as far as may be any danger of this Colony being involved in disputes in cases of war: 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, when thereto advised by special resolution passed at a meeting of the Executive Council summoned for that purpose, to prohibit by a proclamation published in manner hereinafter set forth for any period limited in such proclamation, the exportation from and across all or any of the borders of this Colony, or by land only, or by sea only, of all or any of the articles mentioned in the Schedule to this Act.

Governor when advised by Executive Council may prohibit export of the scheduled articles.

2. Every proclamation made in accordance with the provisions of the last preceding section shall be published in the *Gazette*, and in so many registered public newspapers in this Colony as to the Governor shall seem fit.

Mode of publication of the Proclamation.

3. From and after the said publication in the *Gazette* of any such proclamation as aforesaid, every person and the agent of any person who shall either personally or by any agent export or attempt to export, in violation of the prohibition contained in such proclamation, any article therein mentioned, shall be liable upon conviction to a fine not exceeding one hundred pounds, or imprisonment with or without hard labour for any term not exceeding twelve months, unless such fine be sooner paid, or to both such fine and such imprisonment: provided, however, that no person shall be convicted under this section, who shall prove to the satisfaction of the court before which he is tried, that the act or attempt in respect

Penalties for exporting in violation of the Proclamation.

Proof by offender of ignorance of the Proclamation shall excuse him.

Repealed by Act 9/13 §12

No. 9—1888.

Proclaimed articles found under circumstances raising reasonable suspicion that they are intended for export, liable to seizure by certain officers and forfeited; unless owner prove that he had no intention to export, or violate Proclamation after it came to his knowledge.

of which he is charged or accused was committed at a time when he was in fact ignorant that such proclamation had been published.

Governor may order release of the goods if satisfied that owner did not intend to violate Proclamation.

Mode of dealing with seized articles.

Powers of search of Customs and other officers. Governor may frame regulations for regulating conduct of officers and for carrying out this Act.

4. Every article, the exportation of which shall be prohibited by any such proclamation as aforesaid, shall, during the period, if any, limited in such proclamation, be liable to seizure by any justice or special justice of the peace, or by any field-cornet or police constable, or customs or other officer invested by the Governor with power to seize such articles, if such article be found under circumstances raising a reasonable suspicion that it is intended for exportation, or is about to be exported contrary to the provisions of such proclamation: and every article so seized shall be detained in possession by the person effecting seizure, or by such person as the Governor may direct, and shall be deemed to be forfeited for the benefit of the Colonial Government, unless within one month after the date of such seizure the owner or any other person interested in such article, shall prove to the satisfaction of the Supreme Court, in an action to which the Assistant Treasurer of the Colony shall be a defendant party, either that such article was not intended for exportation, or about to be exported, or that no attempt was made to export such article, after such owner or other interested person had knowledge of the fact of the publication of such proclamation as aforesaid; provided, however, that in any case the Governor may at any time release from detention or forfeiture any article seized under the provisions of this Act, and may direct the restoration of such article to the owner or other person interested therein, upon production of satisfactory proof that such owner or other interested person, as the case may be, had no intention to violate and was no party to the violation or attempted violation of the provisions of such proclamation.

5. Every article forfeited under the provisions of this Act may be dealt with in all respects as though it were an article seized, confiscated, and forfeited for contravention of the customs laws regulating or prohibiting the importation of certain articles.

6. All powers of search, seizure, and detention by law vested in officers of customs or any other officers in respect of any ship, vessel, wagon, vehicle, or other conveyance, coming within the territorial waters of, or crossing any border into this Colony, shall, *mutatis mutandis*, and during the operation of any such proclamation as aforesaid and in respect of any ship or vessel leaving or about to leave the territorial waters of this Colony, and in respect of every wagon, vehicle, or other conveyance, going from and crossing or about to cross any border of this Colony, be deemed and taken to be vested in the said officers and in such other officers as may be appointed by the Governor to carry out the purposes of such proclamation, and it shall be lawful for the Governor from time to time to frame, add to, alter, and amend, rules and regulations, to be published in the *Gazette*, and which shall prescribe and

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regulate the proper conduct of all such officers and all matters concerning the due carrying out and observance of the provisions of this Act and of any such proclamation.

No. 9—1888.

7. It shall be lawful for the Governor, during the period for which any such proclamation as aforesaid shall be in operation, to grant to any person a special licence for the exportation of any article or articles specified in such licence, and every such licence shall, notwithstanding any prohibition contained in such proclamation, be deemed and taken to authorise the exportation of the article or articles therein named, subject, however, to such conditions and limitations as may be imposed in such licence, the breach of any of which shall render every article otherwise covered by such licence liable to seizure and forfeiture as though such licence had not been granted; provided that in respect of such licence, if granted, no other fee, stamp, or duty shall be required than would have been by law required if such proclamation had not been published.

Governor may under conditions authorise export of proclaimed articles.

Violation of conditions renders articles liable to seizure.

8. Nothing in this Act contained or in any proclamation under it shall be deemed or taken in any way to abrogate or affect the existing provisions of the law regulating or limiting the exportation of fire-arms, gunpowder, or lead.

The passing of this Act not to affect existing laws relating to the export of fire-arms, gunpowder, or lead.

9. This Act may be cited as the "Warlike Articles Exportation Prohibition Act, 1888."

Short title.

SCHEDULE.

Schedule.

1. Explosives, and ingredients used in the manufacture of explosives.
2. Military and naval stores.
3. Marine engines.
4. Screw-propellers.
5. Paddle-wheels.
6. Cylinders.
7. Cranks.
8. Shafts.
9. Boilers.
10. Tubes for boilers.
11. Boiler plates.
12. Fire bars.
13. Every article, or any other component part of an engine or boiler, or any article whatsoever which is, can, or may become applicable for the manufacture of marine machinery.
14. Torpedoes.
15. Torpedo boats.
16. Boats fitted with apparatus to be used for torpedoes.
17. All apparatus for projecting inflammable materials or firing torpedoes.
18. Pumps or other machinery intended to be used for projecting inflammable materials.
19. Machinery intended to be used in the construction of torpedoes or torpedo boats.

No. 10—1888.]

[Promulgated 27th July, 1888.]

Repealed by 1898 Act 31.

ACT

To Amend the Existing Law with regard to Gold Mining.

Preamble.

WHEREAS it is expedient to amend in certain respects the existing law regulating the Mining for Precious Stones and Minerals in so far as it relates to Gold Mining: Be it therefore 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:—

Act to be read with other Acts regulating mining: repugnant provisions repealed.

1. This Act shall be read as one with the Act No. 19 of 1883, the Act No. 22 of 1885, the Act No. 18 of 1886, and the Act No. 44 of 1887, provided that anything in any of the said Acts contained, which shall be repugnant to or inconsistent with the provisions of this Act, shall in relation to gold mining be and is hereby repealed.

Amount of licence for claims fixed at 2s. 6d. per month: except in certain cases.

2. The amount payable by the holder of any claim in any proclaimed digging or mine situated on Crown land, shall be two shillings and sixpence per claim per month payable in advance, whether such mine or digging shall have been proclaimed before or after the passing of this Act: Provided

- (a) That claim licence fees shall not be payable for any claims which have been or may be allotted to Mr. Charles Frederick Osborne, the discoverer of the Knysna Gold Fields, within his prospecting area.
- (b) That the holder under the ninth section of Act No. 19 of 1883, of twenty claims in the West Homtini Digging and Mine proclaimed by Proclamation No. 175 of 1887, shall pay for these claims from the date of their allotment the licence fee of two shillings and sixpence per claim per month.

When amount of licence for claims to be 5s. per month, the owners of Lots M and N to receive half of the fee.

3. The amount payable by the holder of any claim in any proclaimed digging or mine situated on land the title to which is subject to a reservation to the Crown of precious stones and minerals, shall be five shillings per claim per month, payable in advance, whether such mine or 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.

Claims to be marked and kept marked by pegs: forfeiture of unmarked claims.

4. 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 of Mines, or other officer duly appointed, within one month from the date of its allotment, or from such later date as

the Inspector may fix. Every claim not so marked out within the prescribed period may be declared forfeited by the Inspector.

5. Claims may be declared abandoned by the Inspector, or other officer duly appointed.

(1) In the case of a reef claim

(a) When the licence moneys, royalties, rents or transfer dues payable thereon are in arrear for a period of thirty days not being any of them a Sunday or public holiday; or

(b) When it shall have been proved to the satisfaction of the Inspector to have remained unworked for a period of four months.

(2) In the case of an alluvial claim

(a) When the licence moneys, royalties, rents or transfer dues payable thereon are in arrear for a period of thirty days as above mentioned.

(b) When it shall have been proved to have remained unworked for a period of fourteen days not being any of them a Sunday or public holiday :

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.

6. Every claimholder 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 in the case of alluvial claims be issued for a period of more than sixty days, and in the case of reef claims for more than six months. During these respective periods the claims to which they refer shall not be liable to forfeiture under sub-sections (1) (b) or (2) (b) of the last 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.

7. The Inspector may, with the consent of the Commissioner of Crown Lands and Public Works, and on being satisfied that the quality of the ground or difficulty in working it necessitates an extension or alteration of the dimensions of alluvial claims as provided by the third sub-section of the fourteenth section of Act No. 44 of 1887, grant special alluvial claims of irregular form and containing a total area not exceeding twenty thousand square feet.

8. It shall be lawful for the Inspector of Mines to issue to any applicant a permit to prospect or search for gold, for a period of one month, in such unallotted portions of proclaimed diggings or mines as shall be specified in the permit. The holder of such a

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Claims declared abandoned under certain circumstances: (1) reef claims, (2) alluvial claims.

Unless held under certificate of protection.

Certificate of protection on certain grounds: 60 days as to alluvial, 6 months as to reef claims. Certificate void for false representation.

Alluvial claims of irregular form, and not exceeding 20,000 square feet in area may be granted in certain cases.

Issue of permit to prospect.

No. 10—1888.

permit shall be bound, in prospecting, to obey any instructions which the Inspector may deem it necessary in the exercise of his functions to issue.

Alluvial claims only not to be allotted as reef claims.

9. Claims of alluvial ground only may not be allotted as reef-claims. Any such claim so allotted shall be reduced to the area prescribed by the fourteenth section of the "Precious Stones and Minerals Mining Law Amendment Act, 1887," or dealt with under the provisions of the seventh section of this Act.

Exchange of alluvial claims for reef claims.

10. 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.

Provision for order by Inspector authorising certain works in respect of adjoining claims: order to be made only after due notice: no such order unless Inspector satisfied no damage will be done: and order not to prejudice or affect persons not before Inspector or any rights to damages sustained in fact in consequence of order.

11. It shall be lawful for any claimholder, hereinafter called the applicant, to give notice to any adjoining or other claimholder to appear before the Inspector of the Mine in which the claims of both claimholders are situate, 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, 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.

Penalty for non-registration of gold found.

12. All gold found or extracted from ore within the limits of proclaimed diggings or mines shall be registered at the office of

the Inspector of Mines 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.

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13. The claimholder who shall first have registered three thousand ounces of gold extracted from his claim or claims in a proclaimed digging or mine shall receive a certificate from the Inspector of Mines entitling him to a reward of Five Hundred Pounds: Provided that the period within which such registry shall have taken place shall not exceed three years from the date of the proclamation of such digging or mine: Provided, moreover, that in no case shall more than one such certificate be issued in any one division of the Colony.

Reward of £500 for first registration of 3,000 ounces of gold from claims in a mine.

14. After the words "alluvial diggings" in the thirty-sixth and thirty-seventh sections of "The Precious Stones and Minerals Mining Act, 1883," the words "or mines" shall be deemed to be inserted.

Sections 36 and 37 of Act of 1883 amended.

15. This Act may be cited as the "Gold Mining Act, 1888."

Short title.

No. 11—1888.]

[Promulgated 27th July, 1888.]

ACT

To Prohibit the practice of giving Bonus at Sales by Public Auction.

WHEREAS it is expedient to prohibit the practice of giving bonus, or strijkgeld, or other valuable consideration for or in respect of any bid at any sale by public auction: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

1. This Act shall come into operation on the first day of January, 1889, and from and after the said day so much of any law in force in this Colony as shall be repugnant to or inconsistent with the provisions of this Act shall be and is hereby repealed.

Operation of Act, repugnant laws repealed.

2. Every offer or agreement to give any bonus, or strijkgeld, or other valuable consideration for or in respect of any bid at any sale by public auction, shall be deemed to be illegal and void, and not enforceable at law, but nothing herein contained shall be deemed to invalidate or render illegal or void any contract of sale completed by public auction, merely by reason that in the course of bidding at such sale, any bonus, or strijkgeld, or other valuable consideration shall have been offered, or offered and accepted, for or in respect of any bid.

Offer or agreement to give bonus, &c., at sales by public auction illegal and void, but contracts of sale not invalidated by offer of bonus.

3. Every auctioneer or other person who at any sale by public auction, shall offer or agree to give any bonus, or strijkgeld, or other valuable consideration for or in respect of any bid, shall upon

Penalty for offering or agreeing to give bonus.

No. 12—1888.

conviction before the Resident Magistrate of the district wherein such sale is held, be liable to a fine not exceeding twenty-five pounds sterling.

Short title.

4. This Act may be cited as "The Bonus Prohibition Act, 1888."

No. 12—1888.]

[Promulgated 27th July, 1888.

ACT Repealed by Section 17/41

To Make provision against Fraudulent Marks on Merchandise.

Preamble.

WHEREAS it is expedient to make provision against Fraudulent Marks on Merchandise: 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:—

Definition of offences with regard to trade marks, &c.

1. (1.) Every person who—
 - (a) forges any trade mark; or
 - (b) falsely applies to goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive; or
 - (c) makes any die, block, machine, or other instrument for the purpose of forging, or of being used for forging, a trade mark; or
 - (d) applies any false trade description to goods; or
 - (e) disposes of or has in his possession any die, block, machine, or other instrument for the purpose of forging a trade mark; or
 - (f) causes any of the things above in this section mentioned to be done;

shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be guilty of an offence against this Act.

Definition of offence of selling, &c., goods marked with forged trade mark.

(2.) Every person who sells, or exposes for, or has in his possession for sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark or mark so nearly resembling a trade mark as to be calculated to deceive is falsely applied, as the case may be, shall, unless he proves—

- (a) That having taken all reasonable precautions against committing an offence against this Act, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade mark, mark, or trade description; and
- (b) That on demand made by or on behalf of the complainant, he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or

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(c) That otherwise he had acted innocently ;
be guilty of an offence against this Act.

(3.) Every person guilty of an offence against this Act shall be liable — Punishment of offences against this Act.

- (i) on conviction on indictment to a fine not exceeding fifty pounds, with the alternative of imprisonment with or without hard labour for any period not exceeding two years unless such fine be sooner paid, or to both such imprisonment and such fine ; and
- (ii) on conviction by any Resident Magistrate to imprisonment, with or without hard labour, for a term not exceeding four months, or to a fine not exceeding twenty pounds, and in the case of a second or subsequent conviction to imprisonment, with or without hard labour, for a term not exceeding six months or to a fine not exceeding fifty pounds ; and
- (iii) in any case to forfeiture, at the discretion of the court, of every chattel, article, instrument, or thing by means of or in relation to which the offence has been committed.

(4.) The court before whom any person is convicted under this section may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit. Forfeited articles how disposed of.

2. (1.) For the purposes of this Act—

The expression “ trade mark ” means a trade mark registered in the register of trade marks kept under the Trade Marks Registration Act, 1877, and includes any trade mark which, either with or without registration, is protected by law in the United Kingdom, or in any British Colony or Possession or Foreign State to which the provisions of the one hundred and third section of the Patents, Designs, and Trade Marks Act, 1883, enacted by the Imperial Parliament, are under Order in Council for the time being applicable : Definition of terms.

The expression “ trade description ” means any description, statement, or other indication, direct or indirect,

- (a) as to the number, quantity, measure, gauge, or weight of any goods, or
- (b) as to the place or country in which any goods were made or produced, or
- (c) as to the mode of manufacturing or producing any goods, or
- (d) as to the material of which any goods are composed, or
- (e) as to any goods being the subject of an existing patent, privilege, or copyright ; and the use of any figure, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters, shall be deemed to be a trade description within the meaning of this Act :

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The expression "false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description false in a material respect, and the fact that a trade description is a trade mark, or part of a trade mark, shall not prevent such trade description being a false trade description within the meaning of this Act:

The expression "goods" means anything which is the subject of trade, manufacture, or merchandise:

The expressions "person," "manufacturer, dealer, or trader," and "proprietor" include any body of persons corporate or unincorporate:

The expression "name" includes any abbreviation of a name.

Application to goods and of deceiving figures, words, &c., deemed to be application of false trade description.

(2.) The provisions of this Act respecting the application of a false trade description to goods shall extend to the application to goods of any such figures, words, or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

Application of false name or initials deemed to be application of false trade description.

(3.) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods, any name or initials of a person which—

- (a) are not a trade mark, or part of a trade mark, and
- (b) are identical with, or a colourable imitation of the name or initials of a person carrying on business in connection with goods of the same description, and not having authorised the use of such name or initials, and
- (c) are either those of a fictitious person or of some person not *bonâ fide* carrying on business in connection with such goods.

Forging trade mark: offence defined.

3. A person shall be deemed to forge a trade mark who either—

- (a) without the assent of the proprietor of the trade mark makes that trade mark or a mark so nearly resembling that trade mark as to be calculated to deceive; or
- (b) falsifies any genuine trade mark, whether by alteration, addition, effacement, or otherwise;

and any trade mark or mark so made or falsified is in this Act referred to as a forged trade mark.

Provided that in any prosecution for forging a trade mark the burden of proving the assent of the proprietor shall lie on the defendant.

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Onus on defendant to prove assent of proprietor of trade mark forged. Definition of application of trade mark, mark, or trade description.

4. (1.) A person shall be deemed to apply a trade mark or mark or trade description to goods who—

- (a) applies it to the goods themselves; or
- (b) applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed or had in possession for any purpose of sale, trade, or manufacture; or
- (c) places, encloses, or annexes any goods which are sold or exposed or had in possession for any purpose of sale, trade, or manufacture, in, with, or to any covering, label, reel, or other thing to which a trade mark or trade description has been applied; or
- (d) uses a trade mark or mark or trade description in any manner calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade mark or mark or trade description.

(2.) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper; and the expression "label" includes any band or ticket.

"Covering" and "label" defined.

A trade mark, or mark, or trade description, shall be deemed to be applied whether it is woven, impressed, or otherwise worked into, or annexed, or affixed to the goods, or to any covering, label, reel, or other thing.

(3.) A person shall be deemed to falsely apply to goods a trade mark or mark, who without the assent of the proprietor of a trade mark applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive, but in any prosecution for falsely applying a trade mark or mark to goods the burden of proving the assent of the proprietor shall lie on the defendant.

False application of trade mark, &c.

5. Where a person is charged with making any die, block, machine, or other instrument for the purpose of forging, or being used for forging, a trade mark, or with falsely applying to goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section mentioned to be done, and proves—

Defence of person charged with making die, block, &c., for purpose of forging.

- (a) That in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines, or other instruments for making, or being used in making, trade marks, or as the case may be, to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in this Colony, and was not interested in the goods by way of profit or commission dependent on the sale of such goods; and

D

No. 12—1838.

- (b) That he took reasonable precautions against committing the offence charged; and
- (c) That he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark, or trade description; and
- (d) That he gave to the complainant all the information in his power with respect to the persons on whose behalf the die, block, machine, or other instrument was made, or the trade mark, mark, or description was applied—

Defendant liable for costs, unless notice of defence given to complainant

he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the complainant, unless he has given due notice to him that he will rely on the above defence.

Words, &c., on watch commonly reputed to constitute description of country of manufacture, such words, &c., deemed to describe watch as made in such country, and provisions of Act regarding false trade description to apply.

6. Where a watch case has thereon any words or marks which constitute or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks shall *prima facie* be deemed to be a description of that country within the meaning of this Act, and the provisions of this Act with respect to goods to which a false trade description has been applied, and with respect to selling or exposing for or having in possession for sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly, and for the purposes of this section the expression "watch" means all that portion of a watch which is not the watch case.

In indictment, &c., sufficient to refer to trade mark without description or copy thereof.

7. In any indictment, pleading, proceeding, or document, in which any trade mark or forged trade mark is intended to be mentioned, it shall be sufficient, without further description and without any copy or facsimile, to state that trade mark or forged trade mark to be a trade mark or forged trade mark.

Repealed by 1917 Act: 31

Imported goods, *prima facie*, presumed to be made in country of port of shipment.

8. In any prosecution for an offence against this Act, evidence of the port of shipment of imported goods shall be *prima facie* evidence of the place or country in which the goods were made or produced.

Accessory in Colony to offence without Colony deemed guilty as principal.

9. Any person who, being within this Colony, procures, counsels, aids, abets, or is accessory to the commission, without this Colony, of any act, which, if committed in this Colony, would under this Act be an offence, shall be guilty of that offence as a principal, and be liable to be indicted, proceeded against, tried, and convicted in any place in this Colony in which he may be, as if the offence had been there committed.

Powers of search and seizure after information, charging offence against this Act: goods and things seized liable to forfeiture by resident magistrate.

10. (1.) Where, upon information of an offence against this Act, there has been issued in due form of law, either a summons requiring the person charged by such information to appear to answer to the same, or a warrant for the arrest of such person, and either the person issuing such summons or warrant on or after issuing

the summons or warrant, or any other officer of the law empowered to issue criminal process is satisfied by information on oath that there is reasonable cause to suspect that any goods or things by means of or in relation to which such offence has been committed are in any house or premises of the person charged or arrested or otherwise in his possession or under his control in any place, the person issuing such summons or warrant, or such other officer as aforesaid, as the case may be, may issue a warrant under his hand by virtue of which it shall be lawful for any police officer named or referred to in the warrant, to enter such house, premises, or place at any reasonable time by day, and to search therefor and seize and take away those goods or things; and any goods or things seized under any such warrant shall be brought before the Court of the Resident Magistrate having jurisdiction in respect of such offence for the purpose of its being determined whether the same are or are not liable to forfeiture under this Act.

(2.) If the owner of any goods or things which, if the owner thereof had been convicted, would be liable to forfeiture under this Act, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and the Resident Magistrate of the district in which such goods or things shall be found may cause notice to be advertised in the *Gazette* stating that, unless cause is shown to the contrary at the time and place named in the notice, such goods or things will be forfeited, and at such time and place the Resident Magistrate, unless the owner or any person on his behalf, or other person interested in the goods or things, shows cause to the contrary, may order such goods or things or any of them to be forfeited.

Forfeiture may be declared though owner of goods, &c., is unknown or cannot be found.

(3.) Any goods or things forfeited under this section, or under any other provision of this Act, may be destroyed or otherwise disposed of, in such manner as the court by which the same are forfeited may direct, and the court may, out of any proceeds which may be realised by the disposition of such goods (all trade marks and trade descriptions being first obliterated), award to any innocent party any loss he may have innocently sustained in dealing with such goods.

Disposal of forfeited goods and things.

11. On any prosecution under this Act the court may order costs to be paid to the accused by the complainant, or to the complainant by the accused, having regard to the information given by and the conduct of the accused and complainant respectively.

Costs may be ordered against complainant or accused.

12. No prosecution for an offence against this Act shall be commenced after the expiration of three years next after the commission of the offence, or one year next after the first discovery thereof by the complainant, whichever expiration first happens.

Prescription of offences against this Act.

No. 12—1868.

Further provisions
for prohibition of
importation of goods
liable to forfeiture.

13. Whereas it is expedient to make further provision for prohibiting the importation of goods which, if sold, would be liable to forfeiture under this Act: Be it therefore enacted as follows :

Prohibited goods.

(1.) All such goods, and also all goods of foreign manufacture bearing any name or trade mark being or purporting to be the name or trade mark of any manufacturer, dealer, or trader in this Colony, unless such name or trade mark is accompanied by a definite indication of the country in which the goods were made or produced, are hereby prohibited to be imported into this Colony, and, subject to the provisions of this section, shall be included among goods prohibited to be imported as if they were specified in section fourteen of the Customs Act, 1872.

Regulations to be
complied with before
detention of goods.

(2.) Before detaining any such goods, or taking any further proceedings with a view to the forfeiture thereof, under the law relating to the Customs, the officers of Customs may require the regulations under this section, whether as to information, security, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the goods are such as are prohibited by this section to be imported.

Regulations by the
Governor by Procla-
mation in *Gazette*.

(3.) The Governor may, by Proclamation in the *Gazette*, from time to time make, revoke and vary, regulations, either general or special, respecting the detention and forfeiture of goods, the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may by such regulations determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

Name on goods
presumed to be name
of place similarly
named in Colony.

(4.) Where there is on any goods a name which is identical with, or a colourable imitation of the name of a place in this Colony, that name, unless accompanied by the name of the country in which such place is situate, shall be treated for the purposes of this section as if it were the name of a place in this Colony.

Different regula-
tions as to different
classes of goods.

(5.) Such regulations may apply to all goods the importation of which is prohibited by this section, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

Customs officials
under control of
Treasurer-General.

(6.) The officers of Customs, in making and in administering the regulations, and generally in the administration of this section, whether in the exercise of any discretion or opinion, or otherwise, shall act under the control of the Treasurer of the Colony.

- (7.) The regulations may provide for the informant reimbursing the Collector of Customs all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

No. 12—1888.

Regulations may charge informant with expenses consequent on detention.

14. On the sale or in the contract for the sale of any goods to which a trade mark, or mark, or trade description has been applied, the vendor shall be deemed to warrant that the mark is a genuine trade mark and not forged or falsely applied, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the vendor, and delivered at the time of the sale or contract to and accepted by the vendee.

Warranty by vendor of goods that trade mark is genuine; may be excluded by written notice by vendor delivered to purchaser.

15. Where, at the passing of this Act, a trade description is lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods, the provisions of this Act with respect to false trade descriptions shall not apply to such trade description when so applied: Provided that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, this section shall not apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner, with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there.

Trade description lawfully and generally applied, when this Act passes, to particular class of goods, &c., not deemed to be false trade description, subject to provision in certain cases as to conspicuous notice of place where goods are made.

16. No person shall be convicted of an offence against this Act, merely by reason that he has applied to any goods or things, including watches and watch cases, any trade mark, mark, or trade description which is in fact a false trade mark, mark or trade description, if such person shall prove to the satisfaction of the court before which he is tried—

This Act not to apply to goods imported into Colony before 1st September, 1888.

- (a) that such goods or things were imported into this Colony before the first day of September, 1888; and
- (b) that such false trade mark, mark, or trade description was applied to such goods or things when the same were imported into this Colony;

nor shall any goods or things, including watches and watch cases, imported into this Colony before the first day of September, 1888, be liable to forfeiture under the provisions of this Act, merely by reason that any false trade mark, mark, or trade description is or has been applied thereto, if it shall be proved to the satisfaction of the Resident Magistrate having, under the tenth section of this Act, jurisdiction in respect of the forfeiture thereof, that such false

No. 12—1888.

trade mark, mark, or trade description, was applied to such goods or things before such importation; provided, however, that nothing in this section contained shall be deemed either in any way to protect or defend any person in respect of any legal proceedings, civil or criminal, which may be brought or instituted against him, or to exempt from forfeiture any goods or things which shall be thereto liable under this Act, by reason or in consequence of any act or thing done in wilful violation of any provision of this Act after the importation of such goods or things.

This Act not to exempt from other suit, &c., or from answering questions.

17. (1.) This Act shall not exempt any person from any action, suit, or other proceeding which might, but for the provisions of this Act, be brought against him.

(2.) Nothing in this Act shall entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence against this Act.

Servant not liable for *bona fide* obedience to master's orders.

(3.) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in this Colony, who *bona fide* acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master.

False representation that goods are made under Royal Warrant, &c., how punished.

18. Any person who falsely represents that any goods are made by a person holding a Royal Warrant, or for the service of Her Majesty, or any of the Royal Family or of the Governor, or any Government department, shall be liable, on summary conviction, to a penalty not exceeding twenty pounds.

Repeal of existing legislation, subject to proviso against retrospective effect.

19. The Merchandise Marks Act, 1864, is hereby repealed, and any unrepealed enactment referring to any enactment so repealed shall be construed to apply to the corresponding provision of this Act; provided that this repeal shall not affect—

- (a) any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor
- (b) the institution or continuance of any proceeding or other remedy under any enactment so repealed for the recovery of any penalty incurred, or for the punishment of any offence committed, before the commencement of this Act; nor
- (c) any right, privilege, liability, or obligation acquired, accrued, or incurred under any enactment hereby repealed.

Exemption of goods for States or Territories beyond the Colony.

20. It shall and may be lawful for the Governor by Proclamation in the *Gazette* at the request of the Government of any State or Territory beyond the boundaries of this Colony, to exempt under such regulations as to him may seem fit, any goods or things imported through the sea-ports of this Colony into such State or Territory directly: Provided that goods or things so

exempted, shall in case of re-importation into this Colony, become subject to the provisions of this Act.

No. 13—1888.

21. This Act may be cited as “The Merchandise Marks Act, 1888.”

Short title.

No. 13—1888.]

[Promulgated 14th August, 1888.

ACT

To amend in certain respects the “Precious Stones and Minerals Mining Act, 1883,” and the law with regard to Joint Stock Companies.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. The 26th and 27th sections of “The Precious Stones and Minerals Mining Act, 1883,” are hereby amended in the following manner:

Amendment of Sections 25 and 27 of Act No. 19 of 1883.

After the words “alluvial digging” in the said sections wherever they occur the words “or diggings” shall be deemed to be inserted. And after the word “mine” in the 27th section wherever it occurs the words “or mines” shall be deemed to be inserted.

Repealed by 1887 Act 11.
1898 Act 31
1899 " 11.

2. Any company registered with limited liability with the sanction of a special resolution of the company passed by a majority of three-fourths of the members of the company for the time being entitled, according to the regulations of the company, to vote as may be present in person or by proxy (in cases where by the regulations of the company proxies are allowed) at any general meeting of which notice specifying the intention to propose such resolution has been duly given, may change its name, and upon notice in writing embodying the terms of such resolution being given to him, the Registrar of Deeds shall enter the new name in its proper place on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall render the liquidation of the company necessary or affect any rights or obligations of the company or render defective any legal proceedings instituted or to be instituted by or against the company, and any legal proceedings may be continued or commenced by or against the company by its new name that might have been continued or commenced by or against the company by its former name.

Provision for change of name of limited liability company by resolution of 3/4 majority of members present at meeting; and connected provision for change in Registry of Companies and in certificate of incorporation.

Repealed by 1892 Act 25.

Change of name not to prejudice existing rights or obligations.

3. Any company registered with limited liability under the Joint Stock Companies Limited Liability Act, 1861, may by resolution of a general meeting of the members thereof, declare that it desires to be incorporated; and upon the lodging of a copy of

How registered limited liability companies may become incorporated.

No. 13—1888.

such resolution, subscribed by at least two of the directors of the company, with the Registrar of Deeds, the company shall become a body corporate by the name contained in its deed of settlement, capable of forthwith executing all the functions of an incorporated company, with power to hold lands and other property and having a common seal.

Shares for services, &c., issued to be deemed to be fully paid up shares.

4. If any company registered with limited liability should heretofore have issued, or shall hereafter issue shares as being fully paid up in exchange for or in consideration of valuable services rendered to the company in furtherance of its objects, or in exchange for or in consideration of valuable property, rights or privileges acquired by the company in furtherance of its objects, such shares shall be considered to be actually fully paid up, and shall entail no further responsibility or liability upon the members to whom they have been or shall be issued, or upon subsequent holders, than would have been entailed upon them if the shares had been actually fully paid up in money.

Provision for share warrants instead or in exchange for shares or stock.

5. In the case of a company limited by shares the company, if authorised so to do by its deed of settlement as originally framed or as altered by special resolution, and subject to the provisions of such deed, may, with respect to any share which is fully paid up, or with respect to stock, issue a warrant in place, or upon due redelivery of scrip, if any, issued in respect of such share or shares, or stock, which warrant shall state that the bearer thereof is entitled to the share or shares, or stock, therein specified, and may provide, by coupons or otherwise, for the payment of future dividends on the share or shares, or stock, included in such warrant, hereinafter referred to as a share warrant.

Share warrants to pass shares, &c., by delivery, and to ensure payment to bearer.

6. A share warrant shall entitle the bearer of such warrant to the shares or stock specified in it, and such share or stock may be transferred by delivery of the share warrant.

Conversion of share warrant for corresponding shares or stock: bearer entitled to register his name.

7. The bearer of a share warrant shall, subject to the regulations of the company, be entitled, on surrendering such warrant for cancellation, to receive a scrip certificate in lieu thereof, and to have his name entered as a member in the register of members, and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register of members the name of any bearer of a share warrant in respect of the shares or stock specified therein without the share warrant being surrendered and cancelled.

Bearer of share warrant may be member of company, subject to its regulations; but share warrants not to entitle to office of director or manager.

8. The bearer of a share warrant may, if the regulations of the company so provide, be deemed to be a member of the company within the meaning of the Joint Stock Companies Limited Liability Act, 1861, either to the full extent or for such purposes as may be prescribed by the regulations: provided that the bearer of a share warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a director or

manager of the company in cases where it is prescribed by the regulations of the company that the qualification for being a director or manager shall be the holding of a certain quantity of shares or stock.

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9. On the issue of a share warrant in respect of any share or stock the company shall strike out of its register of members the name of the member then entered therein as holding such share or stock as if he had ceased to be a member, and shall enter in the register the following particulars:—

Particulars to be registered by company on issue or surrender of share warrant.

(i) The fact of the issue of the warrant.
 (ii) A statement of the shares or stock included in the warrant, distinguishing each share by its number.
 (iii) The date of the issue of the warrant;
 and on the surrender of a share warrant the company shall enter in the register the following particulars:—

- (a) The fact of the surrender of the warrant.
 (b) A statement of the shares or stock included in the surrendered warrant, distinguishing each share by its number.
 (c) The date of the surrender of the warrant.
 (d) The name of the person, if any, claiming to be registered as owner or holder of such shares or stock.

10. After the issue by any company of any share warrant the directors of such company shall in the months of January and July in every year, besides the returns required of them under the provisions of the seventh section of "The Joint Stock Companies Limited Liability Act, 1861," make or cause to be made to the Registrar of Deeds a return, attested as in the said Act is provided, according to the Schedule hereunto annexed containing the particulars therein set forth. And if within any such period such return be not made, then every director of such company shall be liable to a fine not exceeding twenty pounds sterling: provided that if the company shall have its chief place of business in any division of the Colony other than Cape Town and the district thereof, and the Cape Division, King William's Town and the district thereof, or Kimberley and the district thereof, then a true copy of the said return attested as such true copy in the manner aforesaid shall, besides being transmitted to the Registrar of Deeds, be transmitted to the Civil Commissioner of such division, and in case such return shall not be so transmitted in the months aforesaid, every director of the company so failing to make such return shall be liable to a fine not exceeding twenty pounds, and every return so made shall be published in the *Gazette* and registered by the Registrar of Deeds.

Returns to be made by company issuing share warrants: form of returns provided in schedule.

Penalty for omitting or delaying to make return.

Copy of returns of certain companies to be sent to C.C. of division where chief place of business is situate.

11. There shall be charged on every share warrant issued in place of scrip, a stamp duty of an amount equal to twice the amount of the *ad valorem* stamp duty which would be chargeable on an issue of scrip for the shares or stock specified in such

Stamp duty on share warrant.

No. 13—1888.

warrant, and on every share warrant issued upon due re-delivery of scrip already issued a stamp duty of an amount equal to three times the amount of the *ad valorem* stamp duty which would be chargeable on a transfer of the shares or stock specified in the warrant.

Increase of nominal capital on special resolution of shareholders.

12. Notwithstanding anything to the contrary contained in the sixth section of the Act No. 23 of 1861, or in any law in force in this Colony, it shall be lawful for the shareholders in any company, registered in this Colony with Limited Liability, to adopt a special resolution for the increase of the nominal capital of such company, by the issue of such additional fully or in part paid-up shares, or stock, or share warrants, as may be expedient; and upon production and delivery to the Registrar of Deeds of a solemn declaration, made under the provisions and penalties of Ordinance No. 6 of 1845, by the secretary of such company, which shall set forth the terms of such special resolution, and that the same has been duly passed in accordance with the provisions of the Trust Deed or Deed of Settlement of such company, the said Registrar shall register the amount of the nominal capital as increased by such resolution in place of the previously registered nominal capital of such company, and shall grant to such company a certificate of registration setting forth the newly registered increased capital, which shall thereafter be deemed for all legal purposes to be the nominal capital of the company; and upon receipt of such certificate it shall be lawful for the said company, and the directors thereof, pursuant to such resolution as aforesaid, to issue shares or stock, or share warrants, in accordance with the provisions of this Act, which shares or stock or share warrants may bear on the face of them to be fully or in part paid-up, as the case may be, and shall, notwithstanding that ten pounds per centum shall not have been paid in cash on the amount represented by them, be deemed for all legal purposes to be shares, or stock or share warrants upon which the full amount represented as paid-up, has in fact been paid in cash; provided, however,

- (a) that nothing herein contained shall be deemed to render valid any such special resolution which shall not be duly passed in accordance with the provisions of the Trust Deed or Deed of Settlement of such company;
- (b) that forthwith after the granting of such certificate, notice of the increase of capital under this section shall be published in the *Gazette*, and in one or more public newspapers circulating in the place or district where the principal place of business of such company is situate; and
- (c) that every director of such company shall be liable to a penalty of fifty pounds, if the directors shall before the granting of such certificate as aforesaid advertise or treat as part of the nominal capital of such company any such increase of the registered nominal capital as aforesaid.

13. This Act may be cited as "The Joint Stock Companies Act, 1888." No. 14—1888.
Short title.

SCHEDULE.

Schedule.

Name of Company.	Business or Purpose.	Head Office.	Total amount of Shares or Stock for which Share Warrants are outstanding at the date of the return.	Names and places of abode of persons to whom Share Warrants have been issued since the preceding half-yearly return.	Distinctive numbers of Shares or Stock in respect of which Share Warrants have been issued since the preceding half-yearly return.
Dates of the issue of the several Share Warrants.	Total amount of Share Warrants which have been surrendered since the preceding half-yearly return.	Names and abodes of the persons who have surrendered Share Warrants since the preceding half-yearly return.	Distinctive numbers of the Shares or Stock in respect of which Share Warrants have been surrendered since the preceding half-yearly return.	Dates of the surrender of the several Share Warrants.	

No. 14—1888.]

[Promulgated 17th August, 1888.]

ACT *Repealed by 1907 Act-11*

To Amend the Act No. 6, 1856, entitled "An Act for Regulating the Public Schools of Port Elizabeth upon the Grey Foundation."

WHEREAS it is desirable to amend the Act No. 6 of the year 1856, entitled "An Act for Regulating the Public Schools of Port Elizabeth upon the Grey Foundation," in certain respects, viz. :— Preamble.

- (1) To reduce the number of Members of the Board of Managers of the said Schools; and
- (2) To increase the Capital Sums entitling Donors to the presentation of Free Scholarships :

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, to wit :—

1. The second, seventh, ninth, tenth and fourteenth sections of the said Act shall be, and the same are hereby repealed : Pro- Sections 2, 7, 9, 10 and 14 Act 6 of 1856 repealed.

No. 14—1888

vided that the Board of Managers as now constituted shall continue in office until the first election by the Town Council of Six Members, and the first election by Donors and Subscribers of Seven Elective Members, as in this Act provided, shall have taken place.

Constitution of Board of Management.

2. The Civil Commissioner of the division of Port Elizabeth for the time being, the Mayor of Port Elizabeth for the time being, together with Six other Members of the Town Council of Port Elizabeth for the time being, and Seven Elective Members, not being Members of the Town Council of Port Elizabeth, to be chosen in manner hereinafter provided, shall form a Board for the Management of the said Schools, of which Board the Civil Commissioner for the time being shall be the Chairman: Provided that when the Civil Commissioner is not present at any Meeting of the Board, then the Managers present shall choose their own Chairman; and in case of an equality of votes upon any matter or question submitted to the said Board, the Chairman for the time being shall, besides a deliberative vote, possess a casting vote.

Provision for election of 6 Members of Town Council to be Members of Board.

3. At the first Ordinary Meeting of the Town Council of Port Elizabeth in the month of January in every year, whereat a quorum shall be present, commencing with the year 1889, the Members of the Town Council aforesaid then present shall proceed to elect from the whole Council, the Mayor excepted, Six Members to form, with the *ex officio* Members and Seven other Elective Members to be chosen in manner hereinafter provided, the Board of Management from the date of such Meeting to the next following election: Provided that if any of the Six Members of the Town Council chosen as aforesaid shall vacate his office as a Member of the Board of Managers aforesaid, or cease to be a Member of the Town Council of Port Elizabeth, the said Town Council shall forthwith, at the first subsequent Meeting whereat a quorum shall be present, fill up any such vacancy out of their own number; and any Member so elected shall continue in office until the next Annual Election of Members by the Town Council aforesaid.

Meeting of Donors and Subscribers for electing seven other Members of Board not being Town Councillors.

4. On the Second Wednesday in the month of January in each year, a Meeting shall be holden of the Donors and Subscribers to the said Schools, at some place in Port Elizabeth to be specified in the notice convening such Meeting, for the purpose of electing Seven Members of the said Board, not being Members of the Town Council for the time being.

How Meeting to be convened.

5. Every such Meeting as last mentioned shall be convened by a notice signed by the Civil Commissioner for the time being of Port Elizabeth, published in the *Gazette* and in one or more local newspapers, not less than once a week for at least twenty-one days before the day aforesaid, and shall be conducted in manner provided in the eighth Section of the said Act, and the Seven Members then elected shall continue in office until the

How to be conducted.

Second Wednesday of January in the year next succeeding, but shall be eligible for re-election.

No. 15—1888.

6. A list of all Donors and Subscribers entitled to vote at such election shall be placed in the Office of the Civil Commissioner for inspection for at least three weeks before the date appointed for each election; and no person shall be eligible as a Member of the said Board at any such Meeting who is not a Donor or Subscriber as defined by the fourth Section of the said Act.

List of Donors and Subscribers to be placed in Civil Commissioner's Office.

7. In the twelfth Section of the said Act the words "Tenth Section" shall be read as referring to the 4th Section of this Act.

Words "Tenth Section" in Section 12 of Act 6 of 1856 to be read as referring to Section 4 of this Act.

8. In the twenty-second Section of the said Act, the sum of one hundred pounds sterling shall be substituted for fifty pounds sterling, and the sum of two hundred pounds for one hundred pounds, wherever these sums respectively are mentioned.

Increasing sums payable by Donors under Section 22 of Act 6 of 1856.

9. This Act shall be read as one with the Act No. 6, 1856, and may be cited for all purposes as the "Port Elizabeth Public Schools Amendment Act, 1888."

Short Title.

No. 15—1888.]

[Promulgated 17th August, 1888.

ACT

To Amend "The Dutch Language Judicial Use Act, 1884."

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. In addition to the proviso set forth in the fourteenth section of the Act No. 17 of 1886, there shall be added the following proviso to the second section of Act No. 21 of 1884:—"Provided, further, that if it shall appear to the officer issuing any such process as aforesaid, either from his personal knowledge or otherwise, that the person upon whom the same is intended to be served is sufficiently acquainted with the Dutch language to understand the purport of such process if drawn in that language, or is not sufficiently acquainted with the English language to understand the purport of such process if it shall be drawn in the English language, then it shall not be necessary to issue such process in the English language, but issue thereof in the Dutch language shall, for all legal purposes, and notwithstanding anything to the contrary contained in any law in force in this Colony, be good, valid and effectual."

Provision as to issuing of legal process in the Dutch language in certain cases in divisions of the Colony to which Section 2 of Act No. 21 of 1884 applies.

2. This Act may be cited as "The Dutch Language Judicial Use Amendment Act, 1888."

Short title.

No. 16—1888.]

[Promulgated 17th August, 1888.]

ACT

To make provision for the Payment of Members attending the Sessions of Parliament, and to Alter and Amend the Law in regard to the Travelling and Personal Expenses of such Members.

BE it enacted by the Parliament of the Cape of Good Hope in Parliament assembled, and by the authority of the same, as follows:—

Inconsistent and repugnant laws repealed.

1. So much of the ninetieth section of the Constitution Ordinance as provides for the payment of travelling and personal allowances, together with so much of any law as may be repugnant to or inconsistent with the provisions of this Act, shall be and is hereby repealed.

Meaning of "member" in this Act.

2. In this Act the term "member" shall include every member of either the Legislative Council or House of Assembly, with the exception only of Cabinet Ministers and of the President of the Legislative Council and Speaker of the House of Assembly.

Travelling allowances of members going to and returning from Parliament how calculated.

3. Every member who shall attend any Session of Parliament, and whose ordinary place of residence within this Colony shall be distant more than fifteen miles from the place whereat Parliament shall be summoned to assemble, shall, by whatever route or from whatever place he shall in fact have travelled, be entitled to receive, by way of allowance for travelling expenses incurred in the discharge of his Parliamentary duties—

- (1) The sum of one shilling for every mile reckoned by the most direct route from such place of residence either to the nearest railway station from which there shall be continuous railway communication with the place whereat Parliament shall be summoned to assemble, or to the nearest sea port whereat passenger steamers usually call to land passengers or take them on board, whichever of such railway station or sea port shall be nearer to such place of residence.
- (2) The amount of a first-class ticket from such railway station, or by steamer from such sea port, as the case may be, for conveyance by the most direct route from such station or sea port to the place whereat Parliament shall be summoned to assemble;

and shall be entitled to a similar allowance for travelling expenses upon one return journey in or after the same Session of Parliament from the place whereat Parliament shall be summoned to assemble to the place of residence of such member as aforesaid: Provided, that where such a sea port as aforesaid shall be nearer to such place of residence than any railway

station connected by continuous railway communication with the place at which Parliament shall be summoned to assemble, but such sea port shall be connected by continuous railway communication with some railway station, being the nearest railway station in point of distance and nearer than such sea port to such place of residence, then and in such case the allowance of one shilling per mile shall be estimated on the distance between such place of residence and such last mentioned railway station, and not on the distance between such place of residence and such sea port, but in every such case an allowance shall be made, additional to the allowance of one shilling per mile and the amount of a first-class ticket by steamer from such sea port, of the amount of a first-class ticket from such last mentioned railway station to such sea port, or from such sea port to such railway station in respect of the return journey above provided for.

4. Every member whose ordinary place of residence within this Colony shall be distant not more than fifteen miles from the place whereat Parliament shall be summoned to assemble shall, by way of remuneration for his parliamentary services, be entitled to receive the sum of one guinea for every day of any Session of Parliament upon which such member shall actually attend either the sitting of the House of the Legislature of which he is a member, or any committee of such House.

Remuneration of members residing not more than fifteen miles from the place of assembling of Parliament.

5. Every member whose ordinary place of residence within this Colony shall be distant more than fifteen miles from the place whereat Parliament shall be summoned to assemble shall, for and in respect of every day in which he shall be absent from home on his parliamentary duties, be entitled to receive

Remuneration of members residing more than fifteen miles from the place of assembling of Parliament.

- (1) The sum of one guinea, by way of remuneration for his parliamentary services, and
- (2) The sum of fifteen shillings, by way of allowance for personal expenses;

but no allowance for personal expenses shall be made for or in respect of any day during which such member shall be in fact travelling by any passenger steamer, for his passage by which he is entitled to claim the amount of a first-class ticket under the third section.

6. A member shall under the fifth section be deemed to be absent from home on his parliamentary duties upon every day upon which he shall declare in the form prescribed in Schedule B of this Act—

Meaning of "absence from home on parliamentary duty."

- (a) That he has been occupied in travelling to or returning from the place whereat Parliament shall be summoned to assemble.
- (b) That he has been actually attending the sitting of the House of the Legislature of which he is a member, or any committee thereof.

o. 16--1888.

See 1909 Act. 5 Sec. 1.

(c) That after the opening of any Session of Parliament, he has been at any place in this Colony, awaiting the next sitting after the last sitting attended by him, of the House of the Legislature of which he is a member, or any committee thereof: Provided that he shall actually have attended such next sitting or committee as aforesaid.

(d) That he has been at the place where Parliament is assembled to attend the sittings of the House of which he is a member, but has been prevented by illness from actually attending.

Provided that no member shall declare that he has been occupied in travelling to or from the place whereat Parliament shall be summoned to assemble for any number of days greater than the number of days which would be required for travelling between such place and the ordinary place of residence of such member by the most direct route ascertained in accordance with the provisions of the third section of this Act.

Remuneration or allowance not payable for more than ninety days.

7. No remuneration or allowance for personal expenses shall in respect of any one Session of Parliament be claimable by any member under the provisions of the fourth and fifth sections of this Act for any greater number of days than ninety days in all.

Declarations to be made by members in forms prescribed in Schedules, and accounts settled by drafts on Treasury.

8. Every member referred to in the fourth section of this Act who shall make and render to the Clerk of the House of the Legislature of which he is a member a declaration and sign a receipt in the form set forth in Schedule A of this Act, and every member referred to in the fifth section of this Act who shall similarly make and render a declaration and sign a receipt in the form set forth in Schedule B of this Act, shall be entitled to receive the sum shown in such declaration from the Clerk of the Legislative Council or House of Assembly, as the case may be; provided that in any case the President of the Legislative Council or Speaker of the House of Assembly, as the case may be, may alter the forms set forth in the Schedules to meet the requirements of this Act.

Operation and short title of Act.

9. This Act shall take effect from and after the first day of October, 1888, and may be cited for all purposes as "The Members of Parliament Allowances Act, 1888."

Schedule A.

SCHEDULE A.

Cape of Good Hope.

Parliamentary.

Remuneration to members residing within fifteen miles from the place where Parliament is assembled.

The Colonial Government,
 To Mr. _____
 18 _____ Member of the
 _____ for
 Remuneration for attendance at Parliament,
 Session of 18 for _____ days _____ £
 I declare that on _____ days of the Session of
 Parliament, 18 _____, I have been in actual attendance on the sittings of
 the _____ or committees thereof.

No. 16—1888.
 Schedule A.

(Signed) A.B.

Received from the Honourable the Treasurer of the Colony
 through the Clerk of the _____
 the sum of _____ in full of the above account, for
 which sum I have signed duplicate receipts of the same tenor and
 date.

Witness to payment : _____ (Signed) A.B.

SCHEDULE B.

Schedule B.

Cape of Good Hope.
 _____ Parliamentary.

Remuneration and allowances to members residing more than
 fifteen miles from the place where Parliament is assembled.

The Colonial Government,
 To Mr. _____

18 _____ Member of the
 _____ for
 Remuneration at one guinea per day for _____ days
 absence from home on Parliamentary duty, for
 the Session of Parliament, 18 _____ £ _____
 Allowance for personal expenses for _____ days at
 fifteen shillings per day _____ £ _____
 Travelling Allowances * miles from my
 ordinary place of residence at _____ to _____ and
 _____ miles for the return journey, at one shilling
 per mile _____ £ _____
 First-class ticket from _____ to _____, and
 return journey _____ £ _____
 _____ £ _____
 _____ £ _____

* Vide Section 3.

I declare that I have correctly stated in accordance with the
 provisions of "The Members of Parliament Allowances Act, 1888,"
 the number of days during which I have been absent from home
 on parliamentary duty, and am entitled to the remuneration and
 allowance for personal expenses stated above, and I further declare
 that the reasonable time for travelling from my place of residence
 to _____ is _____ days, and that the distance in
 miles* above mentioned, and the amount payable for first-class fare
 between the places referred to are correctly stated above.

(Signed) A.B.

* If any.

F

No. 17—1888.

Received from the Honourable the Treasurer of the Colony through the Clerk of the _____ the sum of _____ in full of the above Account, for which sum I have signed duplicate Receipts of the same tenor and date.

Witness to payment: _____ (Signed) A.B.

No. 17—1888.] [Promulgated 17th August, 1888.

ACT

To Amend the Cape of Good Hope General Loans Acts, 1881 and 1883, and certain other Acts under the authority of which Colonial Stock has been issued.

BE it enacted by the Parliament of the Cape of Good Hope in Parliament assembled as follows:—

Certain laws re-pealed.

1. The several laws mentioned in the Schedule to this Act 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, or commenced and still pending, at the time of the taking effect of this Act.

DEFINITION OF TERMS.

Certain terms de-fined.

2. In this Act the terms hereinafter set forth shall be taken to mean as follows:—

“Stockholder” shall mean any person having colonial stock registered in his name as proprietor in the stock books of the Treasury.

“Person” shall include corporation, association or company and fund.

“Representatives” shall mean executors, tutors, curators, successors, trustees in insolvent estates, assignees, trustees of any company, or trustees or office bearers of any association in whom the property of such company or association is vested, or the persons authorised to invest the balance to the credit of any fund.

“Receiver of Revenue” shall mean the Assistant Treasurer, the Agent-General, or any Civil Commissioner or Chief Magistrate.

“Dividend warrant” shall include Treasury draft, order, cheque or other document used as a medium for payment of interest on colonial stock.

DISPOSAL AND ISSUE OF COLONIAL STOCK.

Colonial Stock for money raised under statutory borrowing powers to be ten-dered for.

Discretion as to accepting whole or part of any of ten-ders offering same terms, when such tenders cover amount larger than stock to be issued.

3. Whensoever the Governor may deem it expedient to raise partly or wholly by Colonial Stock, any sum of money authorised by any Act to be borrowed, such stock shall be put up for public tender in such amounts as may from time to time seem fit, and may be disposed of for the best terms which can be thus obtained. If more tenders than one, offering the same or equivalent terms, shall be received for a greater amount of such stock than the

amount for the time being about to be issued, it shall be lawful to accept any one or more of such tenders, or any part of any such tenders as circumstances may make expedient.

If the tenders received shall be deemed unsatisfactory, or if tenders for a portion only of the amount to be issued shall be accepted, it shall be lawful for the Treasurer of the Colony, at any time within six months after the date fixed for the opening of tenders, to issue the whole or part of such amount, or of such portion thereof as may not have been disposed of by public tender, to any persons applying for the same, at the best price obtainable, not being less than the equivalent of the average rate offered by tender, or if no satisfactory and sufficient tenders shall have been received, at not less than the minimum rate prescribed in the advertisement calling for tenders, or a rate equivalent thereto at a different rate of interest.

If tenders unsatisfactory or insufficient, Treasurer may within 6 months issue stock not disposed of by tender at best price obtainable.

Price not to be less than average rate of tenders, or equivalent to minimum advertised rate, as the case may be.

4. Schedules of tenders or offers accepted by the Treasurer of the Colony under the provisions of the preceding section shall be forwarded by such Treasurer to the Controller and Auditor-General; and on finding that the amount for which tenders or offers have been accepted is authorised by law to be borrowed, and that any person mentioned in any such schedule has paid the amount of his tender or offer to a Receiver of Revenue, of which fact the receipt of such Receiver shall be regarded as sufficient evidence, the Controller and Auditor-General shall issue to such person or his representatives a scrip certificate, signed by himself or in his absence by the Assistant Controller and Auditor, specifying *inter alia* the name of such person, the amount of Colonial Stock purchased, the rate of interest at which the tender or offer has been accepted, and the half-yearly dates on which such interest becomes payable.

Scrip certificate to be issued by Controller and Auditor-General, for amount of tender accepted as shown in schedule of tenders received from Treasurer, provided Controller and Auditor-General is satisfied that amount is authorised by law and has been paid to a Receiver of Revenue.

5. Upon production and delivery of such scrip certificate to the Assistant Treasurer, which scrip certificate shall be kept in the Treasury, he shall forthwith cause the person named therein to be credited in stock books kept for that purpose in the Treasury with the amount of Colonial Stock specified in such certificate, and shall grant to such person or his representatives a certificate of stock, specifying the name of the stockholder, the amount of Colonial Stock then placed to his credit, the rate of interest borne, and the half-yearly dates on which such interest becomes payable.

Assistant Treasurer, upon production of scrip certificate, to credit in stock books person therein named with stock specified in certificate and to issue certificate of stock in name of such person.

INTEREST.

6. All Colonial Stock heretofore issued under the authority of any Act shall bear interest at the rate specified in such Act, or in the case of Colonial Stock issued since the passing of "The Cape of Good Hope General Loans Act, 1881," at the rate specified in the scrip certificates issued in respect thereof, and all Colonial Stock hereafter issued under authority of any Act shall bear interest at such rate as may be specified in such Act, or, if no rate be specified

Interest on stock at rates specified in Acts under which it is issued, or at rates specified in scrip certificates issued hereafter or heretofore since Act No. 16 of 1881 as the case may be.

No. 17—1888.

therein, then at such rate as may be specified in the scrip certificates issued under the provisions of the preceding section.

Dates fixed for payment of interest at rates of 5 and $4\frac{1}{2}$ per cent. At other rates, dates left to the discretion of the Governor.

7. Interest on Colonial Stock already issued or hereafter to be issued shall be payable on the 15th day of April and 15th day of October in each year, in the case of all stock bearing interest at the rate of five per cent. per annum; and on the 1st day of January and 1st day of July in each year, in the case of all stock bearing interest at the rate of four and a half per cent. per annum; and in the case of any such stock which may hereafter be issued bearing a different rate of interest on such dates as the Governor may direct on the occasion of any such issue being first made.

Dates fixed for first payments of interest after passing of this Act on stock heretofore issued, and on stock hereafter issued.

8. The first payment of interest after the taking effect of this Act at the rate of five per cent. per annum on Colonial Stock issued under the authority of Act No. 13 of 1871, and Act No. 8 of 1872, and at the rate of four-and-a-half per cent. per annum on Colonial Stock issued under the authority of Act No. 13 of 1873, and Act No. 8 of 1876, shall become due on the first half-yearly date prescribed in the preceding section for such stock, which shall happen next after the date of the promulgation of this Act: and the first payment of interest on any Colonial Stock hereafter issued, shall become due on the first half-yearly date prescribed for such stock, which shall happen next after the issue of the certificate of stock under the provisions of the fifth section hereof.

Interest payable at Treasury to stockholder, his representatives, or attorney.

9. Interest on Colonial Stock shall be payable at the Treasury, and shall be paid to the stockholder, or his representatives, or to his or their duly authorised attorney, on the date on which it falls due or so soon thereafter as demand shall be made therefor by such stockholder, representatives, or duly authorised attorney.

Dividend warrants may issue for payment of interest, and shall be deemed to be Treasury drafts.

10. It shall be lawful to make arrangements for the payment of interest on Colonial Stock by the issue or transmission by post of dividend warrants, and every dividend warrant so issued or transmitted by post shall be deemed to be a Treasury draft.

Such warrants to issue on due request by stockholder: posting of warrant to be equivalent to delivery.

11. When a stockholder desires to have his dividend warrants sent to him by post he shall forward a request in writing to that effect to the Treasury, signed by him on a form prescribed in regulations framed under the provisions of this Act, and shall give the address to which such warrants are from time to time to be sent: and the posting of a letter containing a dividend warrant duly addressed to a stockholder at his request shall be equivalent to the delivery of the warrant to the stockholder himself.

TRANSFER OF STOCK.

Transfer of stock by transfer ticket in accordance with regulations under this Act.

12. Every transferor of Colonial Stock shall grant to the transferee a transfer ticket, authorising the transfer thereof from the registered holder to such transferee, and such ticket shall specify the rate of interest borne by such stock, and any other particulars which may be required by regulations framed under the

provisions of this Act, for the purpose of distinguishing the stock then to be transferred from any other stock which may be registered in the name of the same holder.

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13. Such transferor shall also sign a transfer book to be kept in the Treasury for the purpose of recording all transfers of Colonial stock, and every entry in such book shall be expressed in words proper for the purpose of transferring a part or the whole of any stock duly registered in the name of the person granting transfer, and before allowing any such entry to be made, the Assistant Treasurer shall satisfy himself that sufficient Colonial Stock of the same denomination stands registered in the name of such person.

Transferor must sign transfer book in Treasury, Assistant Treasurer to be satisfied that transferor is registered holder of sufficient stock.

14. No person shall be recognised as a transferor of Colonial Stock except a stockholder, or his representatives, or his or their duly authorised attorney.

Stockholder, and his representatives or attorney.

15. Upon production and delivery at the Treasury of a duly completed transfer ticket, and on the due completion of the corresponding entry in the transfer book to be kept in the Treasury, the Assistant Treasurer shall forthwith cause the person named in the transfer ticket to be credited in the stock books of the Treasury with the amount of stock specified in the transfer ticket and transfer book, and shall grant to such person a certificate of stock, precisely as if he were an original tenderer or purchaser thereof.

Transferee credited with stock, and granted certificate upon delivery of proper transfer ticket, and completion of entry in transfer book.

16. It shall be lawful for the Assistant Treasurer to close his transfer book for the transfer of Colonial Stock during a period not exceeding three clear days before that on which interest on such stock becomes due, and the persons who on the day of such closing are registered as stockholders, shall as between them and their transferees of stock be entitled to the then current interest thereon.

Transfer book may be closed for not more than 3 days before date on which any interest falls due.

GENERAL.

17. It shall be lawful for the Governor to prescribe forms for scrip certificates, certificates of stock, dividend warrants, transfer tickets, transfer book and other like purposes, and to frame or approve of regulations, not inconsistent with this Act, for carrying out the provisions thereof; and should any question arise not provided for in this Act, or in such regulations as aforesaid, it shall *mutatis mutandis* be decided by the same law, rules or regulations as, if such question had arisen in England.

Governor may prescribe forms of certificates, warrants, tickets, books, &c., and frame rules under this Act; where Act and rules are silent, English rules to apply.

18. This Act shall be construed as one with "The Cape of Good Hope General Loans Acts, 1881 and 1883," and may be cited as the "Colonial Stock Act, 1888," and this Act and the said Acts may be cited together as "The Cape of Good Hope General Loans Acts, 1881, 1883 and 1888."

This Act to be read with Act No. 16 of 1881 and Act No. 18 of 1883. Short Titles.

516 THE CAPE OF GOOD HOPE GENERAL LOANS ACTS.

No. 17—1888.
Schedule.

SCHEDULE.

LAWS REPEALED.

Number and Year.	Title and Description.	Extent of Repeal.
Act No. 13 of 1869	To empower the Governor to raise the sum of fifty thousand pounds sterling, for the purpose of redeeming a like sum raised by means of debentures, under authority of the Act No. 22 of 1859.	Sections 2, 5, 6 and 7.
Act No. 7 of 1871	To provide for raising a sum of one hundred thousand pounds sterling to improve the Harbour of East London, and for levying wharfage dues at the said harbour.	Sections 2, 5, 6 and 7.
Act No. 13 of 1871	To empower the Governor to raise the sum of fifty thousand pounds sterling for the purpose of redeeming a like sum raised by means of debentures, under authority of Act No. 12 of 1866-'67.	Sections 2, 5, 6 and 7, and so much of section 3 as fixes the dates on which half-yearly interest is payable.
Act No. 8 of 1872	To empower the Governor to raise a sum not exceeding seventy-nine thousand nine hundred and fifty pounds sterling for the purpose of constructing a Graving Dock in Table Bay and for redeeming certain debentures, issued under authority of the Acts No. 26 of 1868 and No. 11 of 1870.	Sections 3, 7, 8 and 9, and so much of section 4 as fixes the dates on which half-yearly interest is payable.
Act No. 13 of 1873	The "Railway Act, 1873."	Sub-sections 1, 4, 5 and 6 of section 9 and so much of sub-section 2 of section 9, as fixes the dates on which half-yearly interest is payable.
Act No. 8 of 1876	The "Wynberg Railway Purchase Act, 1876."	Sub-sections 1, 4, 5 and 6 of section 7, and so much of sub-section 2 of section 7 as fixes the dates on which half-yearly interest is payable.
Act No. 16 of 1881 Act No. 18 of 1883	"The Cape of Good Hope General Loans Acts, 1881 and 1883."	{ Section 3. { Section 3.

CRUELTY TO ANIMALS ACT.

517 Repealed
Act 8/14/51

No. 18—1888.]

[Promulgated 17th August, 1888.

ACT

For the More Effectual Prevention of Cruelty to Animals.

WHEREAS by the Act No. 3 of 1875, provision was made for the prevention of cruelty to animals, and it is expedient to repeal the said Act, and to make other and more effectual provisions for promoting the object and purposes 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 thereof, as follows:—

Preamble.

1. The said Act No. 3 of 1875, intituled "Cruelty to Animals Act, 1875," is hereby repealed: Provided that such repeal shall not affect any pending proceedings under the said Act, which shall proceed as if the said Act were still in force.

Act No. 3 of 1875 repealed. Repeal not to affect pending proceedings.

2. Every person who shall wantonly or cruelly beat, ill-treat, overdrive, chase, abuse, wound, or torture, or cause, or procure to be wantonly or cruelly beaten, ill-treated, over driven, abused, wounded or tortured, any domesticated animal or bird, or any animal or bird not domesticated when captured, shall be liable to be fined any sum not exceeding ten pounds sterling, and in case of default to be imprisoned with or without hard labour for not exceeding three months, or to both such fine and such imprisonment.

Penalty for ill-treatment of animals.

3. This Act may be cited for all purposes as the "Cruelty to Animals Act, 1888."

Short title.

No. 19—1888.]

[Promulgated 21st August, 1888.

ACT

Repealed by 1916 Act 29

For raising a Further Sum of Fifty Thousand Pounds Sterling for Carrying on the Extension of the Breakwater and Construction of the Outer Harbour of Table Bay.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. It shall be lawful for the Governor to raise a further sum not exceeding fifty thousand pounds sterling from time to time as occasion may require, and all moneys so raised shall be applied to the purposes of carrying on the extension of the Breakwater and construction of the Outer Harbour of Table Bay.

Power to raise loan of £50,000.

2. The application of the moneys to be raised as aforesaid shall be entrusted to the "Table Bay Harbour Board," appointed or to be appointed under the provisions of any Act relating to the management of the Docks and Breakwater in Table Bay and the said Harbour Board shall in respect of such application have and exercise all the powers conferred upon such Board by any such Act.

Application of moneys.

3. This Act may be cited as "The Table Bay Harbour Board Loan Act, 1888."

Short title.

No. 20—1888.]

[Promulgated 21st August, 1888.

ACT

To provide for Constructing, Equipping and Working Certain Lines of Railway, and for Certain Additional Works on Existing Railways.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

Governor authorised to construct certain lines of Railway and additional works in connection with Railways already completed.

1. The Governor shall, as soon as may seem to him expedient after the passing of this Act, cause to be constructed and equipped the several Railways set forth in Schedules A, B and C to this Act, and shall cause the same to be maintained and worked, and shall appoint such engineers and other officers, and do and perform all such acts, matters and things as he may deem necessary or expedient for such purposes. The Governor shall likewise cause to be constructed as aforesaid, the additional works in Schedule D to this Act set forth.

Sections 2, 3, 4 and 5, of Act 19 of 1874 to apply *mutatis mutandis*.

2. For the several purposes in the preceding section mentioned, the several powers and provisions given and contained in sections 2, 3, 4 and 5 of the "Railways Act, 1874," shall be deemed and taken, *mutatis mutandis*, to apply to this Act.

Authority to expend a sum of money not exceeding £642,000.

3. For the purposes of constructing and equipping the said Railways, and providing rolling stock and bridges, as in the said Schedules A, B and C set forth, it shall be lawful for the Governor to expend a sum not exceeding Five Hundred and Fifty-five Thousand Pounds Sterling, and for the purpose of constructing the additional works in the said Schedule D set forth a sum not exceeding Eighty-seven Thousand Pounds Sterling.

Authority to raise a sum of £642,000.

4. For the several purposes aforesaid, it shall be lawful for the Governor to raise a sum of Six Hundred and Forty-two Thousand Pounds Sterling, from time to time as he may deem expedient, either by debentures or stock, or partly by debentures and partly by stock, and 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.

5. This Act may be cited as the "Railways Extension and Additional Works Act, 1888."

Schedule A.

SCHEDULE A.

No.	Description.	Amount.
1	An Extension of the Colesberg line from its present terminus at Colesberg to a point on the Orange River	£110,000
2	Half-cost of a Bridge across the Orange River ..	30,000
	Total ..	£140,000

SCHEDULE B.

No. 20—1888.
Schedule B.

No.	Description.	Amount.
1	An Extension of the Kimberley Line from its present terminus at Kimberley <i>via</i> Warrenton at Fourteen Streams, to a point on the North Bank of the Vaal River ..	£302,500
2	Cost of a Bridge across the Vaal River ..	52,500
	Total ..	£355,000

SCHEDULE C.

Schedule C.

No.	Description.	Amount.
1	A Line from a point at or near Eerste River to a point at or near the foot of Sir Lowry's Pass	£60,000
	Total	£60,000

SCHEDULE D.

Schedule D.

Additional New Works to be constructed in connection with Railways already constructed.

Description.	Amount.
Additional Fencing of Existing Lines	£5,000
Additional Accommodation for Railway Employés ..	15,000
Additional Accommodation for Passengers, Rolling Stock, Engine Sheds, Waterway, Vacuum Brakes, &c.	10,000
Additional Water Supply	20,000
New Coal Sheds	4,000
Additional Siding Accommodation	6,000
Overhead Bridges	9,000
Additional Works already completed	18,000
Total	£87,000

No. 21—1888.]

[Promulgated 21st August, 1888.

Repealed by 1889 Act. 4.

ACT

To Amend the Law regulating the Imposition and Incidence of House Duty, to relieve from Liability Owners of Houses not in their actual occupation, to extend in certain cases the Liability of Occupiers of Houses, and to exempt certain Houses.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

Repeal of inconsistent provisions of Act 20 of 1878.

1. So much of the third, fifth, sixth, thirteenth, fifteenth and eighteenth sections of the "House Duty Act, 1878," and so much of any other sections of the said Act as shall be inconsistent with this Act, are hereby repealed.

Section 3 of Act 20 of 1878 amended.

2. The third section of the said Act shall be read and construed as if the words "except as in the fifth section of this Act is provided" had been inserted instead of the words "except as in the next succeeding section" therein contained.

Section 13 of Act 20 of 1878 amended.

3. The thirteenth section of the said Act shall, in regard to the duty due on the first day of July in the present or any subsequent year, be read and construed as if the words "for not less than six months whether consecutive or otherwise, within the space of twelve months next before the day on which such duty shall be payable" were inserted, instead of the words "for not less than the number of days in the third section of this Act mentioned."

Relief from payment of house duty in certain cases.

4. No house duty shall be payable for the present or any subsequent year in the cases or in the circumstances following:—

(1) For or in respect of any house used exclusively for school purposes, or partly for school and partly for public worship, or as a hospital.

(2) When any building shall be used partly as a dwelling and partly for school purposes, or as a hospital, the part occupied as a dwelling shall alone be liable to be valued for the payment of duty, and the part used for school or hospital purposes shall be exempt. If any such building shall already have been valued as a whole, the owner or occupier may, before the duty due in the next succeeding year shall become payable, require the Civil Commissioner to cause a separate valuation to be made.

Relief of owners from the payment of house duty on houses not in their actual occupation.

5. No owner of any house shall be in law liable to pay the amount of house duty due under the said Act or under the next section of this Act on the first day of July in any year, by the occupier or last actual occupier for six months of such house, unless such owner shall, during the year preceding such first day of July, have been in actual occupation of such house for a space of not less than six months in all, and no such owner shall be deemed to

have on any day been either in actual occupation of any such house, or an occupier thereof, within the meaning of the sixth section aforesaid, merely by reason that on such day he was entitled as such owner to the occupation or possession thereof, if in fact he shall on such day not have been in actual occupation.

No. 21—1888.

6. If there shall not on the first day of July in any year be any person in actual occupation of any house, then and in every such case house duty for the year ending on the said first day of July shall be payable in respect of such house on and after the said day by the last person, if any, who shall, for a space of not less than six months in all, during such year so ending as aforesaid, have been in actual occupation of such house, in like manner as though such person had been the occupier thereof on the said first day of July: Provided that no such person shall be liable to pay such duty upon any such house who shall have paid house duty on or after such first day of July as aforesaid upon any other house, then in his actual occupation and used by him for the same purpose as that for which he shall have used the first mentioned house.

Liability for house duty of last occupier for 6 months, if house not in actual occupation on 1st day of July in any year.

7. In this Act the term "house" bears the meaning assigned to it in the "House Duty Act, 1878."

Meaning of "house."

8. This Act shall be read as one with the "House Duty Act, 1878," and may be cited for all purposes as the "House Duty Amendment Act, 1888."

Act to be read with Act No. 20 of 1878. Short title.

No. 22—1888.]

[Promulgated 21st August, 1888.

ACT

To Provide means for the Erection and Equipment of certain Lines of Telegraph.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. The sum of ten thousand one hundred and eighty-two pounds thirteen shillings and eleven pence (£10,182 13s. 11d.) remaining unexpended out of the funds raised under authority of Act No. 19 of 1881, and the sum of four thousand three hundred and thirty-eight pounds twelve shillings and eleven pence (£4,338 12s. 11d.) remaining unexpended out of the funds raised under Act No. 5 of 1882, making together a total sum of fourteen thousand five hundred and twenty-one pounds six shillings and tenpence sterling (£14,521 6s. 10d.), shall be applied for the purpose of the construction of the lines of telegraph specified in the schedule to this Act, anything in the said Acts No. 19 of 1881 and No. 5 of 1882 to the contrary notwithstanding.

Application of certain unexpended balances to the construction of new lines.

2. This Act may be cited as the "Telegraph Extension Act, 1888."

Short title.

No. 22—1888.

SCHEDULE.

Schedule.

	£	s.	d.
1. Cape Town to Worcester	1,400	0	0
2. Worcester to Touws River	1,200	0	0
3. De Aar to Kimberley	1,500	0	0
4. Fauresmith to Kimberley	1,600	0	0
5. Kimberley to Transvaal Border	4,000	0	0
6. Knysna to Millwood	373	0	0
7. Piquetberg to Porterville	700	0	0
8. De Aar to Brits Town	1,350	0	0
9. Somerset West to Strand	160	0	0
10. Burghersdorp to Venterstad	2,000	0	0
11. Loop Line to Hebron	238	6	10
	£14,521	6	10

No. 23—1888.]

[Not yet Promulgated.]

ACT

To Consolidate and Amend the Law relating to Convict Stations and Prisons.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows :—

PART I.

PRELIMINARY.

Short Title.

1. This Act may be cited as the “Convict Stations and Prisons Management Act, 1888.”

Meaning of terms.

2. In this Act and in any Act applied or incorporated by this Act the expressions hereinafter mentioned shall have the meanings attached to them unless there is something in the tenor of this Act inconsistent with such meanings, that is to say :—

“The Minister” shall mean the minister to whose department the Governor shall assign the control and management of convicts and prisoners, or convicts and prisoners respectively.

“Convict Station” shall mean any place which has already been appointed to be a station for the imprisonment, detention or confinement of persons convicted of any offence, or which shall hereafter by notice in the *Gazette*, signed by or by direction of the Minister, be appointed to be such station or place, and shall include all branches or out-stations, buildings or places to which convicts may be drafted or sent from any such station or place for the purposes of imprisonment, detention, confinement, labour or otherwise.

- “Prison” shall mean any gaol, house of correction or lock-up, now used or provided or hereafter to be appointed by the Minister as a place for the detention or confinement of persons liable to detention in custody, and shall include all yards and buildings in connection with such gaol or house of correction.
- “Lock-up” shall mean any building, cell or place in which any person lawfully arrested or detained in custody is placed with a view to his being brought to trial or removed to a prison, or any building, cell or place provided for the detention in custody of prisoners at or in the neighbourhood of any place where there is no ordinary prison and where any court is holden.
- “Superintendent” shall mean the officer for the time being in chief control of any convict station.
- “Gaoler” shall mean the keeper of or officer for the time being in chief control of any prison or lock-up.
- “Convict” shall mean any convicted person under detention at a convict station.
- “Prisoner” shall mean any person whether convicted or not under detention in any prison or lock-up.
- “Lashes” shall include cuts or strokes with a cane or rod.

PART II.—CONVICT STATIONS.

APPOINTMENT OF OFFICERS.

3. The Governor may appoint an officer, to be styled the “Inspector of Prisons,” who shall perform such duties as are assigned to him by this Act, or which may hereafter be assigned to him by regulations to be framed under the authority of this Act.

Officers of Convict Station.

4. The Inspector of Prisons shall periodically at such times as the Governor may direct, visit and inspect, or cause to be visited and inspected, all convict stations and prisons within the Colony, and shall conform to such instructions as may be issued to him in that behalf by the Minister, and shall, subject to the control of the Minister, have the supervision of all convict stations and prisons.

Duties of Inspector.

5. Every superintendent or other officer receiving into his custody at a convict station any convict, shall be bound to obtain the warrant of the court by which sentence was passed upon the convict, or a warrant from the Minister, and he shall keep such warrant of record. And every sheriff, deputy sheriff, gaoler, or other person shall be bound to transmit through an officer in charge of any convicts, such warrants at the time of the removal of any convict to a convict station.

Convict received at Station only under lawful warrant, to be transmitted to Superintendent of Station.

6. Convicts may by direction of the Minister be from time to time removed from one convict station to another convict

Removal of convicts by direction of Minister.

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Warrant to be transmitted on removal of convict, together with report by Superintendent or Gaoler.

station, or from a convict station to a prison, or from a prison to a convict station in case the convict be under sentence of hard labour.

7. In case a convict shall be removed from one convict station to another convict station, or to or from a prison as in the last section mentioned, the warrant under which he shall have been detained at the place from which he shall be removed, shall be transmitted to the superintendent or gaoler of the convict station or prison to which he shall be removed, together with a statement signed by the superintendent or gaoler of the station or prison from which the convict shall be moved setting forth the punishments recorded against him, if any.

VISITING MAGISTRATES.

Visiting Magistrates of Convict Stations.

8. It shall and may be lawful for the Governor from time to time as occasion may require to appoint any resident magistrate or justice of the peace to be the visiting magistrate or one of the visiting magistrates of any convict station or place where convicts may be employed, and from time to time to revoke every such appointment.

OFFENCES PUNISHABLE BY VISITING MAGISTRATES AND OTHERWISE.

PROCEDURE, REWARDS FOR APPREHENSION, &C.

Jurisdiction of Visiting Magistrates

9. When in the course of any visit to or inspection of any convicts whom it shall be the duty of any such visiting magistrate as aforesaid to visit and inspect, it shall be proved to the satisfaction of any such magistrate that any convict shall have been guilty of any of the following offences:—

Offences defined.

- (a) A repetition of any misbehaviour theretofore punished by the superintendent ;
- (b) Any flagrant act of disorder or breach of prison discipline ;
- (c) Insolence in language or manner towards the superintendent ;

Punishment of offences.

it shall be lawful for every such magistrate as aforesaid, and he is hereby empowered to order any such convict to be placed in solitary confinement with or without spare diet for any period not exceeding fourteen days, or to receive corporal punishment in any number of lashes not exceeding twenty-five or to undergo imprisonment with or without hard labour for any period not exceeding three months in addition to his existing sentence.

No appeal from decision of Visiting Magistrate.

10. The said visiting magistrates shall have and exercise jurisdiction under this Act without appeal, and the proceedings shall be carried on in such manner and form as shall for the time being be lawfully practised by the courts of the resident magistrates of this Colony in regard to the hearing and determination of criminal cases. Nothing in this Act contained shall be deemed or taken to affect or impair any jurisdiction now belonging to any of the courts of this Colony in case the Attorney-General shall direct that proceedings be originated or taken in such court instead of before the visiting magistrate.

Provisions of Act not to impair existing jurisdictions.

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11. It shall be the duty of the superintendent, overseers, and constables in charge of any convicts, and other officers whose duty it may be to aid in the execution of sentences, and they are hereby respectively required, to cause every convict who shall by any order as aforesaid of any court or visiting magistrate be ordered to undergo any punishment as aforesaid to undergo the same in manner and form as by the said order directed, and for so doing such order or a certified copy thereof shall be a sufficient warrant to each of the said persons respectively.

Duty of Superintendent, &c., with regard to the carrying out of sentences.

12. In case any convict shall wilfully disobey any lawful order, or if he shall exhibit insolence in language or manner to any officer belonging to the convict station while such officer shall be on duty or to any constable or police officer while on duty, or if he shall be guilty of profane cursing and swearing or of any indecent behaviour or of using foul language, or if he shall without sufficient reason be absent at any hour appointed for muster or school or divine service, or if he shall use to any person intimidating language or threatening acts, or if he shall refuse or neglect to perform or shall wilfully mismanage any of his allotted work, or if he shall wantonly destroy or injure any clothing, food, implements of labour, or any other matter or thing intrusted to him, the superintendent shall be empowered in addition to any other penalties which he may be authorised to inflict by any regulation made by the Governor in that behalf, to order the convict so offending to be placed in solitary confinement with or without spare diet for any uninterrupted period not exceeding three days: Provided that the said superintendent shall make a record in a book to be kept for that purpose of every case in which any punishment as last aforesaid shall be ordered by him, showing the name of the convict, the nature and particulars of the misbehaviour, and the punishment ordered, and shall submit such record for the examination of the visiting magistrate upon the occasion of his then next visit; and if any such superintendent shall wilfully neglect to make such a record as is herein directed or shall not make the same a true and faithful record or shall neglect to submit such record for the examination of the visiting magistrate upon the occasion of his then next visit such superintendent shall for every such omission of his duty incur and be liable to a penalty not exceeding fifty pounds.

Certain offences by convicts punishable by Superintendent of Station, who shall record punishment, and submit record to Visiting Magistrate, subject to penalty for wilful neglect to make such record.

13. Any convict who shall desert or escape, or conspire with any person to procure the escape of any convict or to enable or assist any convict to desert, or who shall conspire with, assist or incite any other convict to desert or escape from the station where he shall be placed, or from any post, place or conveyance where or wherein he may be for the purpose of labour, detention, confinement in hospital, removal in custody from one place to another, or otherwise, or who shall make any attempt to desert or escape from custody whether inside or outside any building or enclosure, or place or

Offences of desertion, escape, &c., committed by convicts, and the punishment of such offences.

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conveyance as aforesaid, or who shall have any instrument, matter, or thing with intent to procure his own or another convict's escape shall upon conviction of such offence be liable to imprisonment with hard labour for any period not exceeding two years, to commence from the expiration of any period or periods of imprisonment which he shall have been sentenced to undergo and, also to receive corporal punishment in any number of lashes not exceeding fifty.

Jurisdiction of Visiting Magistrate and Resident Magistrates over offences under last section.

14. A convict charged with any offence in the last preceding section mentioned may be tried by :

- (a) Any visiting magistrate who is also a resident magistrate.
- (b) The resident magistrate of the district in which he shall have escaped, or in which he may be found.

And such visiting magistrate or resident magistrate shall respectively have jurisdiction to impose such and so much of the sentences in the said section contained as he shall think fit.

Expenses of person, not in charge of escaped convict at time of escape, to be paid out of Colonial Treasury.

15. Every person not being an officer in charge of or belonging to the gang from which the convict shall escape who shall apprehend and secure any convict who shall have escaped as aforesaid and shall cause such convict to be lodged in any prison or in custody of the superintendent of any convict station, shall be entitled to receive out of the colonial treasury (over and above his just and reasonable expenses) such sum as the Minister shall consider fit.

Superintendents and other officers invested with the functions of constables; power of appointment and suspension of constables of Convict Stations, subject to Minister's approval.

16. Every superintendent, assistant superintendent, head-overseer, and sub-overseer shall be deemed and taken to be a constable, and it shall and may be lawful for the Minister and for any superintendent from time to time to nominate and appoint so many other persons as the Minister or the said superintendent shall deem necessary to be and act as constables at the several convict stations, and such persons shall be invested with all powers, authorities, and functions by law belonging to constables or officers of police: Provided that every appointment made by any superintendent shall be subject to the approval of the Minister and that every constable shall be removable at his pleasure and any constable may be suspended by any superintendent until the pleasure of the Minister shall be expressed thereon, and no superintendent shall have any authority to appoint or suspend any constable as aforesaid to or at any station other than the one of which he shall be the superintendent.

Powers and duties of Constables of Convict Stations.

17. All such constables as aforesaid shall be and they are hereby authorised and required to use all lawful means in their power for retaining the convicts under their charge in safe custody; and the crimes set forth in the thirteenth section of this Act shall with reference to and for the purposes of the provisions of the Ordinances hereinafter mentioned be deemed and taken to be crimes of equal degree of guilt with the crimes specified in the fourteenth section of the Ordinance No. 73, entitled "An

Ordinance No. 73, Sections 12, 13, 14, 15, 17, 18, 19.

Ordinance for explaining, altering, and amending the Ordinance No. 40," and all and singular the provisions made and contained in the twelfth, thirteenth, fourteenth, fifteenth, seventeenth, eighteenth, and nineteenth sections of the said Ordinance No. 73, and in the first section of the Ordinance No. 2, 1837, entitled "An Ordinance for the more effectual prevention of crimes against Life and Property within the Colony," shall extend and apply and they are hereby extended and made applicable to every person who shall have committed or shall on reasonable grounds be suspected to have committed or shall attempt or manifest an intention to commit any of the said crimes.

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Ordinance No. 2 of 1857, sec. 1.

PART III.—PRISONS.

APPOINTMENT OF OFFICERS.

18. There shall be for every prison a surgeon or medical officer, a gaoler and such subordinate officers as may be necessary. The district surgeon or other medical officer appointed by the Minister shall visit the prisons in his district. And for every prison in which females are detained in custody there shall be a matron and such subordinate female officers as may be necessary : Provided that in a prison where females only are imprisoned, the matron shall be deemed to be the gaoler, and shall so far as is practicable perform all the duties, and be subject to all the obligations of a gaoler in relation to such prison.

Gaoler and officers of Prisons.

Female Officers.

MANAGEMENT OF PRISONS.

19. Every prison shall be a place for the safe custody of persons liable to be detained in custody, and also a place of detention for convicted persons. If any person sentenced to imprisonment with hard labour shall be imprisoned in a prison, he shall perform such labour and discharge such duty as may be imposed upon him by the gaoler or officer in whose charge he shall be.

Custody of persons in Prisons.

Duty of imprisoned person imposed by Gaoler.

20. The gaoler and officers of every prison shall be under the immediate authority and superintendence of the resident magistrate of the district in which the prison in question shall be situate. The gaoler shall in virtue of his office be a constable and possess all the powers by law belonging to the office of constable, and shall reside within the prison of which he is gaoler.

Resident Magistrate to have authority over local gaoler and prison officers; Gaoler to be a constable and reside in gaol.

21. Male and female prisoners shall be confined in separate parts of the prison so as to prevent them from seeing, conversing, or holding any intercourse with each other, and the prisoners of each sex shall be divided into classes, subject to the regulations framed under the powers by this Act conferred.

Divisions of prisoners according to sex, and class of offence.

22. The gaoler of every prison shall keep a journal in which he shall record all occurrences of importance within the prison, which journal shall be produced to the resident magistrate of the district upon the occasion of every periodical visit by such magis-

Journal to be kept by gaoler, and exhibited to resident magistrate on periodical visit.

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trate as hereinafter directed, and shall be signed by him in proof of the same having been so produced.

Regulations as to supply of food and clothing to prisoners. Unconvicted prisoners may procure and receive food, &c., subject to necessary limitations and restrictions.

23. Prisoners confined before trial for any supposed crime or offence shall be allowed to procure for themselves and receive at proper hours any food, bedding, clothing, or other necessaries, subject to a strict examination thereof and under such limitations and restrictions to be prescribed by any rule or rules as aforesaid as may be deemed necessary to prevent extravagance or luxury within the walls of the prison, and to exclude all articles which might possibly communicate infection or facilitate escape.

Regulations as to clothing of prisoner.

24. No prisoner before trial shall be compelled to wear a prison dress unless his own clothes be deemed insufficient or improper or necessary to be preserved for the purposes of justice.

Gaoler to have no power of punishment, but may secure refractory prisoner in irons, making entry in Journal and sending notice to resident magistrate.

25. No gaoler shall without the order of the resident magistrate punish any prisoner for any offence or supposed offence under any pretext whatsoever: Provided that when and as often as it shall be urgently and absolutely necessary to secure any refractory prisoner or any prisoner contriving to escape pending the arrival of the magistrate, the gaoler may by his own authority place such prisoner in irons; and such gaoler shall in every such case make an entry in his journal recording the particulars thereof, and shall without loss of time send notice to the resident magistrate of what has taken place.

Limitation in power to place prisoner in irons.

26. Except for the causes and under the circumstances aforesaid no prisoner before trial shall be put in irons or be fastened or fettered in any manner whatsoever whether by way of security against escape, or otherwise, unless the resident magistrate shall in special cases authorise by writing inserted in the gaoler's journal a departure from this rule.

Offences against prison discipline punishable by resident magistrate on visit.

27. When in the course of any visit to or inspection of any prison which it shall be the duty of any resident magistrate to visit and inspect, it shall be proved to the satisfaction of such magistrate that any prisoner has wilfully disobeyed any lawful order, or has shown violence or insolence to the gaoler of the prison or any other officer thereof, or has been guilty of profane cursing and swearing or of using foul language or of any indecent behaviour, or has used to any person intimidating language or threatening acts, or has wantonly destroyed or injured any food, clothing, or other matter or thing intrusted to him to use, or has committed any wilful act of disorder or breach of the prison discipline, such resident magistrate may order any such prisoner so offending to be placed in solitary confinement with or without spare diet for any period not exceeding five days, or to be kept in irons for any period not exceeding seven days, or to receive corporal punishment in any number of lashes not exceeding twenty-five or to be kept at hard labour for any period not exceeding twenty-one days in addition to any punishment to which he was liable at

the time of the offence: Provided that the name of the offender, the nature and particulars of the offence, and the punishment ordered shall be recorded in the journal of the gaoler; but no prisoners save those under sentence of imprisonment with hard labour shall be liable to receive corporal punishment.

28. If any prisoner shall make his escape from prison or attempt to make his escape or conspire or confederate with any other prisoner or other person to make the escape of both or either of them or shall have in his possession or supply any other prisoner with any implement, matter, or thing intended to aid in the escape of himself or such other prisoner, he may be tried for such offence before the court of the resident magistrate of the district in which such prison shall be situated, and upon conviction may be sentenced if an unconvicted prisoner to imprisonment with or without hard labour for any period not exceeding six months or to corporal punishment in any number of lashes not exceeding twenty-five, or if a convicted prisoner to imprisonment with or without hard labour for any period not exceeding twelve months, or to corporal punishment in any number of lashes not exceeding twenty-five, or to both such imprisonment and corporal punishment.

Jurisdiction of resident magistrate over offences connected with escape from prison, and punishment of such offences.

29. If any prisoner shall make his escape from custody, when outside the precincts of the prison, or shall attempt to make such escape, or shall, either within or outside the precincts of the prison as aforesaid, conspire or confederate with any other prisoner or other person to make the escape of both or either of them either from prison or from custody, or shall, either within or outside the precincts of such prison, have in his possession or supply any other prisoner with any implement, matter, or thing intended to aid his own escape or that of such other prisoner either from prison or from custody, every such prisoner may be tried for such act or offence by the persons specified in sub-sections *a* and *b* of section fourteen of this Act, and upon conviction may be sentenced to be imprisoned with hard labour for any term not exceeding two years, to commence from the expiration of the sentence which such prisoner shall then be undergoing, or to receive corporal punishment in any number of lashes not exceeding fifty, or both to be imprisoned as aforesaid and to receive such corporal punishment as aforesaid.

Jurisdiction over offences connected with escape from custody, outside a prison, and punishment of such offences.

30. When it shall be necessary to secure any refractory or insubordinate prisoner, or any prisoner contriving or endeavouring to escape from custody, the officer, constable, or guard in charge of such prisoner may cause him to be bound or placed in irons for safe custody until he shall be dealt with according to law.

Power to place certain prisoners in irons when necessary for safe custody.

31. All offences against discipline committed by any prisoner while outside the precincts of the prison shall be dealt with and punishable in like manner, in all respects, as if committed within the precincts of such prison.

Offences outside dealt with as though committed within prison.

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PART IV.

General.

DISCIPLINE OF CONVICTS AND PRISONERS.

Punishment cells
in convict stations
and prisons.

32. In every convict station and prison punishment cells shall be provided or appropriated for the confinement of convicts and prisoners for convict station and prison offences.

Certificate that
punishment cell not
detrimental to health
of prisoner.

33. No punishment cell shall be used at any convict station or prison unless it is certified by the visiting magistrate or resident magistrate as the case may be that it can be used as a punishment cell without detriment to the health of convicts or prisoners.

Mark of punish-
ment cell.

34. Every certified cell as in the last section mentioned shall be distinguished by a number or mark placed in a conspicuous position and shall be referred to by its number or mark in the certificate of the visiting or resident magistrate.

Offences of aiding
escape or breach of
regulations by con-
vict or prisoner, and
punishment of such
offences.

35. Every person who aids any convict or prisoner in escaping or attempting to escape from any convict station, or prison, or who for the purpose of facilitating the escape of any such convict or prisoner supplies or agrees or attempts or assists, incites or encourages any other person, to supply him with any mask, dress, disguise, or any other article, instrument, matter or thing, or conveys or causes to be conveyed into any convict station, or to any place where convicts may be placed, or into any prison or lock-up any letter or token, encouraging, inciting or showing desire to give aid in escaping or in breaking any regulation made by the Governor, as by this Act is provided, shall upon conviction be liable to imprisonment with or without hard labour for any period not exceeding two years.

Offences of supply-
ing certain articles to
convict or prisoner.

36. Every person who shall without lawful authority supply or cause to be supplied to any convict or prisoner any intoxicating liquor, tobacco, dagga, or any other article, and every person who brings or attempts by any means whatever to introduce into any convict station or prison, any intoxicating liquor, tobacco, dagga, or any other article, to be sold or used therein contrary to any regulations made by the Governor as by this Act is provided; and every officer of a convict station, or prison, or person employed therein, who suffers any intoxicating liquor, tobacco, dagga, or any other article to be sold, received or used therein contrary to the said regulations, or who shall sell, lend, or give away to any convict or prisoner any intoxicating liquor, tobacco, dagga, or any other article, contrary to the said regulations, shall be liable upon conviction to imprisonment with or without hard labour for any period not exceeding six months, or to a fine not exceeding forty pounds, and in default of payment he shall be liable to be imprisoned with or without hard labour for any period not exceeding three months, unless such fine be sooner paid, or to both such fine and such imprisonment, and every such

Such offences by
officers of convict
stations.Punishment
such offences.

officer or person employed as aforesaid shall, in addition to any other punishment, forfeit his office and all salary due to him.

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37. No fee or gratuity shall be paid or payable by any prisoner either on his entrance, commitment to, continuance in, or discharge from any convict station or prison, to any officer of or person employed therein, and any officer or person receiving or demanding any such fee or gratuity shall for every such offence forfeit any sum not exceeding ten pounds.

Fees and gratuities by prisoner to officers &c., forbidden under penalty.

38. Every person who contrary to any regulations made under this Act as aforesaid shall convey or attempt to convey any letter or other document or token, or any article whatever not allowed by such regulations into or out of any convict station or prison shall, on conviction, be liable to imprisonment with or without hard labour for any period not exceeding one month or to a fine not exceeding twenty pounds with the alternative of imprisonment with or without hard labour for any period not exceeding one month unless such fine be sooner paid.

Breach of regulations by conveying letters, &c., and punishment of such breach.

39. No superintendent, gaoler or other officer of any class employed in connection with any convict station or prison shall sell, nor shall any person in trust for or employed by him sell or have any benefit or advantage from the sale of any article to any convicts or prisoners, nor shall he directly or indirectly have any interest in any contract or agreement for the supply of any such article. Any person contravening this section shall upon conviction before the resident magistrate of the district be liable to a fine not exceeding one hundred pounds, or to imprisonment with or without hard labour for any period not exceeding six months unless such fine be sooner paid.

Superintendents & other officers not to be interested in supply of any article to convicts or prisoners.

Penalty.

40. Any convict, or prisoner, whose term of imprisonment shall expire on Sunday, shall be entitled to his discharge on the Saturday next preceding, and any officer in whose custody he may be is hereby authorised to discharge him accordingly.

Discharge of convicts or prisoners in certain cases.

41. It shall be the duty of the resident magistrate of the district to require from the surgeon of every convict station or prison, or other medical practitioner, a certificate showing the cause of death of every convict or prisoner as the case may be, who may die at any convict station or within any prison, and if he should think it necessary, to hold an inquest on the body.

Medical certificate of cause of death of convict or prisoner in convict station or prison.

42. It shall and may be lawful for the officers, constables, or guards who shall be in charge of any party of convicts or prisoners within or without the precincts of any convict station or prison to be armed with fire-arms loaded with powder and ball or shot; and if any such convict or prisoner shall attempt to escape, and it shall be absolutely necessary, in order to prevent such escape that such officer, constable or guard should fire upon such convict or prisoner, it shall be lawful for him so to do, and if in so doing he shall kill or wound such convict or prisoner, he shall not be deemed guilty of any offence in so doing.

Arms which may be lawfully carried and used by officers in charge of convicts or prisoners.

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Provision for removal and ejection of officer suspended, removed, or resigning, from premises occupied in convict station or prison.

43. Whenever any officer of a convict station or prison is suspended, removed from, or resigns his office, or dies, the officer so suspended, removed, or resigning, and his family and the family of every such deceased officer, shall quit the possession of the house or apartments in which he or they have previously resided by virtue of such office when required so to do by notice under the hand of the inspector of prisons or resident magistrate of the district; and if he or they refuse or neglect to give such possession within forty-eight hours after such notice as aforesaid has been given to him, the said resident magistrate, upon proof made of the service of such notice and of such refusal or neglect to comply therewith, may by warrant under his hand direct any police constable or other person named in such warrant to enter by force if necessary into such premises and eject or remove therefrom every such officer or any other person wrongfully retaining possession, together with any goods or articles there found.

Regulations in Dutch and English to be accessible to convicts or prisoners.

44. So much of this Act and so much of any such regulations as aforesaid as relate to the treatment and conduct of convicts or prisoners shall be printed in legible characters, both in the English and Dutch languages, and fixed up in conspicuous parts of every convict station or prison, so that all persons may have access thereto.

PART V.

MISCELLANEOUS.

Place of confinement of person under short sentence by periodical court or special justice of the peace.

45. When any periodical court or court of special justice of the peace holden at a place where there is no ordinary prison shall sentence a person to imprisonment with or without hard labour for any period not exceeding fourteen days, it shall be competent for such court to direct such imprisonment to be in the nearest lock-up in lieu of in any other prison.

Limitation of right of officer of convict station or prison to resign his office.

46. No officer belonging to any convict station or prison shall be at liberty to resign or withdraw himself from his office, unless expressly permitted so to do in writing by the resident magistrate of the district in which such convict station or prison is situate, or by the superintendent of such convict station, or unless he shall give to such resident magistrate or superintendent one month's notice of his intention to resign such office; and every officer who shall so resign or withdraw himself without such leave or notice shall be liable to forfeit all arrears of pay then due to him, or to a penalty not exceeding ten pounds, or to imprisonment for any term not exceeding one month, as to the resident magistrate of the district shall seem best and most expedient.

Penalty for contravention of section

Meaning of term "officer."

The term "officer" shall be construed to mean and include overseer, constable, gaoler, turnkey and matron.

Assaults on prisoners by constables, &c.

47. Any superintendent, gaoler, constable, or other officer of a convict station or prison who shall be convicted of assaulting or attempting to assault any convict or prisoner shall, in addition

to any other punishment or penalty imposed, forfeit and vacate the office then held by him, and may not be re-appointed to the same or any similar office during a period of five years, in case he shall be sentenced to a fine of ten shillings or upwards or to any period of imprisonment.

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Penalty.

48. Any officer of a convict station or prison not being a superintendent, assistant superintendent; or surgeon, who shall be guilty of any neglect or violation of duty, or of contravening any of the rules and regulations made by the Governor, shall, upon conviction by the visiting magistrate of the convict station or resident magistrate of the district, be liable to a penalty not exceeding ten pounds, or, in default of payment, to imprisonment with or without hard labour for any period not exceeding three months.

Officer convicted of violation of duty, or contravention of regulations, punished by visiting or resident magistrate.

49. Notwithstanding anything to the contrary contained in the tenth section of this Act, whenever under any provision of this Act any convict or prisoner shall be sentenced by any visiting or resident magistrate to corporal punishment exceeding fifteen lashes or imprisonment exceeding one month, the sentence shall not be carried into effect unless and until a Judge of the Supreme, Eastern Districts, or High Court, as the case may be, shall have certified that such sentence is in accordance with real and substantial justice, and whenever such a sentence shall have been imposed, the record of the proceedings upon which such convict or prisoner was convicted and sentenced shall forthwith be forwarded to the Registrar of the Superior Court, the Judges whereof shall have jurisdiction to review the proceedings in criminal cases in the Court of the Resident Magistrate of the place where the convict station or prison is situated in which such convict or prisoner is confined.

What sentences to be reviewed by Judge.

50. The Governor may from time to time make, alter and amend regulations

Power of Governor to make regulations for better management of convict stations and prisons.

- (a) For the general government and management of convict stations or prisons, and for the classification of convicts or prisoners therein;
- (b) For the regulation of the duties and conduct of the officers at such stations or prisons and the convicts or prisoners under their charge;
- (c) For the mode of supplying food, the scales of diet, and the clothing and necessaries to such officers and the convicts or prisoners under their charge;
- (d) For the safe custody of convicts or prisoners when at labour or otherwise;
- (e) For rewards by mitigation or remission of sentence or otherwise to well conducted convicts and prisoners;
- (f) For the granting and withdrawing of indulgences to convicts and prisoners;

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- (g) For the regulation of the duties of medical officers of convict stations and prisons;
- (h) For the duties of resident magistrates or visiting magistrates in connection with convict stations and prisons;
- (i) For prohibiting the supply to convicts or prisoners, and the introduction into any convict station or prison, of any article of food, drink or otherwise;
- (j) For assigning and regulating duties to be performed by the Inspector of Prisons under this Act.

And may by such regulations impose a penalty for any breach of such regulations or different penalties in case of successive breaches.

Persons loitering in vicinity of convict station liable to fine and imprisonment.

51. Any person loitering about any convict station, prison or other place where convicts or prisoners may be for the purposes of imprisonment or labour, who refuses or neglects to depart therefrom upon being duly warned so to do, by any constable or other authorised person, shall be guilty of an offence; and upon conviction shall be liable to imprisonment with or without hard labour for a period not exceeding one month, or to a fine not exceeding five pounds with the alternative of imprisonment with or without hard labour for a period not exceeding fourteen days, in case such fine be not sooner paid.

AGREEMENTS FOR LABOUR OF CONVICTS.

Provisions for the employment of prisoner under short sentence by bodies corporate, companies or individual, subject to authority of Minister.

52. Subject to regulations made under this Act, any resident magistrate may at his discretion, or when required so to do by the Minister, in cases of persons sentenced to imprisonment with hard labour for three months or any lesser period, or in all other cases of hard labour when required and authorised so to do by the Minister, contract with any divisional council or municipal or other public body, or with any company or individual, for the employment of such persons under sentence as aforesaid upon such terms and conditions as to safe custody and maintenance as he may deem fit, and thereupon the order of such resident magistrate setting forth the place where the employment shall be, shall constitute it a place outside the precincts of the prison of that district for the purpose of offences by prisoners, and any person named for that purpose in such order shall be taken to be an officer, constable, or guard in charge of prisoners.

Effect of order of resident magistrate sanctioning such employment.

PART VI.

REPEAL OF EXISTING LAWS.

Repeal of certain existing laws.

53. The laws enumerated in the Schedule hereto, and all other laws repugnant to or inconsistent with this Act, are hereby repealed except as to acts and things done or commenced, liabilities incurred, offences committed and proceedings taken before the taking effect of this Act.

SCHEDULE.

No. 23—1888.
Schedule.

ENACTMENTS REPEALED.

Number and Year.	Title.	Extent of Repeal.
Ord. No. 7, 1844..	Ordinance for the discipline and safe custody of the convicts employed upon the public roads.	The whole.
Ord. No. 10, 1844	Ordinance for empowering the Governor to appoint in all cases the places at which convicts sentenced to be imprisoned shall be confined.	The whole.
Ord. No. 1, 1845	Ordinance for creating certain Visiting Magistrates' Courts at Convict Stations in this Colony.	The whole.
Ord. No. 24, 1847	Ordinance for improving the Gaols of this Colony.	The whole.
Act No. 9, 1858 ..	An Act to provide for the management of the public roads of the Colony.	Section 19.
Act No. 5, 1866-1867	Act for the better maintenance of discipline among persons under sentence of imprisonment with hard labour.	The whole.
Act No. 1, 1876 ..	Act for the better regulation of Convict Stations and Gaols.	The whole.
Act No. 13, 1886..	Act to amend in certain respects the Criminal Law and the Law of Evidence.	Section 9.

No. 24—1888.]

[Promulgated 21st August, 1888.

ACT Repealed by 1889 Act. 40.

To amend the Act No. 31 of 1875, and the Act No. 1 of 1857.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows :—

1. From and after the 30th day of November next, so much of the provisions of Section 1 of Act No. 31 of 1875 as is contrary to or inconsistent with this Act, and the Schedule of the said Act, are hereby repealed. Repeal of inconsistent law.

2. From and after the passing of this Act, the rate of mileage, pound fees, fees for herding, grazing, and feeding, and trespass money payable in respect of all domesticated ostriches Divisional Councils to fix mileage, pound fees, &c., for ostriches.

No. 24—1888. impounded under the provisions of the said Act, shall be such as the divisional council of each division shall from time to time fix and determine.

Publication of tariff. **3.** Immediately after the framing of such tariff of fees and charges by any divisional council, the said council shall publish the same in the *Gazette*, and in some newspaper circulating in the division, and shall furnish each poundmaster with a copy thereof, and the said tariff shall forthwith be of full force and effect in such division.

Provisions of Act 31 of 1875 to continue in force until new tariff is promulgated. **4.** In the event of any divisional council failing to frame and promulgate such tariff of fees and charges as is in the second and third sections of this Act provided, the provisions of the Act No. 31 of 1875, and of the Schedule thereto, shall continue to be in force in said division, until such time as such divisional council shall have framed and promulgated such tariff, anything to the contrary in the first section of this Act notwithstanding.

Divisional Councils to have all powers under Act No. 1 of 1857. **5.** The powers of establishing or abolishing pounds, and of appointing or dismissing poundmasters, conferred by the Act No. 1 of 1857, upon the Civil Commissioners of every division, shall henceforth, notwithstanding anything to the contrary in the said Act contained, no longer be exercised in manner therein directed, and the divisional council of every division shall have all the powers of the Civil Commissioner under the said Act.

No. 25—1888.]

[Promulgated 21st August, 1888.

ACT Repealed by 1889 Act 4

To render payable for the future on the same annual date, both House Duty and Hut-tax, in respect of huts situate within Native Locations, and to make other provision for the payment and collection of House Duty so payable by occupiers in respect of such huts.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

Hut tax in Native Locations payable on 1st July in the year 1889, and each subsequent year.

1. Notwithstanding anything to the contrary contained in the twenty-sixth section of the Act No. 37 of 1884, there shall be payable on the first day of July, 1889, a sum equal to one-half the amount of hut-tax due on the 31st December, 1889, in respect of each hut situate in every Native Location, and no further hut-tax shall be due and payable in respect of such hut till the 1st July, 1890, when the said tax shall be due for one year, and in each year after the year 1890, the said tax on such huts shall be and become due and payable on the first day of July, and not on the thirty-first day of December in the preceding year, as provided by the said twenty-sixth section of the said Act.

2. Notwithstanding anything to the contrary contained in the Act No. 20 of 1878, all house duty payable on the first day of July in the year 1889, or any subsequent year, for or in respect of any hut on which hut-tax is payable in manner provided by the Act No. 37 of 1884, and by the first section of this Act shall, as against the occupier of any such hut be payable, and shall be collected as though it were an additional hut-tax due on such day.

No. 25—1888.

House duty on huts in Native Locations recoverable as additional hut tax by collector of hut tax.

3. No person shall by virtue of any provision of this Act be deemed or taken to be exempt from the payment of any amount now or hereafter fixed by way of penalty under the fifteenth section of the Act No. 20 of 1878, or by any other law, for default in the payment of house duty, and any sum so fixed by way of such penalty shall, in respect of any hut in any Native Location, be recoverable, in manner prescribed in the Act No. 37 of 1884, and especially in the twenty-fourth section thereof, by the collector of hut-tax for the Native Location in which any hut is situate, as though the amount of such penalty were an additional hut-tax lawfully imposed in respect of such hut.

This Act not to exempt from payment of penalties for default under House Duty Act; such penalties to be recovered as additional hut tax.

4. This Act may be cited as "The Hut-Tax and House Duty Amendment Act, 1888."

Short Title.

No. 26—1888.]

[Promulgated 21st August, 1888.

ACT

For Applying a Sum not exceeding Ninety-two Thousand Two Hundred and Thirty-eight Pounds Three Shillings and Sixpence Sterling, for the purpose of meeting and covering certain Unauthorised Expenditure.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. The Public Revenue of this Colony is hereby charged with a sum not exceeding ninety-two thousand two hundred and thirty-eight pounds three shillings and sixpence 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, 1887, as described at page 21 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 1886-87" [G. 4—'88], presented to both Houses of Parliament by command of the Governor.

Charge on revenue of certain unauthorised expenditure.

2. This Act may be cited as the "Unauthorised Expenditure Act, 1888."

Short title.

No. 27—1888.]

[Promulgated 21st August, 1888.

Repealed by 1906 Act 21 Sec. 1.

ACT

To Repeal Act No. 17, 1875, being an Act to continue
 “An Act for Incorporating the South African Association,” and to substitute another Act in lieu thereof.

Preamble.

WHEREAS by the 48th Section of Act No. 17 of 1875, being an Act to continue Act No. 9 of 1855, entitled “An Act for Incorporating the South African Association,” it is enacted that the said Act shall continue in force for the term or period of twenty-one years from and after the 15th April, 1876; and whereas it is expedient to continue the provisions of the said Act, with such alterations and amendments as have by experience been found to be desirable: And whereas for this purpose it is expedient to repeal the Act aforesaid, and to re-enact such of the provisions thereof as it may be fitting to re-enact, together with all necessary alterations and amendments: Be it therefore enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

Act 17 of 1875 repealed.

1. The Act No. 17 of 1875 is hereby repealed.

Repeal not to affect rights or claims existing at the time of taking effect of this Act.

2. Notwithstanding the repeal aforesaid, every right or claim of, or against, the said Association, existing at the time of the taking effect of this Act, shall survive for or against the said Association, continued under this Act, and shall be judged of as if this Act had not been passed.

Style or title and short title of the Association.

3. The said Association shall carry on its business in the Cape Colony, or such other territories in South Africa as shall be decided upon by a meeting of members convened for that purpose, under the style or title of the “South African Association for the Administration and Settlement of Estates,” but it shall always be sufficient in court, and thereout, to describe it by the short title of the “South African Association.”

Its object.

4. The business of the said Association shall be the liquidation, administration and settlement of such estates and other property as they shall be duly appointed to liquidate or administer, as executors, administrators, tutors, curators, trustees, or agents, either under and by virtue of any last will or other testamentary disposition, or by virtue of any order or decree of any competent court, or any power of attorney or other valid instrument.

Effect of charging guarantee commission.

5. In all cases in which the said Association shall, by virtue of any agreement or at the desire of testators, upon undertaking the administration of any money, bonds or other assets, have deducted from the gross amount or value thereof a commission by way of guarantee, they shall be bound to make good and pay any loss sustained by them on such moneys, bonds, or assets.

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6. The said Association shall have the right and be allowed to pay interest half-yearly at a rate one per cent. per annum less than the current rate received by the said Association in this Colony on all moneys administered by or entrusted to them either as executors, administrators, guardians or curators; provided, however, that the board of directors of the said Association shall be allowed and they are hereby empowered to reduce the rate of interest on moneys so administered by them at any time when they shall see fit so to do, but such reduced rate not to be lower than that allowed by the Master of the Supreme Court in this Colony at the time such reduction shall be made; provided also that the said Association shall be at liberty to invest the capitals from which such interest is derived in their own funds and without giving special security; and provided, further, that in cases where persons appointing the said Association to administer such moneys shall specially desire the capitals to be separately invested, the said Association shall be at liberty to invest such capitals in the manner prescribed by the thirty-ninth section of this Act.

Rate of interest allowed by Association, reduction thereof, and how capital may be invested.

7. In cases where the said Association administer moneys belonging to minors in whatever capacity it may be, of which moneys the whole annual interest shall not be required to be applied towards the maintenance of such minors, the said Association shall be at liberty, four months after the 30th April, to add the balance of interest not so required to the respective capitals to bear interest from that date at one per cent. less than the current rate received by the said Association or at such rate as the board of directors of the said Association may decide to give in the manner and on the terms provided for in the preceding section.

Special provision as to interest allowed to minors.

8. The board of directors of the said Association are hereby empowered to discount promissory notes at such rate as may be agreed upon, such promissory notes being made payable not later than six months after date, and being duly secured by shares of any of the accredited companies or associations of this Colony other than the Association hereby incorporated, or being duly secured by other valid securities, provided the advance made under such promissory notes be not more than one-half of the current value of shares or securities pledged, mining scrip being specially excluded.

Right to discount Promissory Notes given to Directors.

9. The board of directors of the said Association shall henceforth also be allowed and authorised to purchase, invest in, or lend on Government, Municipal and Divisional Council debentures, or landed property situate in this Colony, or on debentures of any other public body authorised by law to borrow money, the moneys under their administration and belonging to minors, fidei-commisary heirs, or any other person or persons whomsoever.

Directors authorised to invest in Debentures, &c.

10. All moneys administered by the said Association as general or special agents shall be invested at interest whenever

Investments of capital belonging to principals.

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practicable in the names of the persons to whom such moneys belong in order that the said Association may be enabled at all times to close their accounts with such persons.

Right given to relinquish administration and pay over moneys to Master of Supreme Court.

11. Whenever the board of directors of the said Association shall find it impossible to securely invest fidei-commissary inheritances or moneys of minors under the administration of the said Association, or shall deem it for the interest of the said Association to relinquish the administration of such inheritances or moneys, they shall be allowed and are hereby empowered with the leave of the Supreme Court to pay over the same to the Master of the said Court, who shall give his receipt therefor, and thereupon the administration thereof shall pass over to the said Master: Provided, however, that the leave of the said Court shall not be granted save upon good cause shown to the satisfaction of the said Court, in an application to be made on behalf of the Association, of which application the Attorney-General and the guardian or other legal representative, if any, of such minor or minors, or the persons interested, shall have notice: Provided further that the paying over of such moneys to the Master as aforesaid shall not relieve the said Association from any liability attaching to them for any act performed by them in the administration of such moneys.

Right given to take over bonds in estates.

12. In order to facilitate the liquidation and distribution of estates, the board of directors of the said Association shall be allowed and they are hereby empowered to take over and purchase such of the bonds of such estates as they shall deem fit.

Its capital stock.

13. The capital stock of the said Association shall consist of the sum of twenty-nine thousand four hundred pounds sterling, which shall be divided into one hundred and sixty-eight shares of one hundred and seventy-five pounds sterling each.

Number of shares a person may hold.

14. No shareholder shall be capable of holding more than one share, save and except any shareholder who shall on the taking effect of this Act be in possession of two or more shares.

Persons entitled to hold two shares not to hold more than one after selling either or both.

15. No shareholder entitled as aforesaid to hold two shares shall be capable of holding more than one share at any time, after he shall sell or assign to any person or persons either or both of his said shares.

How shares may be sold.

16. Any shareholder may sell or dispose of his share or shares to any person desirous of purchasing the same, who shall be approved of by the directors for the time being: and thereupon transfer shall be made by endorsement upon the certificates, specifying the person to whom the same is to be transferred: provided, however, that no such endorsement shall be valid to transfer any interest in, or right or title to, any share or shares or dividend profit or advantage arising therefrom until such endorsement shall have been duly registered in the books of the said Association, and two directors shall have certified on the back of the said certificate such registration and that they consent to such transfer, and the person or

persons to whom they are to be transferred shall have signed the Trust Deed.

And every shareholder in the said Association who shall have ceded and transferred all his share or shares and interest in the said capital stock to any other person in manner hereinbefore provided shall be exonerated and discharged from all liability, claim or demand whatsoever, to which he might be liable, and shall cease to have any rights or privileges which he might have had under and by virtue of the provisions of this Act in respect of such shares so transferred.

17. In case any shareholder shall either in his private or partnership estate become insolvent, or make an assignment to, or composition with, his creditors, or any of them, such shareholder, or his trustee or assignee shall be bound to deliver the share or shares of such shareholder to the directors to be disposed of as they shall see fit, and the net proceeds thereof, after deduction of commission and expenses, shall be paid to such shareholder, trustee or assignee, as the case may be, and such share shall be transferred in the manner prescribed in the last preceding section.

What in case of insolvency, assignment, &c., of shareholder's estate.

18. In case any shareholder shall die, then the executor or other legal representative of the estate of such deceased shareholder shall be bound to deliver his share or shares to the directors, to be by them disposed of as they shall see fit, and the net proceeds thereof, after deduction of commission and expenses, shall be paid to the executor of such deceased shareholder, and such share shall be transferred in the manner prescribed in the sixteenth section of this Act.

What in case of death of shareholder.

19. Any shareholder shall have the right to demand that his or her name be submitted to the ballot, as a member, at any ensuing general meeting, by giving notice to the directors to that effect, at least fourteen days before the day of holding such meeting; provided, however, that no person shall be admitted as a member who shall not have previously applied to the board of directors of the said Association in writing, to be so admitted, and shall not have acknowledged himself to be acquainted with the provisions of this Act and with the bye-laws of the said Association.

What proceedings necessary to become a member.

20. A general meeting of the members of the said Association shall be held on the last Monday in the month of January, April, July, and October, in each year, for the consideration of any business, of which eight days' notice shall have been given.

Time of general meetings.

21. The directors for the time being shall call a special meeting of the members of the said Association, whenever required so to do by a requisition, in writing, signed by not less than fifteen members, and setting forth the object for which such meeting is to be called. Such requisition shall be delivered to the secretary, at the office of the Association, and the meeting shall be called by the directors within five days after the delivery of such requisition, and a notice

Special meetings, how called.

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of such meeting shall be given to each member not less than eight days before the day of meeting.

Directors may call special meetings and how in cases of emergency.

22. The directors may of their own accord, at any time, upon a previous notice of eight days, as is in the last preceding section mentioned, call a special meeting of the members of the Association, for the purpose of considering and deciding upon any question or matter concerning the interests of the said Association, but in case of emergency the directors shall have the power to call such meeting on notice of forty-eight hours.

What business may be considered at meeting.

23. It shall not be competent at any general meeting, held under the provisions of this Act, to consider any business other than that for the consideration of which such meeting shall have been convened.

Quorum of twenty members necessary.

24. No meeting of members shall be constituted or be competent to enter upon any question or business whatever, unless twenty members shall be present, and all questions at any meeting shall be decided by a majority of members present.

Meeting may be adjourned.

25. Every meeting duly constituted may, upon question put and carried, be adjourned till some future day, to be fixed upon by such meeting.

Each member to have one vote and no proxies allowed.

26. No member shall be allowed to vote by proxy, and no member present shall have more than one vote.

Who to preside at meetings.

27. The president, hereinafter in the twenty-ninth section of this Act mentioned, shall, when present, preside at all meetings, and, in his absence, the director next in seniority present at the meeting who shall stand highest upon the list of directors, shall take the chair; and whenever it shall happen that the votes of the members shall be equally divided, then the member presiding shall, besides his individual vote, also have a casting vote.

Number of directors.

28. The affairs of the said Association shall be entrusted to, and carried on by, five directors, being male members of the Association residing in or within ten miles of Cape Town: Provided, however, that when by death or other reason, the seat of any director shall become vacant, the remaining directors shall have full power to carry on the business of the said Association, until the board shall be again composed of five members.

President how chosen.

29. The said five directors shall annually choose from among themselves a president, who shall preside at all their meetings; and in case of an equality of votes, the president shall, besides his individual vote, also have a casting vote; but in case of the president's absence the director next in seniority, present at the meeting, shall preside and have a casting vote as aforesaid.

First directors under this Act—deposit of directors' share.

30. The following members shall be the first directors under this Act, that is to say:—The Hon. Alfred Ebdon, Esq., M.L.C., Johannes Andries Bam, Marthinus Laurentius Wessels, Jacobus Christoffel Overbeek and Rudolph Myburgh, of whom the said

Alfred Ebden shall be president; and such directors shall remain in office until the 30th April, 1889; and thenceforth until some other directors shall be appointed in their room and stead: Provided that each of the said first directors under this Act shall within forty-eight hours after this Act shall have been promulgated deposit the certificate of one of his shares in this Association with the secretary, to be held during such director's term of office, and any such director who, after having been called upon in writing by the secretary, shall fail so to do shall be deemed to have vacated his office as such director.

31. Upon the 30th April, 1889, the said Marthinus Laurentius Wessels shall go out of office as a director, and shall, unless re-elected, be replaced by another member to be chosen by the general meeting of members to be held on the last Monday in the said month of April, and upon the 30th day of April, 1890, the said Rudolph Myburgh shall in like manner go out of office, and shall, unless re-elected, be replaced by another member to be chosen at the general meeting on the last Monday of the said last mentioned month, and upon the 30th day of April, 1891, the said Jacobus Christoffel Overbeek shall go out of office, and shall, unless re-elected, be replaced by another member to be chosen as aforesaid, and upon the 30th day of April, 1892, the said Alfred Ebden shall go out of office, and shall, unless re-elected, be replaced by another member to be chosen as aforesaid, and upon the 30th day of April, 1893, the said Johannes Andries Bam shall go out of office, and shall, unless re-elected, be replaced by another member, to be chosen as aforesaid; and in like manner the senior director shall go out of office in each year, and shall, unless re-elected, be replaced by another member to be chosen as aforesaid at the annual meeting to be held as aforesaid; Provided that any member elected under and by virtue of the thirty-eighth section of this Act, to supply any casual vacancy, shall, for the purpose of this section, be ranked in regard to seniority in the same place as that which was filled by the director by whom the vacancy was created. Directors vacating office as aforesaid shall be eligible to be re-elected.

Dates on which first directors to go out of office.

32. No member shall be capable of being a director who shall hold any office of profit under the Colonial Government, or who shall be an uncertificated insolvent; nor shall any two members, carrying on business as co-partners in any firm, or related to each other in or within the second degree of consanguinity or affinity, both be capable of being directors at the same time; and every director shall within forty-eight hours after his election deposit the certificate of one of his shares in the said Association with the secretary to be held during such director's term of office, failing which his election shall be void.

Who may not be director. Directors to deposit shares with secretary.

33. No loan shall be granted by the directors to any member

No directors to obtain loans.

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of the board, personally, and no director applying for a loan for third parties shall be at liberty to vote on such loan.

Meetings of directors and quorum.

34. The directors shall meet twice in each week, and oftener, if necessary, at the office of the said Association, in Cape Town, for the dispatch of business, and three directors shall form a quorum, and all questions or matters which shall come before the directors shall be decided by a majority of votes of the directors present.

Who to sign deeds, &c.

35. All deeds, inventories, contracts or instruments other than receipts shall be made and executed by one of the directors for the time being, together with the secretary; but all liquidation and distribution accounts shall be signed by the secretary, or in his absence by the bookkeeper only, and every such deed, inventory, account, contract or instrument shall be as valid and effectual to all intents and purposes as if the same had been made and executed by all the directors for the time being: provided, however, that all cheques or drafts shall be signed by the secretary, or in his absence by the bookkeeper, and shall be countersigned by one of the directors.

Disqualifications for office of director.

36. Any director who shall cease to be a member, or who shall be absent from the meetings of the board of directors for three months, unless such director shall be absent in the interests and on behalf of the said Association, by leave of the said board, or shall cede or pledge his share, or shall become insolvent or assign his estate, or make a composition with his creditors, shall thereby become disqualified, and his office shall cease and become vacant; provided that it shall not be competent for any director to sell or in any manner dispose of his share so as to cease to be a member, until he shall have obtained the consent so to do of a meeting of the members specially called for the purpose, anything in the sixteenth section of this Act contained notwithstanding.

Disposal of share by director.

Mental incapacity or misconduct of directors.

37. In case any director shall become mentally incapacitated, or in case the conduct of any director shall at any time be such that his continuance in office shall appear to, at least, fifteen of the members of the said Association to be prejudicial to the interests of the said Association, and notice thereof shall by them be given to the directors, in writing, the directors shall forthwith call a meeting of the members for the purpose of determining whether such director shall continue in office, upon eight days' notice being given by the said directors to the said director and to the members severally, such notice to set forth the purpose for which such meeting is called; and it shall and may be lawful for the members present at such meeting, by a majority of votes, not less in number than a majority of all the members of the Association at the time being, to remove such director from his office.

Mode of filling up vacancies caused by death, &c., of director.

38. In case any director shall die or desire to resign or shall vacate his said office, or shall be removed as aforesaid, or be or become disqualified under or by virtue of the thirtieth, thirty-

second, thirty-sixth, or thirty-seventh sections of this Act, the surviving or other directors shall forthwith call a special meeting of the members for the purpose of electing a director in his place, of which meeting, and of the purpose for which such meeting is called eight days' previous notice shall be given by the directors to the members severally; and it shall and may be lawful for the members present at such meeting to elect a director in his place and stead who shall continue in office until the expiration of the period for which such director so dying, resigning, being removed, or being disqualified has been elected, and no longer: Provided, however, that no member shall be elected as a director unless he shall have been duly nominated and seconded in writing, such writing to be delivered to the secretary, and unless at least eight days shall have elapsed after the date of such nomination, such nomination to be mentioned in the notice to members calling the meeting for the purpose of electing such director: Provided further that no director shall be allowed to resign, or be capable of resigning, until the members, at some general or special meeting shall have consented thereto.

Resignation of director.

39. The capital stock of the said Association under the provisions of this Act, shall be vested in the hands of the directors, for the benefit of the said Association, to be by the said directors laid out and invested from time to time in the manner following:

Capital stock vested in directors and nature of investments authorised.

- (1) In the purchase of or advance on the public stocks, funds or debentures of the Government of the United Kingdom of Great Britain and Ireland, or the Colonies of the Cape of Good Hope or Natal or any other British Colony, or of the Orange Free State or South African Republic.
- (2) Upon the debentures or mortgages of any Divisional Council, Municipality or incorporated body in South Africa duly authorised to borrow money.
- (3) Upon first mortgage of immovable property in South Africa.
- (4) On deposit or current account, with or without interest, in any bank or joint stock company or society in the Colony of the Cape of Good Hope.
- (5) In the purchase of immovable property, life policies or other securities for the protection of the interests of the Association hereby incorporated.

40. All losses sustained by the said Association shall in the first instance be borne by the funds of the Association, but if it shall appear that such losses have been occasioned by the wilful or culpable neglect or *mala fides* of one or more of the directors or officers of the said Association such losses shall be made good to the said Association by such director or directors, officer or officers.

Directors and officers responsible for losses in certain cases

41. The directors shall call a special meeting, to be held in the month of June or July in each year, of which meeting eight days' notice shall be given to the members severally, and the

Annual statement.

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directors shall lay before such meeting, for its approval,—1st, a balance sheet of the books of the said Association; 2ndly, an abstract from the balance sheet, showing under appropriate headings, the gross liabilities of the said Association, as also the capital and interests due to, and the other assets of the said Association, or under its administration; and 3rd, a detailed account of profit and loss during the past year; all which accounts shall be settled and balanced up to the last day of April in each year, and shall, previous to such meeting, be examined and compared by the auditor or auditors for the time being with the books of the said Association, and with the bonds and other securities in the hands of the directors, and shall, by such auditor or auditors, be attested as correct, and shall lie open for the inspection of the shareholders three days before such meeting: Provided that, in making up the accounts in this section mentioned, shareholders and members shall be allowed interest at not more than six per cent. upon £175 per share, provided the directors shall deem it expedient so to do, and provided there shall be sufficient profits to meet such interest.

Mode of dividing profits and provision as to reserve fund.

42. As soon as the accounts in the last preceding section mentioned shall have been approved of by the meeting in the said section mentioned, the directors shall appropriate and divide the net profits of the said Association for the preceding year as exhibited in such accounts, whereof at least one-fourth part shall be set aside as a reserve fund, until such reserve fund shall reach the sum of not less than £50,000, to meet any loss that may be sustained by the said Association, and the remaining part, or so much thereof as may be deemed expedient, may be divided among the members in proportion to the shares possessed by each. Provided, however, that should any loss have been sustained whereby the said reserve fund shall be absorbed and the capital stock be reduced below the aforesaid sum of £29,400; then no interest and no dividend shall be paid, so long as the capital stock shall remain less than the sum of £29,400.

Shareholder not being member—what to receive.

43. As often as any person shall be registered as the holder of any share, then, until he shall be elected a member of the said Association, he shall be entitled to receive interest at not more than six per cent. upon £175 per share (provided the directors shall deem it expedient, and provided there shall be sufficient profits to meet such interest), as the only profit or interest to be derived by such shareholder.

Directors authorised to purchase shares.

44. It shall and may be lawful for the directors to purchase any share or shares which shall be offered, and to hold such share or shares in the said Association for the benefit of the said Association; and the said Association shall be entitled, in respect of such share or shares, to the same benefit and profits as any member is and shall be in respect of any share or shares held by him. And every such purchase of a share by the said directors shall be

reported to the general meeting of members held next after such purchase, and every share so purchased shall be disposed of in such manner as such general meeting or any subsequent general meeting shall determine.

45. The members assembled at the general meeting to be held on the last Monday in April in each year shall elect one or more members, not being directors, to serve as auditor or auditors for the ensuing year.

Election of auditors.

46. The directors may from time to time appoint a secretary, and such other officers as shall, to such directors, seem to be required, at such salary as they may fix from time to time, and suspend or dismiss such secretary or officers, or any of them, from time to time as they may think proper.

Directors may appoint secretary, &c.

47. The members may, at the annual meeting to be held by virtue of the forty-first section determine the amount of remuneration which shall be paid to the directors and auditor or auditors.

Members to determine amount of remuneration to directors and auditors.

48. An alphabetical list of the names, addresses and residences of all the shareholders in the capital stock, shall be made out, and laid upon the table at every general meeting of the members of the said Association, which list shall be filed and kept by the secretary at the office, in Cape Town, where any shareholder shall have liberty to inspect the same.

List of shareholders to be laid before every general meeting.

49. It shall be lawful for the directors, acting for and on behalf of the said Association, to charge the estates and properties administered by them with such fees and charges as shall be agreed upon, and when no fees or charges are agreed upon, then with such fees and charges as shall be fixed by the tariff of charges contained in the bye-laws for the time being; provided, however, that the first tariff of charges shall be that set forth in the Schedule to this Act, marked A, it being, however, in the power of the members of the said Association at any meeting for that purpose assembled to make all such alterations, and reductions in, or additions to such charges as they shall from time to time see fit, and such alterations, reductions, or additions, shall then be considered as substituted for and taking the place of the charges set forth in the Schedule to this Act; provided, however, that such revised tariff be published in the *Gazette* of this Colony as in the fifty-first section mentioned: Provided, however, that nothing in this Act contained shall be construed so as to affect the liability of the said Association with regard to moneys placed under its administration before the passing of this Act.

What fees directors to charge for administering estates.

50. The said directors, by and in the name of the secretary for the time being of the South African Association, shall and may prosecute, defend or continue any action for or in respect of any sum or sums of money, dues, titles, claims, or demands whatsoever, of or relating to the affairs of the said Association, or any person or persons for whom the said Association shall act as agents,

How Association may sue and be sued.

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executors, or administrators, or order the discontinuance or nonsuit thereof, and shall and may compromise or submit to arbitration the matters in question, or otherwise act in any manner as they shall think fit and conducive to the benefit of the said Association, and shall and may, subject to the provisions of the Ordinances Nos. 40 and 73, or of any law or act which may hereafter be enacted or then be in force in that behalf, prosecute any criminal action for any crime or offence committed against or with intent to defraud the said Association, and no action, or other proceeding shall abate, discontinue, or be rendered ineffectual, by reason of the death, removal, or resignation of such secretary, but the secretary for the time being shall always be, and be deemed to be, prosecutor in any such action or proceedings, as the case may be.

Bye-laws how to
be framed and come
into force.

51. The directors are empowered and required forthwith to frame and establish all such bye-laws, rules, or regulations, as shall be necessary for the conduct of the said Association and the management thereof, and for regulating the administration of the estates, securities, moneys and other properties placed under their administration; provided that such bye-laws, rules and regulations shall not be contrary to this or any other Act: Provided, further, however, that all such bye-laws, rules, and regulations shall be laid before the next ensuing general meeting of the members for their confirmation, disallowance, or amendment: and in the event of such bye-laws, rules, and regulations being confirmed, with or without amendment, the same shall continue in force until they shall be repealed, or amended by any subsequent general meeting, of which meeting, and the object thereof, not less than fourteen days' previous notice shall be given to the several members, which notice the said directors may give, when and as often as they shall think fit, and which notice the said directors shall be bound to give, when and as often as any three members shall, in writing, inform the secretary of the said Association of their intention to move, at the next general meeting competent to entertain the question, that such bye-laws, rules, and regulations, or any of them, which such members specify, shall be repealed or amended: And as often as any such meeting shall repeal or amend any bye-law, rule, or regulation, the same shall be repealed or amended accordingly. And all such bye-laws, rules, and regulations, as shall in any way relate to the public business of the said Association, shall, within three weeks after the same shall have been passed, or amended, be published in the *Gazette*, and when so published shall have the same force and effect as if herein inserted.

Directors may set
up insurance branch.

52. The said Association may at any time hereafter when the Board of Directors shall so determine, undertake to insure buildings on farms mortgaged to the said Association against loss by fire, and in such event shall for that purpose frame separate books of account and of the profit and loss of such branch of the business which shall be called the Fire Insurance Branch.

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Duration of the Association.

53. The Association hereby incorporated shall continue to exist so long as there shall be thirty members; but it shall and may be lawful for the whole of the members residing in this Colony at any time, by their unanimous vote at a special meeting duly held, and whereof one month's notice shall have been given by the directors to the several members residing within the Colony, to declare that the said Association shall be dissolved, whereupon the same shall be dissolved accordingly, in such manner that the said Association shall not afterwards enter upon the administration of any estate or property; or should the members be at any time reduced to twenty-nine or less, and three months thereafter elapse without the election of any new member, so as to compose thirty members at the least, the said Association shall be deemed to be in like manner dissolved: Provided, nevertheless, in either event the members of the Association for the time being by their directors shall continue to administer such estates as they shall have previously entered upon, until the same shall be finally settled; and provided that the capital stock of the said Association shall remain vested in the directors then being, or thereafter to be elected by the members, until such estates and property shall be finally administered and settled, whereupon such directors shall liquidate the affairs of the said Association and distribute the remaining assets, if any, *pro rata* among the shareholders.

54. This Act may be cited for all purposes as "The South African Association Incorporation Act, 1888."

Short title of Act.

SCHEDULE A.

Schedule A.

The Association by the foregoing Act incorporated shall be authorised to make the following charges unless it be otherwise agreed upon:—

In Estates of Deceased Persons:

- 5 (Five) per cent. on the proceeds of movable property, book debts, interest collected, house-rent, and other receipts, not otherwise herein provided for.
- 2½ (Two and a half) per cent. on bonds, shares, and other securities, and on cash found in the estate.
- 2½ (Two and a half) per cent. on the proceeds of immovable property sold, and of life policies recovered.
- 1½ (One and a half) per cent. on the value of immovable property bequeathed, and 2½ (two and a half) per cent. on the appraised value of immovable and movable property, taken over by the surviving spouse, or any of the heirs.
- 5 (Five) per cent. for guaranteeing capitals administered by said Association as fidei-commissary inheritance, or otherwise, in cases where testators or others have desired such guarantee to be given, such guarantee commissions to be deducted from the capital guaranteed.

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When appointed as executors with the surviving spouse, or jointly with any other person or persons, the said Association shall be entitled to one moiety of the above charges.

In Guardianships, Fidei-commissa, Trust Moneys, and Curatorships :—

- 5 (Five) per cent. on receipts of interest, dividends, house-rents, or other income.
- 2½ (Two and a half) per cent. on property or moneys taken over from executors, guardians, or others, by the said Association, and administered by them, such charge to be deducted from the capital.
- 2½ (Two and a half) per cent. for transcribing inheritances, legacies, fidei-commissary inheritances, donations, and other bequests of whatever nature, from liquidation accounts of estates administered in this office, to the separate accounts of the parties concerned, such charge to be deducted from the capital.
- 1 (One) per cent. on the appraised value of entailed immovable property to be a charge against the income of such property or the estate from which it is derived.

When the said Association act as Agents :

- 1½ (One and a half) per cent. on the receipt of moneys not being rents, interest, or book-debts, provided that no such charge be made upon the receipt of the same capital more than once.
 - 5 (Five) per cent. on the receipt of rents, interest, dividends, and book-debts.
 - 2½ (Two and a half) per cent. upon cash advances.
 - 1½ (One and a half) per cent. on the amount of all bonds, debentures or other securities placed under the administration of the said Association, if such bonds, debentures or other securities are withdrawn within one year after the administration shall have been entered upon, and not otherwise, provided no commission shall have been previously charged on the capitals of such bonds or debentures or other securities.
- In other matters, not herein otherwise provided for, the said Association shall be entitled to charge their constituents in conformity with the Commercial Tariff for the time being established and published by the Chamber of Commerce of Cape Town.

No. 28—1888.]

[Promulgated 21st August, 1888.

ACT

To provide for the better Protection of Forests.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows :—

CHAPTER I.

PRELIMINARY.

- 1. This Act may be cited for all purposes as the "Forest Act, 1888," and all Acts, Ordinances or laws or parts thereof repugnant to or inconsistent with this Act, are hereby repealed.

Short title, repeal of existing laws.

Repealed by Act 14/13 § 1

2. In this Act:

- (a) "The Commissioner" shall mean the Commissioner of Crown Lands and Public Works.
- (b) "Forest Officer" shall mean any person duly appointed to be Superintendent of Woods and Forests, Conservator, Assistant Conservator, District Forest Officer, Inspector, Forest Clerk, Ranger, Forester, or Forest Guard.
- (c) "Forest Offence" shall mean any contravention of any provision of this Act or of any regulation or rule made hereunder.
- (d) "Tree" shall include not only timber trees, but trees, shrubs and bushes of all kinds, seedlings, saplings and re-shoots of all ages.
- (e) "Stream" shall include all natural watercourses and artificial channels in which water flows, or has usually flowed.
- (f) "Timber" shall include trees when they have fallen or have been felled, and all wood, whether sawn, split, hewn or otherwise fashioned.
- (g) "Firewood" shall include parts of trees of all species made up into bundles, billets or loads; or cut up in the manner it is usual to cut wood for burning, and refuse wood generally.
- (h) "Forest Produce" shall include the following things when found in or when brought from a forest:—game, fish, minerals, stones, earth, trees, timber, firewood, wattles, kraal-wood, branch-wood, slabs, chips, sawdust, plants, grass, reeds, thatch, rushes, bedding, peat, creepers, fibres, leaves, moss, flowers, ferns, fruit, seeds, roots, bulbs, galls, spices, bark, gum, resin, sap, charcoal, honey, wax, shells, skins, horns, ivory, and generally everything growing or contained within the forest.
- (i) "Cattle" shall include bulls, cows, oxen, horses, mares, geldings, mules, asses, pigs, ostriches, sheep, goats, and generally all domesticated animals.
- (j) "Private Forest" shall include all land owned by any body or private person on which trees exist in such quantity that wood and arboreal products constitute the principal production of the soil.
- (k) "Crown Forest" shall consist of Demarcated Forest and Undemarcated Forest.
- (l) "Demarcated Forest" shall include such area as has been surveyed or demarcated and declared by Notice in the *Gazette* to be a demarcated forest, and shall include all pieces or portions of Crown land set aside as being forest, or the complement of a forest, or plantation, or intended for the site of a plantation, or for afforesting operations.

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- (m) "Undemarcated Forest" shall include Commonages or Native Locations, or any other land on which the Crown retains a right to the timber growing therein or thereon, and all vacant Crown land on which trees are growing or have grown.
- (n) Subject to such alterations as may be made from time to time by Notice in the *Gazette*, "Reserved Trees" shall mean trees of the kinds enumerated in the Schedule to this Act.

CHAPTER II.

FOREST TENURE, DEMARCATION, AND REGULATION.

Law as to acquisition, &c., of land and rights of way for public purposes applied to areas required for forests, &c., provision for compensation.

3. The provisions of the law relating to the acquisition or resumption of land and rights of way for public purposes shall be applicable to areas required for the formation of forests, plantations or works of a like character which shall be undertaken at the cost of the Public Treasury; provided always that such acquisition or resumption shall be subject to the payment of compensation to be fixed in manner provided by the "Lands and Arbitration Clauses Act, 1882."

Copies of plan and report to be deposited for public inspection before area declared of demarcated forest, and three months' notice to be given.

4. Prior to the publication hereafter in the *Gazette* of any notice declaring an area to be a demarcated forest, copies of a plan of such forest and of the report of the person employed to carry out the demarcation shall be deposited for public inspection in the office of the Civil Commissioner of the division in which the forest is situated, and the Commissioner shall cause notice to be given once a month for a period of three months in the *Gazette* and in some newspaper circulating in the division of the intention to publish the said notice of declaration of demarcation.

Unless restrained by judicial order declaration issues after three months.

5. In case no court of competent jurisdiction shall during a period of three months in the last section mentioned, make on the application of any person interested any order restraining such declaration, or in case of such restraint if such court shall within a period to be fixed by such order of restraint, decide against the objector or alter the limits of demarcation, the said notice of declaration fixing the limits of demarcation as originally fixed or as altered, as the case may be, shall be published, and thereupon the area to be so limited shall become a demarcated forest.

Cairns or poles at angles of area till declared; then beacons to be erected.

6. Until the publication of any notice of demarcation as aforesaid the angles of boundaries may be shown by cairns or poles clearly numbered. As soon as such publication shall have taken place the said cairns or poles shall be replaced by beacons in manner provided by the Land Beacons Consolidated Act, 1865.

Duty of Surveyors surveying Crown Lands for sale.

7. When any Crown lands are being surveyed for sale, it shall be the duty of land surveyors to shew on their plans and to

report to the Commissioner the existence of any of the undermentioned descriptions of land—

- (a) Tracts stocked with wood (high forest, firewood, kilnwood, &c.)
- (b) Tracts where wood has been cut or burnt, and leaving traces still visible on the ground, stumps, charred debris, or vegetation peculiar to burnt places.
- (c) Land, requisite for the pasturing of cattle employed in hauling wood, and for establishing a right of way.
- (d) Ridges and slopes immediately above wooded places.
- (e) Steep declivities near which the land is liable to be washed away by rivers.
- (f) Places on which wood would be useful to protect the soil from erosion by streams, rivers, or torrents.
- (g) Drifting sands and land required for the protection of sand-hills and coasts.

8. In case there be any servitude or right of grazing, wood cutting or otherwise upon any Crown Forest the Commissioner may make rules to regulate the use of the pasturage, trees, or forest produce.

Rules by Commissioner in case of servitude, &c., over Crown Forest.

Such rules and regulations may

- (a) Specify the species of wood which may be cut, the season for cutting, and the quantity to be cut.
- (b) Temporarily interdict grazing over specified areas in order to preserve the young trees growing on such areas.
- (c) Prescribe such annual succession of areas over which wood-cutting and grazing rights may be exercised as shall be deemed most favourable for the conservation of the forest.
- (d) Generally provide for the manner in which such servitude or right shall be exercised.

9. The regulations which may from time to time be made under the preceding section to secure the felling in due season only of the several varieties of timber trees in Crown Forests shall apply also to forests owned by private persons or by municipal and other bodies brought under the operation of this Act by the provisions hereinafter set forth in the twelfth section; provided, however, that such regulations, or any change therein, shall be published in the *Gazette* and in some newspaper published in or circulating in the divisions in which such forests may be situate fourteen clear days before the commencement of the season assigned for such felling, and provided also that nothing in this section contained shall be deemed to bar any owner of a forest from felling at any time trees not intended for purposes of sale or barter, and any person or municipal or other body contravening such regulations shall be liable to a fine of twenty pounds.

Regulations under last section to apply to other than Crown Forests, brought under Act under 12th section; but regulations must be published.

10. It shall be lawful for the Governor to declare that certain species of wood to be specified by proclamation shall not be

Power of Governor to prohibit export.

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tation of certain woods: conditions as to export of wood: penalty for unauthorised export.

exported from the Colony without special permission. Such proclamation shall contain conditions under which the wood shall be felled, precautions for stacking, duration of seasoning, and the special care which must be exercised in order to obtain consent to export the species under consideration. Any person who shall export wood of a proclaimed species which does not bear a special mark to be affixed by a Government officer, or the shipment of which shall not have been specially authorised, shall be liable to a fine of one shilling per cubic foot on the wood so shipped.

Access to Crown Forests provided for purpose of working the same; but rights of Municipalities, &c., as to outspan on commonage protected.

11. On every undemarcated forest, outspan, commonage, or Crown land, on which, or beyond which, portions are reserved as Crown forest, there shall be free access by the shortest or other convenient way, for wagons, other vehicles and cattle for the conveyance, transport and hauling of forest produce, and for the hauling or slipping of timber by any person having a permit to convey transport or haul forest, produce or timber: Provided that on any commonage under control of a Municipality, Village or other Board of Management, outspanning may be charged at a rate not exceeding one penny per day for each head of cattle that may be depastured or outspanned on the commonage; but no such outspanning or depasturing shall be allowed for a longer period than five days under any one permit as aforesaid.

Act how applied to private or municipal forests.

12. It shall be lawful for the Governor by Proclamation in the *Gazette*, upon the application of the owner to bring under the operation of this Act, in so far as its provisions may be applicable, any forest or plantation or work of like character, belonging to any person or municipal or other body.

Regulations by Commissioner when public money granted for tree planting to local body.

13. When a sum of money shall have been contributed from the public revenue towards the planting of trees by any Divisional Council or Municipality, by virtue of Act No. 4 of 1876, or in any other manner to any other bodies or persons, the Commissioner may order such inspections as he may deem necessary, and may issue such rules and regulations for the protection and cultivation of such trees planted, as may appear desirable, and no person or public body shall under any circumstances be permitted to cut down or remove any tree so planted, except in conformity with instructions from the Commissioner, under such penalty as may be provided by the said rules and regulations. Trees planted on road sides not being private property and whether vested in any Divisional Council, Municipality, or other body, or not, shall be subject to similar control whether the public revenue has contributed towards planting them or not.

14. The Governor may from time to time, by proclamation in the *Gazette*, proclaim where it is for the public interest to do so, that such part as may be necessary of any forest, whether Crown or private, shall be preserved for any of the following purposes:—

(a) For the maintenance of a water supply in springs, rivers, dams and tanks;

Preservation of forests by proclamation for certain purposes.

See 1908 Act 20
Sec. 1.

(b) For the protection of roads, bridges, railways, and other lines of communication; No. 28—1888.

(c) For the preservation of the public health.

15. For the purposes of such proclamation it shall and may be lawful for the Governor to make regulations with regard to the part so preserved for: Regulations in aid of preservation of forests.

- (a) The felling of wood;
- (b) The breaking up or clearing of land;
- (c) The manner in which pasturage shall be used;
- (d) The firing and clearing of the vegetation.

Any person who shall contravene any such regulation shall be liable to such penalties as by the said regulations may be prescribed, but in no case to exceed a fine of ten pounds for each offence. Penalty for contravention of regulations.

CHAPTER III.

FOREST OFFENCES IN UNDEMARCATED FORESTS.

16. Any person who commits any of the following offences in an undemarcated forest shall be liable to imprisonment with or without hard labour for a term not exceeding twelve months, or to a fine not exceeding twenty pounds, with the alternative of imprisonment with or without hard labour for a period not exceeding six months unless such fine be sooner paid, or to both such fine and such first mentioned imprisonment. In the case of offences against sub-sections (a) and (c) corporal punishment in any number of lashes or cuts not exceeding twenty-five may be added to or substituted for the said punishments or any of them: Forest offences in undemarcated forests: definition and penalty.

- (a) Cuts, injures, or removes, any reserved tree or timber;
- (b) In violation of any regulation made by the Governor in that behalf cuts, injures, takes, destroys or removes wattles, saplings, or forest produce;
- (c) Lights or kindles, or assists to light or kindle, or aids or abets another in lighting or kindling any fire whether within or within twenty yards of such forest in consequence of the lighting or kindling of which any tree or part thereof or any timber or forest produce shall be burnt or injured or shall be in danger of being burnt or injured.
- (d) Leaves, without taking due precautions against its spreading or causing injury, a fire lighted or kindled by him or in the lighting or kindling of which he has assisted or aided and abetted.

17. Whenever any person without authority squats, resides, builds a hut or kraal, or makes any clearing or cultivates land in an undemarcated forest, it shall and may be lawful for any officer in charge of such forest, to summon such person before the Power to eject person in unauthorised occupation of undemarcated forest, and to seize crops, huts, &c.

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Resident Magistrate of the district, to show cause why he should not be evicted, and should such person so summoned fail to prove satisfactorily that he has such authority, his crops, huts and kraals, may be seized or destroyed by such officer acting under an order of the said Resident Magistrate.

Provision for fire-paths in undemarcated forests.

18. In commonages on Crown lands, in undemarcated forest, or other Crown lands, it shall be lawful for any forest officer to make such firepaths, and to burn such dangerous grass as may be necessary within a reasonable distance for the preservation from fire of any adjoining forest whether Crown or private.

CHAPTER IV.

OFFENCES IN OR NEAR DEMARCATED FORESTS.

Forest offences in demarcated forests: definition and penalty.

19. Any person who commits any of the following offences within the boundaries of a demarcated forest shall be liable to imprisonment with or without hard labour, for a period not exceeding three years, or to a fine not exceeding one hundred pounds with an alternative of imprisonment with or without hard labour for a period not exceeding twelve months, unless such fine be sooner paid, or to both such fine and such first mentioned imprisonment, together with such compensation for damage done to the forest as the Court may direct to be paid. In the cases of the offences mentioned in sub-sections (a) (c) and (d), corporal punishment in any number of lashes or cuts not exceeding thirty-six may be substituted for or added to the punishments in this section mentioned or any of them.

- (a) Cuts, injures or removes any reserved or other tree ;
- (b) In violation of any regulation made by the Governor in that behalf, cuts, injures, destroys or removes any firewood, wattles, saplings or forest produce.
- (c) Fells, girdles, splits, saws, marks, tops, taps, uproots, cuts, burns, or otherwise damages any tree, or strips off the bark or leaves therefrom.
- (d) Lights, kindles, or assists to light or kindle, or aids or abets another in kindling or lighting any fire whether within or within twenty yards of such boundary in consequence of the lighting or kindling of which any tree or part thereof or any timber or forest produce shall be burnt or injured or shall be in danger of being burnt or injured.
- (e) Leaves, without taking due precaution against its spreading or causing injury, a fire lighted or kindled by him ; or in the lighting or kindling of which he has aided or abetted.
- (f) Injures, alters, or removes any beacon, boundary mark, or fence.

20. Any person who commits any of the following offences within the boundaries of a demarcated forest shall be liable to a fine not exceeding ten pounds or to imprisonment with or without hard labour for any period not exceeding thirty days; unless such fine be sooner paid :

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Minor forest offences in demarcated forests.

- (a) Clears, cultivates, or breaks up any land for cultivation or for any other purpose.
- (b) Hunts, shoots, fishes, or destroys fish whether by the use of lines, nets, explosives, guns or other instruments, poisons, or fouls the water of any stream, sets traps or snares for the purpose of killing or capturing game; constructs ladders, or drives pegs in trees.
- (c) Trespasses wilfully in parts closed to trespassers.
- (d) Negligently lights or throws down any match or other lighted or inflammable material.
- (e) Contravenes any of the conditions on which a licence to work in the forest has been granted, or the conditions on which wood has been sold.
- (f) Contravenes any regulation relating to licences from time to time made; provided always that all such regulations be clearly stated on every licence issued.
- (g) Contravenes any of the conditions under which forest cultivators are given temporary cultivation permits for reforesting.

21. Any person who however lawful it may otherwise be, sets fire in the open air to any tree, wood, bush, or grass on private property within one-fourth of a mile of any demarcated forest, without giving notice of his intention to the field-cornet of the ward, or a forest officer, so as to allow a forest or other officer to be present at such firing, shall be liable to the penalties in the preceding section mentioned.

Offence of setting fire to tree, &c., within $\frac{1}{4}$ mile from demarcated forest.

22. In all cases of cutting, injury or removal of trees, timber, or of forest produce; of forest fires, whether caused wilfully or negligently; of cattle trespass; or in any other way whatsoever, whereby any Crown forest is damaged or injured, the value of such damages or injuries may be assessed by the court, and be ordered by such court to be paid by the accused.

Offender may be cast in damages resulting from offence.

23. The court may award an amount not exceeding one-fourth of the fine imposed for any offence under this Act, to the person not being a forest officer who may have supplied such information as may have led to the conviction of an offender.

Share of fine to go to informer, other than forest officer.

CHAPTER V.

OFFENCES IN PRIVATE FORESTS.

24. Any person found without lawful permission within the limits of any private forest or who without such permission

Forest offences in private forests.

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shall light or kindle or assist or aid or abet in lighting or kindling any fire within such limits after the owner shall have notified in a local newspaper and by notice prominently placed in or near such forest, that persons shall not be allowed to enter such forest or that fires shall not be lighted or kindled therein without his permission, shall be liable to a fine not exceeding ten pounds, or to imprisonment with or without hard labour for any period not exceeding one month unless such fine be sooner paid: Provided that nothing herein contained shall be taken to curtail any right of way or other right enjoyed by the public or any person.

CHAPTER VI.

SPECIAL OFFENCES.

Special offences with regard to forests; definition and penalty.

25. Any person who commits, or aids, or abets, any person who commits any of the following offences, shall be punished with imprisonment not exceeding a term of two years, with or without hard labour, or with a fine not exceeding fifty pounds, or with both such fine and such imprisonment:

- (a) Counterfeits upon any timber or tree, or unlawfully affixes to any tree or timber, or forest produce, a mark used by forest officers to indicate that such timber tree or produce is the property of the Crown; or that it may be lawfully cut or removed.
- (b) Counterfeits or issues without due authority, any licence or pass for the cutting, removal, or sale of trees, timber, firewood or produce;
- (c) Alters, obliterates, or defaces any stamp, mark, sign, licence or pass, used or issued by the forest department.
- (d) Exercises compulsion upon any forest officer by violence or threats, or corrupts, or attempts to corrupt by promises, offers, gifts or presents any forest officer, for the purpose of obtaining a favourable report, affidavit, certificate or valuation, whether in respect of any place, employment, auction, sales, licences, or any other benefit whatsoever, or for the purpose of obtaining abstention on the part of any forest officer from any act which forms part of his duties.
- (e) Accepts, being a forest officer, any bribe or promise, or receives any gift or present in connection with the functions of his office.

CHAPTER VII.

FOREST OFFICERS.

Forest officers invested with constabulary powers; and powers to impound cattle for trespass.

26. All forest officers, of and above the rank of forester or forest guard, shall have the powers of police constables in virtue

of their office. Forest officers shall have the power to impound cattle trespassing within Crown forests, and shall be entitled to receive mileage and trespass money as by law provided in cases of trespass. Mileage and trespass money so received shall be accounted for in manner provided by any rule or regulation to be made under this Act by the Governor.

27. Conservators of forests or officers acting as such, or officers duly authorised by conservators, shall have the power to appear in the Court of any Resident Magistrate for the purpose of prosecuting in all cases of contraventions of this Act.

Power of prosecution conferred on conservators, &c.

28. No forest officer shall, as principal or agent, trade in timber or forest produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any timber or produce whether in demarcated or undemarcated or private forest.

Forest officer not to be interested in timber trade.

CHAPTER VIII.

GENERAL.

29. Whenever any forest officer or private proprietor of adjacent property shall deem it to be necessary for the prevention of forest fires to clear by burning a belt around or in the neighbourhood of any forest, notice of intention so to do shall be given to private proprietors interested or to the forest officer, as the case may be; and thereupon every such private proprietor and forest officer shall assist in such clearing in such manner as may be provided under any rule or regulation made under this Act by the Governor.

Clearing of belt near forest by burning after notice to forest officer or persons interested.

30. It shall be lawful for, and it shall be the duty of every magistrate, justice of the peace, field-cornet, police, forest or other officer, or other person specially authorised to demand, as often as may be necessary, the production of the authority or licence for any act done or committed within any forest subject to the provisions of this Act; and in the event of such authority not being produced, then and there to restrain from further acts.

Production of authority for any act done within any forest.

31. When there is reason to believe that a forest offence has been committed in respect of any tree, timber, or forest produce, such tree, timber, or forest produce may, if necessary, be seized by any forest or police officer.

Seizure of tree, &c., in respect of which offence is suspected.

32. In case of the fraudulent removal of trees, timber, or other forest produce, the restitution of the property so removed, or its value, to be fixed by the court, shall be ordered in addition to the fines and damages adjudged.

Restitution of trees &c., fraudulently removed, or payment of their value.

In case of unauthorised establishments, buildings, enclosures, huts, kraals, or standing crops within forest limits, the court shall fix the period within which such buildings, huts, kraals, or crops shall be removed, and the places put into their former condition.

Period fixed by court for removal of unauthorised buildings, &c.

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Unremoved buildings, &c., vest in the Crown.

In case such removal shall not have been effected within the prescribed period, all buildings, huts, kraals, or crops, found in the forest, shall become the property of the Crown, and the forest department shall dispose of them as may be most beneficial to the forest.

Arrest without warrant of person suspected of offences under Act.

33. Any forest or police officer may, without warrant, arrest any person reasonably suspected of having been concerned in any of the forest offences mentioned in sections sixteen, nineteen and twenty-five, or for any other offence contrary to the provisions of this Act, if the accused person refuses to give his name and residence, or gives a name and residence which there is reason to believe to be false, or if there is reason to believe he will abscond.

Every officer making an arrest under this section shall, without unnecessary delay take or send the person so arrested to be dealt with according to law.

Penalty on forest or public officers for vexatious exercise of powers.

34. Any forest or police officer who vexatiously and unnecessarily seizes property on pretence of its being liable to seizure under this Act; or who vexatiously or unnecessarily arrests any person; shall, upon conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding twenty-five pounds, or to both such fine and such imprisonment.

Presumption of ownership of wood, &c., in favour of Crown.

35. When in any proceedings taken under this Act, a question arises as to whether any timber or forest produce is the property of the Crown, such timber or forest produce shall be presumed to be the property of the Crown until the contrary is proved.

Accomplice in forest offence defined.

36. Any person shall be an accomplice in a forest offence, and liable to the same punishment as the perpetrator or perpetrators of a forest offence:—(a) who by gifts, promises, threats, abuse of authority or power, machinations or culpable design, shall have instigated or compelled a forest offence, or given instructions for its committal; (b) who shall have procured arms, tools or instruments, knowing they were to be employed for the purposes of a forest offence; (c) who knowing or suspecting any person or persons to be guilty of a forest offence, shall lodge, conceal, or afford lodgings, or place of concealment to such person or persons; (d) who knowingly shall receive, in whole or in part, any forest produce suspected of having been removed from a forest.

Timber Mark for forest to be notified by conservator to Magistrate, and registered by the latter.

37. It shall be the duty of every Conservator to forward to the Resident Magistrate of the district in which any demarcated forest is situated, the imprint of every mark whereby timber felled in, or removed from, such forest is distinguished. Such mark or imprint shall be registered in the Magistrate's office. The Conservator shall keep the Magistrate informed of all such changes of marks or stamps as it may be necessary from time to time to make.

38. After due notice it shall be necessary for all owners, workers, or occupiers of any forest, situated within five miles of any demarcated 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. Unstamped timber in course of conveyance within such area without a permit from a forest officer, shall be liable to seizure and to detention pending enquiry, and no damages shall be recoverable with regard to such seizure or detention of unstamped timber, should it afterwards appear that such timber has not been removed in contravention of the provisions of this Act.

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Special mark to be used by owners, &c. working within five miles from demarcated forest; unstamped timber liable to seizure, and presumed to be Crown property.

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

39. Any person found within any Crown forest, or on any road in its vicinity, and having in his possession any tree or part of a tree, who, on being thereunto required by any Conservator, or other officer under this Act, refuses to give a satisfactory account of the manner in which he became possessed of any such tree or part of a tree, may be taken by the party interrogating him before any Justice of the Peace; and if such person does not satisfy such Justice that he came lawfully by the said tree or part of a tree, he may be taken before the Resident Magistrate, and shall, on conviction, forfeit any sum not exceeding five pounds.

Person in possession of any part of tree in or near Crown forest, liable to interrogation by forest officer; and unless possession proved lawful liable to fine of five pounds.

40. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest offence, or for being liable under such other law to any higher punishment or penalty than that provided by this Act, or the rules made thereunder; provided that no person shall be punished twice for the same offence.

Penalties under Act not substituted for others, but no conviction twice for same offence.

41. Forest officers convicted of having connived at, or knowingly concurred in, any contravention of any section of this Act, shall be held responsible for all damages resulting therefrom. But no suit or prosecution shall lie against any officer for anything done or omitted in good faith under this Act.

Forest officers liable for damages resulting from connivance at offences against Act.

42. The evidence of experts with regard to spoor, foot prints, wheel tracks, drag marks, cut marks, and the condition of stumps left after illicit felling, shall be admissible in all cases tried under this Act.

Expert evidence as to spoor, &c., admissible.

43. The Governor, by proclamation in the *Gazette* may from time to time, as may be necessary, make rules regulating the local application and working of this Act; and may alter, add to, and repeal such rules, which, so far as they are not repugnant to the provisions of this Act, shall be and continue of the same force and effect as if they formed a part of this Act.

Rules by Governor for working of Act to be proclaimed in the *Gazette*.

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Existing agree- 44. Nothing in this Act contained shall invalidate any con-
 ments as to forest tract or agreement for the management of forests at present exist-
 management to ing between the Government and any body or persons.
 continue.

Schedule.

SCHEDULE.

RESERVED TIMBER TREES.

FORESTS.

ENGLISH NAMES.	KAFIR NAMES.	OTHER NAMES.	BOTANICAL NAMES.
1—Sneezewood	Umtati	Nieshout	<i>Pteroxylon utile</i>
2 { Common, Bastard, or Outeniqua, Yellow- wood }	Umkoba	{ Geelhout }	{ <i>Podocarpus elongatus</i>
3—Real, or Upright, Yel- lowwood	Umceya	Regte Geelhout ..	<i>Podocarpus latifolius</i>
4—Black Ironwood (real)	Igqwanxe	Zwart Yzerhout ..	<i>Olea laurifolia</i>
5—Cape Box	Gala-gala	Buig myn niet ..	<i>Buxus MacOwani</i>
6—Assegai	Umgxina	Assegaihout ..	<i>Curtisia faginea</i>
7—White Pear	Umdakana	Wit Peer	<i>Apodytes dimidiata</i>
8—Hard Pear	Umnonono	Harde Peer	<i>Olivea Capensis</i>
9—Saffronwood	Umbonowana	Saffraanhout ..	<i>Eleodendron croceum</i>
10—Wild Olive	Umquma	Olijn, or Olyven- hout	<i>Olea verrucosa</i>
11—White Ironwood ..	Umzani	Wit Yzerhout ..	<i>Vepris lanceolata</i>
12—Kafir Plum	Umgwenye	Kaffer Pruim ..	<i>Harpephyllum Kaffrum.</i>
13—Umzimbeet	Umzumbit, or Umtiza	.. ..	<i>Milletia Kaffra</i>
14—Cape Teak	Inama	Kajatenhout ..	<i>Strychnos Atherstonesi</i>
15 { Wild Peach, or Natal Mahogany .. }	Umveti	{ Wilde Perske, or Blinkblaar ? .. }	{ <i>Kiggelaria Dregeana</i>
16—Cat-thorn	Umnyamanzi	Katdoorn	<i>Acacia Kaffra</i>
17—Bogwood	Umkobeza	Wit Salie	<i>Nuxia sp.</i>
18—Septee	Imavet	Oudehout	<i>Halleria elliptica</i>
19 { Red Stinkwood, or Bitter Almond .. }	.. ..	Rooi Stinkhout ..	{ <i>Brabejum stellati- folium</i>
20—Red Pear	Iqumza	Rooi Peer	<i>Scolopia Ecklonii</i>
21—White Milkwood ..	Umqwashu	Wit Melkhout ..	<i>Sideroxylon inerme</i>
22—Red Milkwood	Umtunzi	Rooi Melkhout ..	<i>Mimusops obovata</i>
23—Cape Beech	Isiqwane isqlati ..	Boekenhout ..	<i>Myrsine melanophleos</i>
24—Red Els	Umqwashube	Rooi Els	<i>Cunonia Capensis</i>
25—Kamdeboo Stinkwood	Umvumvu	Kamdeboo Stink- hout	<i>Celtis rhamnifolia</i>
26—Boerboon	Umgxam	Boerboon	<i>Schotia latifolia</i>
27—Cape Plane	Umtensema	Rooihout	<i>Ochna arborea</i>
28—Thorn Pear	Iqumza elinameva ..	Doorn Peer	<i>Scolopia Zeyheri</i>
29—Wild Chestnut	Umbaba	Kastanjehout ..	<i>Calodendron capense</i>
30—Horsewood	Uningambila	Paarde Pis	<i>Hippobromus alatus</i>
31—Knobwood	Umnungu mabele ..	Paarde Pram ..	<i>Xanthoxylon Capense</i>
32—Essenwood, Dog Plum, or Cape Ash	Umkwenyuizinja ..	Esschenhout ..	<i>Eckebergia Capensis</i>
33—Silkbark	Umnama	Zydebast	<i>Celastrus acuminatus</i>
34—Red Currant	Umlhakoti	Kieriehout	<i>Rhus laevigata</i>
35—Gwarri	Umgwali	Bosch Gwarre ..	<i>Euclea lanceolata</i>

ENGLISH NAMES.	KAFIR NAMES.	OTHER NAMES.	BOTANICAL NAMES.
36—Sallywood	Gwangi	Saliehout	<i>Buddleia Salviaefolia</i>
37—Cape Sumach	Berg-bast	<i>Osyris compressa</i>
38—Hard Pear	Harde Peer	<i>Cathstrum Capense</i>
39—Laurel Wood	Stinkhout	<i>Oreodaphne bullata</i>
40—Kamassie	<i>Gonioma Kamassi</i>
41—White Els	Witte Els.	<i>Platylophus trifoliatus</i>
42—Stone Ess	Klip Esch	
43—Terblanz Wood	Terblanchehout..	
44—Black Bark	Zwart Bast	
45—Fatherland Red Wood	VaderlandRooihout	<i>Boyena lucida</i>
46—Clanwilliam Cedar	<i>Widdringtonia junep- peroides</i>
47—Karee-boom	<i>Rhus lancea</i>
48—Camel Thorn	Kameel Doorn	<i>Acacia Giraffelea</i>
49—Ebony	<i>Euclea Pseudebennus</i>
50—Silver Tree	<i>Leucadendron argen- teum</i>
51—Cape Willow	<i>Salix Gariepina</i>
52—Mimosa	<i>Acacia horrida</i>
53—Keurboom	<i>Virgilia Capensis</i>
54—Real Iron Wood	Regte Yzerhout	
55—Red Wood	Rooihout	
56—White Wood	Wittehout	
57—Black Wood	Zwarthout	
58—Red Candle Wood	Rooi Kershout ..	
59—Buffalo Thorn	Buffelsdoorn	
60—Buffalo Horn	Buffelhoorn	
61—Coal Wood	Koolhout	
62—Wagon Tree	Wagenboom	
63—Black Heart	Zwarthart	
64—Oak, Gum, Pine and all planted Trees	

No. 29—1888.]

[Promulgated 21st August, 1888.

Spent.

ACT

To apply a Sum of Money for the Service of the Year ending the 30th day of June, 1889.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. The public revenue of the Colony is hereby charged towards the service of the year ending the 30th day of June, 1889, with a sum of one million six hundred and sixty-one thousand two hundred and two pounds sterling, in addition to the sum of four hundred thousand pounds sterling provided for by Act No. 2 of 1888. Public revenue to be charged with £1,661,202.

2. The money granted by this Act shall be applied to the purposes and services expressed in the schedule annexed hereto, How to be applied.

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and more particularly specified and set forth in the estimates and supplementary estimates of the expenditure for the year ending 30th June, 1889, with the notes to such estimates, submitted to and approved by Parliament.

Not to be applied except as granted.

3. The said aids and supplies shall not be issued or applied to any use, intent or purpose other than the particular services to which the said amounts have been granted respectively by this Act, and the aforesaid schedule, estimates, and supplementary estimates.

Short Title.

4. This Act may be cited for all purposes as the "Appropriation Act, 1888."

Schedule.

SCHEDULE.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Ministerial Department of Colonial Secretary	514,479	450,358	964,837	866,744
II. Ministerial Department of Treasurer of the Colony .. .	47,891	1,163,981	1,211,872	55,864
III. Ministerial Department of Attorney-General	85,189	41,900	127,089	124,389
IV. Ministerial Department of Commissioner of Crown Lands and Public Works ..	49,620	920,859	970,479	963,789
V. Ministerial Department of Secretary for Native Affairs ..	57,134	10,455	67,589	50,416
Grand Totals	754,313	2,587,553	3,341,866	2,061,202
Less amount provided for by Act No. 2 of 1888				400,000
				£1,661,202
				Total required to be voted

No. 30—1888.]

[Promulgated 21st August, 1888.

ACT

For Constituting certain additional Fiscal Divisions.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

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 this Act, are hereby repealed.

Repeal of repugnant laws.

2. Each of the districts of Sutherland, Philipstown, and Steynsburg, shall, from and after the date of any proclamation to be issued for that purpose by the Governor and published in the *Gazette*, become and be a division for fiscal purposes.

Districts of Sutherland, Philipstown, and Steynsburg may be proclaimed divisions.

3. Every proclamation in the last preceding section provided for, shall define the several boundaries of the division or divisions thereby constituted, and the boundaries so proclaimed shall be boundaries of such division or divisions respectively.

Boundaries to be defined.

4. It shall be lawful for the Governor from and after the date of a proclamation issued for that purpose, and published in the *Gazette*, to sub-divide the division of Tulbagh into two divisions for fiscal purposes, to define the boundaries thereof, to retain the name of Tulbagh for one of such two divisions, which shall be deemed for all purposes of this Act to be the old or former division of Tulbagh, and to assign to the other such name as he may deem fit.

Sub-division of Tulbagh into two Divisions.

5. From and after the sub-division of the present division of Tulbagh into two divisions as aforesaid the sums payable under the twenty-third section of the Act No. 10 of 1864 to the Divisional Council of Tulbagh shall be payable to such of the said two divisions as the Governor shall by proclamation declare to be entitled to receive the same.

Governor to declare which of two new divisions to receive sums under Act No. 10 of 1864, Section 23.

6. Each of the two divisions referred to in the last preceding section of this Act shall annually contribute and pay to the other, towards the cost of maintaining the main roads situate in such other, a share of such cost proportioned to the respective rateable values in that year of the immovable property situate in such two divisions; provided that the Divisional Council of each division shall annually render to the Divisional Council of the other an account showing the amount of such cost actually incurred, and that from such amount there shall in such account be deducted before any such share as aforesaid shall be payable, the amounts received by way of revenue from tolls situate on the main roads or of contributions under the Act No. 10 of 1864, towards the maintenance of main roads.

Contribution by each of two new divisions under Section 4 to the other.

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Effect of Act on
Divisions and Divi-
sional Councils of
Divisions affected by
any such proclama-
tion.

7. From and after the date of any proclamation issued by the Governor in that behalf and published in the *Gazette*, the Divisional Council for the time being of every division to which the whole or any part of any division so constituted for fiscal purposes only and named in such proclamation belonged, shall stand dissolved, and the provisions of Act No. 4 of 1865, entitled "An Act to consolidate and amend the several Acts relating to Divisional Councils," and of every other Act relating to Divisional Councils, shall apply to every new division constituted under this Act, and to the divisions to which any such new division 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 any such divisions had ever been elected: Provided that the registered voters for any and every electoral division, which down to and next before the issuing of any such proclamation comprised any such division as aforesaid, or any part of any such new division, and which voters shall be resident within such new division, shall be entitled to vote at any election of members of the Divisional Council of such new division.

Provisions of Act
24 of 1858 to apply
to new divisions.

8. The several 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, *mutatis mutandis*, as soon as any proclamation under this Act shall have been issued, apply to the new division or divisions named in such proclamation and to the several divisions to which such newly constituted division or divisions, before the issuing of any such proclamation, belonged, just as though such newly constituted division or divisions were named in the Schedule to the Act No. 12 of 1857.

No change of elec-
toral divisions.

9. Notwithstanding the creation of such new divisions by virtue of any such proclamation as in this Act provided for fiscal and other purposes, every such new division and every part thereof shall continue, for electoral purposes, to belong to and form part of whatever electoral division such new division or any part thereof belonged to, precisely as if this Act had not been passed and no such proclamation had been issued.

Short title.

10. This Act may be cited as the "Fiscal Divisions Extension Act, 1888."

No. 31—1888.]

[Promulgated 21st August, 1888.

ACT

To Amend the "Civil Service Act, 1885," the "Public Service Widows' Pension Act, 1879," the "Civil Service Widows' Pensions Amendment Acts, 1880 and 1882;" and the "Civil Service Pension Fund Act, 1886."

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. The second and third sections of the "Civil Service Widows' Pension Act, 1882," and the first and fifty-eighth sections, and the schedule of the "Civil Service Act, 1885," and so much of these or of any other Acts as may be repugnant to or inconsistent with the provisions of this Act shall be and are hereby repealed.

Certain provisions of previous Acts repealed.

APPOINTMENT.

2. The Fixed Establishment of the Civil Service of the Colony shall consist:—

Civil Service defined.

- (a) Of all persons now holding or who may hereafter be appointed to any office mentioned in the Schedule A to this Act, excepting persons holding office on probation.
- (b) Of all persons holding offices of like rank which the Governor may direct to be placed in such Schedule, not being persons holding offices mentioned in the second section of the "Civil Service Act, 1885."
- (c) Of all other persons, now in the public service of the Colony, and duly placed on such Establishment either before the 9th day of February, 1886, or under the provisions of the "Civil Service Act, 1885."
- (d) Of all other persons now in the public service of the Colony, who on the 9th day of February, 1886, held any office mentioned in the Schedule B to this Act.
- (e) Of all persons accidentally omitted to be placed on the Fixed Establishment before the 9th day of February, 1886, whose names may be mentioned in a list, duly certified by the Prime Minister of the Colony, and laid before both Houses of Parliament during the present session.
- (f) And of all persons engaged in the discharge of duties not of a purely temporary character, appointed under the provisions of the third 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 31 of 1888

No. 31—1888.

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 persons to whom superannuation allowances may be granted under the provisions of the fortieth section of the "Civil Service Act, 1885."

Appointment of officers not mentioned in Schedule A.

3. The ministerial head of any department may appoint to such department such officers not mentioned in the Schedule A to this Act, as may be necessary for the efficient conduct of the public service; provided that due provision shall have been made by Parliament for the salaries or wages of the persons so appointed: and if at any time such ministerial head shall deem it expedient in the interests of the public service to dispense with the services of any person employed in such department under the provisions of this section, not being a person on the Fixed Establishment, he shall be at liberty to do so. When any such person shall have been employed on services not of a purely temporary character for at least ten years, then, whether he shall have been placed on the Fixed Establishment or not, it shall be lawful for the Governor, subject to the provisions of the seventh and tenth sections hereof, to grant him such pension as might lawfully be granted to him, if he were an officer on the Fixed Establishment of the Civil Service, subject to such regulations as may be in force with respect to Civil Service pensions; and if such person shall have been employed on services not of a purely temporary character for a less period than ten years, it shall be lawful subject to the provisions of the seventh section hereof, to pay him by way of gratuity any sum not exceeding one month's salary or wages for every year of the period during which he shall have served continuously, and in such case no pension shall be assigned to such person: Provided that no person dismissed for misconduct, or who voluntarily retires from the service on grounds other than those set forth in the twenty-second section of the "Civil Service Act, 1885," shall receive any pension or gratuity.

Services may be dispensed with unless on Fixed Establishment.

May receive pension for service over ten years.

May receive gratuity for service of less than ten years in other than temporary work.

Unless dismissed or retiring voluntarily.

Certain sections of Civil Service Act, 1885, do not apply to appointments under the preceding section.

4. The provisions of the first sub-section of section three, and of the fourth, fifth, sixth, twelfth and thirteenth sections of the "Civil Service Act, 1885," shall not extend or apply to persons appointed under the provisions of the third section of this Act.

PENSIONS AND CONTRIBUTIONS TO PENSION FUNDS.

Age of retirement of telegraphists, locomotive engine drivers and firemen.

5. In the case of telegraphists, locomotive engine drivers and firemen, the twentieth, twenty-second and twenty-seventh sections of the "Civil Service Act, 1885," shall be read as if the word "fifty" were inserted for the word "sixty" wherever the latter word occurs.

6. The thirty-first section of the "Civil Service Act, 1885," shall be amended by substituting in the second proviso the words "twenty-seventh section" for "twenty-fourth section," and by adding the following proviso: 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 be calculated upon the average amount of wages and other emoluments received by him for the ten years preceding his retirement.

No. 31—1888.

Verbal error in thirty-first section of "Civil Service Act, 1885," corrected.
Basis of calculation of workmen's pensions.

7. In computing the pension or gratuity which may lawfully be granted to any person, all continuous service in any department of the public service shall be taken into account for pension purposes, excepting:—

Service on which pension or gratuity shall be computed.

- (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 contributed to the Civil Service Pension Fund.
- (c) Services on probation rendered by an officer appointed under the provisions of the twelfth or thirteenth sections of the "Civil Service Act, 1885," if during such probation he shall have elected not to contribute to the Civil Service Pension Fund.

Services excepted from the computation.

8. Should any person on the Fixed Establishment of the Civil Service be found to be unfit to discharge efficiently the duties of the particular office filled by him, 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 a person employed under the provisions of the third section of this Act, not on the Fixed Establishment.

Power of Governor with respect to officers on Fixed Establishment unfit for their duties.

9. In the twenty-ninth section of the "Civil Service Act, 1885," the words "twenty-seventh section" shall be substituted for the words "twenty-fourth section," and in the fifty-fourth section of that Act the words "forty-second to the fifty-second sections" shall be substituted for the words "fortieth to the fiftieth sections."

Correction of verbal errors in "Civil Service Act, 1885."

10. All persons who, at the date of the taking effect of this Act may be employed in the public service on daily wages, and in the discharge of duties not of a purely temporary character, may elect within three months from such date whether or not they shall become contributors to the Civil Service Pension Fund; and should they elect to become contributors, they may further elect from what date within their period of service (not however before the first day of July, 1886, and in no case later than the first day of July, 1888,) their contributions to such fund shall

Option of present day pay employes to contribute to the Civil Service Pension Fund.

Limitation of period of commencement of date of contribution and of service on which pension shall be computed.

No. 31—1888.

accrue or be calculated: Provided that any period of service between the first day of July, 1886, and the first day of July, 1888, in respect of which any such person may elect not to contribute to such fund shall not be counted as service for pension purposes.

Option of future day pay employes to contribute to Civil Service Pension Fund.

11. Every person who may be appointed under the provisions of the third section of this Act on daily wages and 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 contribution 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 from which contribution to be computed.

Persons not entitled to pension or gratuity.

12. 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 referred to in the tenth and eleventh sections hereof, who may not, within the period allowed under such sections, elect to contribute to the Civil Service Pension Fund.

The Governor may frame rules with respect to pensions of officers who have served under several Governments.

13. 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, and for the charging of equitable shares of such pensions to the revenues of this Colony, anything in the twenty-first section of the "Civil Service Act, 1885," to the contrary notwithstanding.

Extension of provisions of 23rd and 25th Sections of Civil Service Act, 1885.

14. The provisions of the twenty-third and twenty-fifth sections of the "Civil Service Act, 1885," shall apply and extend to every person who contributes to the Civil Service Pension Fund, and the following proviso shall be added to such twenty-fifth section: 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 such gratuity, not exceeding one year's pay, as he may consider reasonable.

Definition of "public department" in Section 28 of Civil Service Act, 1885.

15. In the twenty-eighth section of the "Civil Service Act, 1885," the term "public department" shall be construed to mean any department in the service of Her Majesty the Queen, whether under the Imperial or any Colonial Government.

16. 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 referred to in the thirty-ninth section of the "Civil Service Act, 1885," shall be calculated under the provisions of that section, as if his service as a "Police Officer" had been service under the "Police Regulation Act, 1882."

No. 31—1888.

Pensions of person employed partly in Civil Service and partly in Police.

17. From and after the taking effect of this Act, every contributor to the Civil Service Pension Fund of less than ten years service, and not on the Fixed Establishment of the Civil Service, shall, provided his salary or wages amounts to £100 per annum or upwards, be required to contribute to the Widows' Pension Fund at the rate of one per centum per annum on his salary and emoluments or wages, precisely as if he were on such establishment. Should any such contributor at the expiration of ten years continuous service be not placed on such establishment from any cause other than voluntary resignation or his own fault or neglect, his contributions to such funds shall be returned to him, should he so desire it, together with simple interest thereon at the rate of four per centum per annum, in which event he shall thenceforth cease to contribute to either fund, and it shall not be lawful thereafter to grant him any pension or gratuity on his retirement from the service or to grant any pension to his widow.

Certain contributors to Civil Service Pension Fund to contribute to Widows' Pension Fund.

Provision for refund of contribution under certain circumstances.

18. All contributions to the Widows' Pension Fund at the rate of one per centum per annum on salary and emoluments or wages shall be made by monthly deduction therefrom: provided that 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 monthly deductions actually made, shall be deducted from the first payment which may be due to his widow.

Mode of collection of Widows' Pension Fund.

19. Any temporary diminution of the contribution of an officer or employé 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 or 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 centum per annum under the provisions of the fifth section of the "Public Service Widows' Pension Act, 1879."

Variations in pay due to absence of officer on leave not to affect Widows' ordinary Pensions.

20. 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

Contributions on continually varying pay may be averaged annually.

No. 31—1888.

shall be at the rate of three per cent. per annum or such other rate as may be prescribed under the provisions of the fifth section of the Civil Service Pension Fund Act, 1886, on such sum as may be determined for the year, with the approval of the ministerial head of his department, as fairly representing his annual emoluments capable of being taken into account for pension purposes.

Basis of computation of contributions to Pension Funds, where contribution is made to both.

21. 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.

Emoluments to be excluded in computing pensions and gratuities.

22. Should any person required to contribute to the Civil Service Pension Fund or to the Widows' Pension Fund, fail or neglect to contribute on any of his emoluments capable of being taken into account for pension purposes, such emoluments shall not be taken into account in calculating any pension or gratuity which may lawfully be granted to him, or in calculating the pension to which his widow may be entitled: and in computing pensions and gratuities the amounts on which contributions have been duly paid to the Civil Service Pension Fund, shall as far as practicable be taken as a basis.

Emoluments to be taken into account.

23. This Act may be cited for all purposes as the "Civil Service and Pension Fund Acts Amendment Act, 1888," and shall be read as one with the "Civil Service Act, 1885."

Short title and construction.

SCHEDULE A.

Schedule A.

Clerk to the Executive Council.
 Secretary to the Prime Minister.
 Under Colonial Secretary.
 Secretary for Agriculture.
 Controller and Auditor-General.
 Civil Commissioners.
 Resident Magistrates.
 Commissary of Ordnance.
 Superintendent-General of Education.
 Postmaster-General.
 Assistant Treasurer of the Colony.
 Controller and Chief Inspector of Licences and Stamps.
 Collector and Sub-Collectors of Customs.
 The Assistant Law Adviser to the Crown.
 Secretary to the Law Department.
 Solicitor-General.
 Crown Prosecutor.
 Masters and Registrars of Superior Courts.
 High Sheriff.
 Registrar of Deeds.

Assistant Commissioner of Crown Lands.
 Secretary for Lands and Mines.
 Surveyor-General.
 Chief Inspector of Public Works.
 General Manager of Railways.
 Under Secretary for Native Affairs.
 Chief Magistrates of Native Territories.

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Officers of and above the rank of 3rd Class Clerks in the departments of the foregoing.

Surgeons, Superintendent and Resident Surgeons of Hospitals and Lunatic Asylums and Assistant ditto.
 Veterinary Surgeon.
 Keeper of the Archives.
 Deputy Inspectors of Colleges and Schools.
 Interpreters of Superior Courts.
 Superintendents and Resident Chaplains of Convict Stations.
 Port Captains, Port Officers, and Harbour Masters at the Principal Ports.
 Conservators of Forests.
 Inspectors and Assistant Inspectors of Roads, and Clerks of Works.

SCHEDULE B.

Schedule B.

All persons now in the public service of the Colony, and not already on the Fixed Establishment of the Civil Service, who on the 9th day of February, 1886, held any of the following offices:—

District Locomotive Superintendents and Inspectors.
 Draughtsmen.
 Station Masters.
 Works Inspectors.
 Permanent Way Inspectors.
 Locomotive and Carriage Foremen.

No. 32—1888.]

[Promulgated 21st August, 1888.

ACT *Repealed by 1906 Act 14 Sec. 1.*

To make further provision for the Audit of the Public Accounts.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. The eighteenth and nineteenth sections of Act No. 30 of 1875 and so much of the thirty-fifth section of the Ordinance No. 105 as may be repugnant to this Act, are hereby repealed.

Sections 18 and 19 of Act No. 30 of 1875 and portion of 35th section of Ordinance No. 105, repealed.

2. All persons in the public service of this Colony having the custody, receipt, or payment of public money or entrusted with the administration, control, and primary audit of Revenue or Expenditure, and all public bodies or persons whose accounts the Comptroller and Auditor-General may be directed by the Governor,

Accounts rendered by persons or public bodies of public money received, administered, &c., and subject to Audit, to be certified as correct by person rendering them.

No. 32—1888.

Form of accounts to be prescribed from time to time.

Punishment for wilful and corrupt certificate.

Other accounts and returns to be rendered when required by Controller and Auditor-General.

Certificate of person examining vouchers of public accounts that vouchers have been examined and are correct: such certificate, supported by internal evidence of vouchers, may be admitted as satisfactory evidence of payments vouched.

Detailed examination of vouchers if required by Governor.

Treasury divided into branches: Receiver-General and Paymaster-General.

Assistant Treasurer to be Receiver-General, and Civil Commissioners and Agent-General to be Receivers of revenue.

under the provisions of the eighth section of the "Audit Act, 1875," or required by Act of Parliament, to examine, inquire into, or audit, save and except as provided by section 16 of Act 13 of 1883, shall periodically render accounts certified to be true and correct by the signature of the person whose duty it is to render such accounts, which signature shall be attested by at least one witness, of all moneys received and of all moneys disbursed, issued, or expended by them during the period to which such accounts relate; and such accounts shall be prepared in such manner and form, and transmitted at such times and to such departments or officers respectively, as may from time to time be prescribed in any regulations made under the provisions of the sixth section of the "Audit Act, 1875," and if any person shall wilfully and corruptly certify any such account, knowing the certificate or the account verified by it to be untrue in any material particular, he shall be deemed to be guilty of contravening this section of this Act, and shall upon 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.

3. All persons in the last preceding section mentioned shall also, when and as often as they may be required so to do by the Controller and Auditor-General, without delay make out and transmit to him such other accounts and such returns as may be desired by him in order to enable him to perform his duties.

4. In conducting the examination of the vouchers relating to accounts of a public nature, which the Controller and Auditor-General may, as aforesaid, be directed by the Governor, or required by Act of Parliament to examine, enquire into, and audit, he may (if authorised by the Governor so to do) require the person or persons whose duty it is to prepare or render such accounts to certify thereon that the vouchers have been completely checked and examined and are correct in every respect, and, upon being satisfied that such vouchers bear evidence that this has been done and that they have been allowed and passed by the proper authorities, may admit the same as satisfactory evidence in support of the payments to which they relate: Provided that if the Governor should desire any such vouchers to be examined by the Controller and Auditor-General in greater detail, he shall cause such vouchers to be subjected to such a detailed examination as the Governor may think fit to prescribe.

5. The Treasury shall be divided into at least two branches, those of the Receiver-General and Paymaster-General.

6. The Assistant Treasurer shall be the Receiver-General of revenue, and all Civil Commissioners and the Agent-General of the Colony in England shall be Receivers of revenue.

7. All accounts rendered by Receivers of revenue shall be included in, and their aggregate shall be styled, the Exchequer Account of the Colony.

No. 32—1888.

Exchequer Account showing Receivers' Accounts.

8. The Assistant Treasurer shall also be the Paymaster-General of the Colony.

Assistant Treasurer to be Paymaster-General.

9. All taxes, duties, and other revenues, and the proceeds of all loans for the service of the general government, shall be payable to, and levied by, such persons as the Governor may direct, anything contained in Ordinance No. 43, bearing date the 28th of February, 1828, and Act No. 3 of 1876, to the contrary notwithstanding; and, when not collected by, shall be paid in to a Receiver of revenue, in accordance with regulations framed under the provisions of the sixth section of the "Audit Act, 1875," and, except in so far as may otherwise be directed in such regulations, all such revenues and proceeds of loans shall be carried without deduction to the credit of the Exchequer Account of the Colony.

Governor to direct who shall levy and receive taxes, revenue, and proceeds of loans.

Money collected to be paid to Receiver of Revenue, and carried without deduction to credit of Exchequer Account.

10. In conducting the audit of such Heads of the Revenue of the Colony as are referred to in the Schedule to this Act annexed, the Controller and Auditor-General, on finding that the accounts rendered to him bear evidence that the accounts and vouchers rendered by Collectors and Sub-Collectors of Revenue have been completely checked, examined, and certified as correct by the proper departmental officers, and that due diligence is being exercised in the collection of outstanding revenue, may (unless the Governor shall otherwise direct, as to all or any of such heads of revenue) dispense wholly or partially with a detailed examination of the vouchers rendered by such collectors or sub-collectors, or with the submission to him and examination of the accounts rendered by such sub-collectors and by any collectors of revenue who may account through the receivers thereof; but he shall in all cases satisfy himself that the amounts certified as having been collected have been duly accounted for: Provided that if the Governor should desire any accounts of revenue to be examined by the Controller and Auditor-General in greater detail, he shall cause such accounts to be subjected to such detailed examination as the Governor may think fit to prescribe.

Detailed examination of vouchers, in auditing heads of revenue referred to in Schedule, may be dispensed with if accounts bear evidence of complete examination and proper certificates; but collection and account of moneys must be satisfactorily proved.

Governor may prescribe greater detail in respect of any accounts.

11. Nothing in the fifteenth section of the Audit Act, 1875, or in the last preceding section shall be construed so as to limit the power of the Controller and Auditor-General to examine any accounts or vouchers for revenue or expenditure in greater detail should he see fit to do so.

Power of Controller and Auditor-General not limited by 15th section of Audit Act nor 10th section of this Act.

12. No money shall be issued out of the Exchequer Account of the Colony except:

How money may be issued out of Exchequer Account.

- (a) on requisitions of Ministers, and of the Speaker of the House of Assembly under section 17 of Act 13, 1883, authorised and approved by the Controller and Auditor-General, under the 7th section of the "Audit Act, 1875," or

No. 32—1888.

Assistant Treasurer or other officer substituted for Treasurer-General for examination of wards books.

Deduction from salary of officer of amount duly surcharged against him; such deduction not to exceed $\frac{1}{4}$ of salary payable.

Audit under section 16, Act 13 of 1883, to include all "Joint Parliamentary expenses."

Short title.

Schedule.

(b) in accordance with regulations framed under the provisions of the "Audit Act, 1875."

13. The Assistant Treasurer, or such other officer as the Governor may appoint, shall be substituted for the Treasurer-General, for the purposes of the audit or examination of the wards book required by the thirty-fifth section of the Ordinance No. 105.

14. Should any officer who has been surcharged by the Controller and Auditor-General, or by an "Accounting Officer" with the approval of the Controller and Auditor-General, fail to adjust or recover such surcharge within the time allowed for its adjustment or recovery in regulations framed by the Controller and Auditor-General under the provisions of the sixth section of the "Audit Act, 1875," it shall be the duty of the person by whom the salary of such officer is paid to recover such surcharge by deducting the same from the next payments of salary to such officer: Provided always, that unless the Governor shall otherwise direct no such deduction from any one payment of salary shall exceed one-fourth of the amount of salary then due and payable to such officer.

15. The Audit provided by section 16 of Act 13 of 1883, shall extend to and include all accounts, payments or receipts belonging to the "Joint Parliamentary expenses" of both Houses of Parliament.

16. 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, 1888."

SCHEDULE.

Railway, Postal, Telegraph and Customs Revenue, Port and Harbour Dues, Rent (exclusive of Land Rent and Tolls), Fines, Forfeitures and Fees of Court (Judicial), Fees of Office, Sales of Government Property, Reimbursements, Excise Duty, and such other Heads of Revenue as Parliament may by resolutions adopted by both Houses direct.

No. 33—1888.]

[Promulgated 21st August, 1888.

ACT

To Amend and add to the Law for preventing the Spread of Scab Disease in Sheep and Goats.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

Appointment of temporary Inspectors.

1. In case it may be necessary for the purposes of inspection of flocks or otherwise to appoint persons to act as inspectors in

Repealed by 1894 Act 20.

No. 33—1888.

special cases to which the ordinary inspector or inspectors may be unable to attend, it shall be lawful for the Colonial Secretary to appoint such temporary inspectors, and they shall have all the powers and discharge all the duties in the special cases for which they shall be appointed of duly appointed inspectors under the Scab Act, 1886.

2. The owner of any sheep kept by him under any licence granted under the fifth section of the Scab Act, 1886, shall not during the period for which he holds such licence remove from the place therein specified all or any of such sheep, without the written permission of an inspector duly appointed for the district or area wherein such place is situated, and for every contravention of this section such owner shall be liable to the penalties prescribed in the sixth section of the said Act: provided, however, that if any such owner shall, upon demand by the inspector granting such licence, show satisfactory or reasonable grounds for the removal of such sheep, he shall not be deemed to have contravened this section.

Prohibition on removal of sheep kept under licence from inspector.

Unless removed upon reasonable grounds.

3. The Colonial Secretary shall, on the promulgation of this Act, publish in the *Gazette* a list of recognised dips, together with the strength and manner of using the same, and may, from time to time, add to the list of such dips or remove from the list any dips previously inserted therein, and the inspector, in ordering any sheep to be dipped as provided for in the next succeeding section, shall hand to the owner or his agent in charge of such sheep, a printed copy of the list of such recognised dips, with the strength and manner of using the same.

Publication of recognised dips.

4. It shall be lawful for any inspector after such inquiry as is referred to in the sixth section of the Scab Act, 1886, if he shall deem it expedient and necessary, to order the owner in respect of which a licence is granted to dip with one or other of the recognised dips, as provided for in the preceding section (the owner being at liberty to select which of the recognised dips he will use) during the period for which he holds such licence or a renewal thereof; and no owner shall, within the meaning of the fifth and sixth sections of the said Act, be deemed to have made proper and diligent efforts to cleanse the sheep kept by him under any licence, unless he shall have used or made all reasonable endeavours to use one or other of the recognised dips in the prescribed manner and of the prescribed strength.

Inspector may after inquiry prescribe dip or dips to be used for cleansing sheep kept under licence.

5. The tenth and eleventh sections and the second schedule of the Scab Act, 1886, are hereby repealed from and after a date to be fixed by the Governor, by Proclamation in the *Gazette*. No person shall import or introduce, or attempt to import or introduce, into any district or area in which the Scab Act, 1886, shall be in operation, or shall place, convey, or cause to be placed or conveyed in any truck, van, carriage, or train travelling, or intended to travel, along any line of public railway through any such district or area,

Repeal of Sections 10 and 11 and Schedule 2 of Scab Act, 1886.

Prohibition on importation or introduction of sheep, &c., without Inspector's permit.

No. 33—1888.

Certificate of land-owners that sheep are free from scab.

or shall drive, or allow, or cause to be driven along, or across, or within one mile from any public road, bridge, way, or thoroughfare in any such district or area, any sheep, unless he shall have a permit so to do from an inspector of some district or area in which the Scab Act, 1886, shall be in operation, which permit shall, as nearly as may be, be in the form prescribed in the first schedule to this Act, and every inspector may lawfully refuse to grant any such permit in respect of any sheep unless and until the person desiring it shall produce and exhibit and deliver to such inspector a certificate signed by two landowners resident in the field-cornetcy from which it is desired to remove such sheep to the effect that the said sheep are entirely free from the disease called "Scab," which certificate shall, as nearly as may be, follow the form prescribed in the second schedule of this Act.

Penalty for false certificate, and for improper use of certificate.

6. Any person signing any such certificate as is referred to in the last preceding section which shall be to his knowledge false in any material particular, and any person using such certificate in respect of any sheep other than those therein referred to, shall be liable, upon conviction, to a fine not exceeding twenty pounds.

Inspector may refuse permit unless directions complied with.

7. Before granting any such permit as is referred to in the fifth section of this Act, an inspector may require the owner desiring to remove any sheep to dip the same in one of the recognised dips, and to take such precautions, by way of notice to sheep-owners in the neighbourhood of the route to be taken by any sheep removed, as to such inspector shall seem proper.

Inspector may seize and deal with sheep, &c., wrongfully imported or introduced into his district, at the risk and expense of owner.

8. If after the date mentioned in the fifth section of this Act, any sheep shall be introduced, imported, placed, conveyed, or driven, by any person in breach of the provisions of that section, and without the permit therein referred to, it shall be lawful for every inspector within his district or area to seize such sheep, and, with regard to such sheep, either to impound the same in the pound nearest to the place of seizure, or forthwith to send back, or cause to be sent back, the said sheep, at the risk and expense of their owner, to the place from which they shall have come.

The person in charge of sheep, &c., must produce permit on demand by Inspector, Field-cornet, &c.

9. The person in charge of any sheep removed under any permit granted under the fourth section of this Act, shall, while such sheep are in any district or area in which the Scab Act, 1886, shall be in force, be bound and obliged, upon demand, to produce and exhibit such permit to any inspector, field-cornet, policeman, or railway stationmaster, or other official in charge of a railway station. Any person contravening the provisions of this section by refusing to produce or exhibit such permit or refusing to allow a copy thereof to be taken as aforesaid, shall be liable to a fine not exceeding five pounds, and the said sheep may be detained by any of the officers mentioned in this section pending the result of inquiry; each of whom shall be entitled to take and keep a copy of such permit.

10. The penalty for any contravention of the fifth section of this Act shall be recoverable in the Court of the Resident Magistrate of the district wherein the owner of the sheep resides, or wherein the said sheep may be found, and shall be by way of fine not exceeding twenty pounds sterling.

No. 33—1888.

Penalty for contravention of fifth section of this Act.

11. It shall be the duty of every headman within any native location situated within any district or area wherein the Scab Act, 1886, shall be in force, to take all proper precautions to prevent the unauthorised removal of any sheep awaiting re-inspection under the fifth section of that Act, and to use his best endeavours to secure due compliance by all persons in such location with the provisions of the Scab Acts, and every such headman shall be bound and obliged promptly to report to the inspector of his location or to the inspector of such district or area as aforesaid any contravention within the limits of such location, of any of the provisions of the said Acts.

Duties of headman of Native Location.

12. No person shall, without the authority of the inspector given in the form prescribed in the third schedule of this Act, graze or attempt to graze on any public outspan or commonage in any district or area in which the Scab Act, 1886, shall be in force, any sheep infected with the disease called scab, and any person convicted of any contravention of this section shall be liable to a fine not exceeding five pounds for each offence: Provided, also, that any owner or occupier of land situate in any such district or area and either adjoining any such public outspan or commonage or crossed by any public road, may seize, take into his custody, and remove or send to the nearest pound any sheep infected with the disease called scab, which he may find in or upon such public outspan, commonage or public road, if such sheep shall be in the custody either of no person, or of any one, who upon demand by such owner or occupier fails forthwith to produce and exhibit a permit in the form prescribed in the first or third schedule of this Act, as the case may be, authorising the presence of such sheep, in or upon such public outspan, commonage, or public road.

Grazing of infected sheep forbidden without permit.

Seizure of infected sheep on outspans, commonage or public roads.

13. Notwithstanding anything to the contrary contained in the sixth or seventh sections of the Scab Act, 1886, and whatever may be the number of infected sheep, no person convicted of contravening either of the said sections shall be fined in any sum less than one pound for the first, two pounds for the second, and five pounds for the third and every subsequent conviction. All penalties not otherwise provided for herein shall be recoverable in the court of the resident magistrate of the district.

Minimum penalties for contravention of Sections 6 and 7 of Scab Act, 1886, and alternative imprisonment for default of payment of fines.

14. Notwithstanding anything to the contrary contained in the third section of Act No. 17 of 1887, the poundmaster of any pound shall be bound and obliged, in manner provided in the said section, to dip or dress with one or other of the recognised dips, every

Duty of Poundmaster to dip or dress at expenses of owner.

No. 33—1888.

infected sheep or goat while impounded, and the owner of such sheep or goat shall be liable to pay in respect of such dipping or dressing such sum or sums of money as shall be fixed by a tariff to be proclaimed in the *Gazette*, which sum or sums may be recovered from the owner at the suit of the poundmaster, in any competent court.

Pound fees recoverable in respect of sheep impounded under Sections 8 and 12 of this Act.

15. In respect of any sheep impounded under the eighth and twelfth sections of this Act, the poundmaster shall be entitled to receive and recover from the owner thereof, all such fees and charges as he would have been by law entitled to receive or recover had the sheep been impounded after trespass upon uncultivated private land.

Scab Acts to be read together.

16. This Act shall be read as one with the Scab Act, 1886, and Act No. 17 of 1887, and with the said Acts may be cited as the Scab Acts, and wherever the term "sheep" is used in this Act it shall be deemed and taken to include the term "goat," and wherever the term "inspector" is used it shall be deemed and taken to include every assistant or deputy inspector appointed pursuant to the provisions of the first section of this Act.

Meaning of terms "sheep" and "inspector."

First Schedule

FIRST SCHEDULE.

PERMIT.

No.

18

District

I certify that _____ sheep and _____ goats, the property of _____ residing at _____, may be removed and conveyed from _____ to _____
 Brand [of sheep or goats]
 Ear Mark [of sheep or goats]
 The above permit is to be in force for _____ days from the date hereof.

Inspector.

[Or assistant, or deputy inspector, as the case may be.]

econd Sche

SECOND SCHEDULE.

We, the undersigned, being owners of the landed property set opposite our several signatures, situate in the field-cornetcy of _____, hereby certify that we have this day examined the [sheep] owned by _____ and running on the farm _____ in the said field-cornetcy, and that the said [sheep] are entirely free from scab.

Dated at _____ this _____ day of _____ 18 .

A.B., owner of
 C.D., owner of

_____ of the farm
 _____ of the farm

THIRD SCHEDULE.

No. 34—1888.

Third Schedule.

PERMIT.

No. 18
 District
 I certify that is entitled to graze [sheep] for
 the period of days, from the [goats]
 day of 18 on the public [outspan] known as
 [here describe outspan or commonage]. [commonage]

Inspector.

[Or assistant, or deputy inspector, as the case may be].

No. 34—1888.]

[Promulgated 28th August, 1888.

ACT

To Amend the Law regulating the Trade in and the Possession of Diamonds, and to make better provision for the Protection of Natives and the Inspection of Compounds at Mines within Griqualand West.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows :—

1. So much of the provisions of the Act No. 48 of 1882, of the Act No. 14 of 1885, and of any other law in force in this Colony or the Territory of Griqualand West, as may be repugnant to, or inconsistent with, the provisions of this Act, shall be and is hereby repealed in so far as shall be necessary to give effect to the provisions of this Act.

Repealing clause.

2. Every special court constituted under the provisions of Act No. 48 of 1882, shall consist, from and after a date to be fixed by the Governor by notice in the *Gazette*, of three members, two of whom shall be Judges of the Supreme Court.

Constitution of Special Court.

3. The resident magistrate in any district in this Colony and the chief of the police for the territory of Griqualand West may lawfully grant and issue a warrant under his hand for the arrest and search of any person and of the property, goods and effects in the possession of any person who shall be reasonably suspected of being in unlawful possession of any diamond, and any telegram from the person granting and issuing such warrant stating that such warrant has been granted and issued shall be deemed, *mutatis mutandis*, to be a warrant or writ within the meaning of the second section of the "Telegraphic Messages Act, 1882," and shall be sufficient authority to any officer authorised by law to execute warrants of arrest to arrest and search the person therein named, and such property, goods, and effects as aforesaid, and if, upon any person arrested and searched under this section, or in or among such property, goods or effects as aforesaid, there shall be found any diamond, and such person shall fail

Powers of certain functionaries to issue search warrants and to transmit same by telegram. Consequences and conditions relating to such search.

No. 34—1888.

to give satisfactory proof of the legality of his possession thereof, he shall be apprehended and lodged in the nearest gaol as upon a charge of unlawful possession of diamonds; provided, however, that no person arrested upon the authority of such a telegram as aforesaid shall, without an order of a Judge of the Supreme Court upon cause shown, be liable to be detained for the purposes of search only, longer than shall be reasonably necessary for effecting those purposes; and provided further that every person arrested or searched upon such telegram as aforesaid shall be entitled to claim and demand from the resident magistrate of the district where he is arrested or searched a certified copy of the warrant referred to in such telegram, as soon as may be, after the arrival of such warrant.

Powers of detective officers and police to arrest and search suspected persons leaving the territory of Griqualand West.

4. It shall be lawful for any detective officer, constable or policeman without warrant to arrest and search any person whom he may reasonably suspect to be in unlawful possession of any diamond, and to be on the point of leaving the territory of Griqualand West, and if any diamond shall be found in the possession of such person, and he shall fail forthwith to give satisfactory proof of the legality of his possession thereof, such person may forthwith be apprehended by any detective officer, constable or policeman, and conveyed in custody to the nearest gaol, there to be detained as though his arrest had been effected upon a warrant charging him with the unlawful possession of diamonds.

Judge may allow alienation or pledge of defendant's property to provide funds for defence.

5. Any Judge of the Supreme Court shall and may, upon application to him in Chambers by or on behalf of any person arrested for any offence, under the provisions of either of the Acts mentioned in the first section or of this Act, order that such person or any one thereto authorised by him or on his behalf, shall be allowed to take, use, pay, sell, exchange, give, pledge, or otherwise deal with or alienate so much of any money, or other property of which such person may be possessed, or to which he may be entitled, as shall be sufficient, in amount or in value, to provide such person with funds wherewith to meet the costs, charges, and expenses, incidental or likely to be incidental to his defence; and no exchange, gift, or alienation, made in accordance with or authorised by any order made by such Judge, shall be deemed and taken to be null and void, or in any way bad in law.

Appointment, powers and duties of Protector of Natives and penalty for obstructing him in execution of the same.

6. So soon as may be after the passing of this Act it shall be lawful for the Governor to appoint an officer to be styled Protector of Natives and Inspector of Compounds for the territory of Griqualand West, who shall within that territory be charged with the duty and invested with the power of inspecting from time to time all compounds and aiding in the enforcement of the provisions of the "Labourers' Wages Regulation Act, 1887." Such officer shall at all reasonable times be admitted into any compound or mine by the owner or person in charge thereof, and shall have

access to all parts thereof and shall be at liberty to inspect any goods, wares or merchandise sold or for sale therein and all books and accounts relating to such goods, wares or merchandise, and he shall have opportunity for free communication therein with all or any of the natives therein confined or working, and the said Protector of Natives and Inspector of Compounds shall be deemed and taken for all legal purposes to have full *locus standi in judicio*, and to represent every such native as aforesaid for the purpose of securing the due performance and observance of all duties towards such natives imposed by any law for the regulation of such compounds and for the purpose of protecting generally the rights of such natives; and it shall be lawful for the Governor from time to time to frame and publish in the *Gazette*, regulations defining more particularly the duties and powers of the said Protector of Natives and Inspector of Compounds, and the time, place, and manner, for and of the performance of such duties, and the exercise of such powers. Any person obstructing such officer in the discharge of his duty in connection with compounds as aforesaid, or refusing or neglecting to allow him to have access or to inspect as aforesaid shall upon conviction before the resident magistrate of the district be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for any period not exceeding three months unless such fine be sooner paid.

7. It shall be the duty of every registrar or superintendent of servants or natives within Griqualand West to protect in all cases wherein he should deem it fit to interfere, the interests of natives charged in any court within the limits wherein he shall be such registrar or superintendent with any contravention of the law relating to passes to natives, and, for that purpose he shall, *mutatis mutandis*, and as regards such contravention have similar *locus standi in judicio* and powers of representation to those employed by the officer in the last section mentioned. Such registrar or superintendent shall further have the power notwithstanding anything in the existing law to the contrary to grant and to renew passes to natives seeking employment for such time as he may deem necessary for the purpose under such regulations in that behalf as may be made by the Governor and published in the *Gazette*.

Certain powers of Protector of Natives conferred on Registrar or Superintendent of Natives.

8. When the Governor shall direct the release of a convict, under the conditions mentioned in the third section of Act No. 48 of 1882, the authority for such release shall be a warrant under the hand and seal of the Attorney - General directed to the superintendent of the convict station or the gaoler of the gaol at which the convict shall be in custody.

Authority for release of convict.

9. If any convict shall violate any condition of his release he may be retaken without warrant by any constable or officer of the law proper for the execution of criminal warrants, and brought before the resident magistrate of the district.

Convicts violating conditions of release may be retaken.

No. 35—1888.

And committed to
undergo remainder
of sentence.

10. The said resident magistrate may, upon proof of the violation of the condition, order that the convict be committed to prison pending the decision of the Governor. The Governor may, by warrant under the hand and seal of the Attorney-General, direct that the convict be committed to prison to undergo the remainder of his sentence, or such portion thereof as to the Governor shall seem fit. The remainder of the sentence shall be calculated from the date of arrest.

Proof of conditions
of release.

11. A certificate thereof, under the hand and seal of the Attorney-General, shall be sufficient proof of the condition or conditions of the release, in any proceeding before a resident magistrate, under the last preceding section mentioned.

Governor may enter
into agreement with
other State or
Colony, and make
provision for expendi-
ture incurred in
carrying out provi-
sions of the law.

12. The Governor may enter, when occasion shall require, into an agreement with the Government of any State or Colony wherein, at the request of the Government of this Colony, any law may have been put in force for the regulation of trade in diamonds, by which agreement provision may be made for payment out of the general revenues of this Colony to the Government of such State or Colony of any expenditure duly incurred in carrying out for the benefit of this Colony the provisions of such law as aforesaid. The funds necessary to defray such expenditure shall be recoverable in manner provided by section thirty-seven of the Act No. 14 of 1885.

Interpretation
clause.

13. For the purposes of this Act the terms employed shall have the meanings assigned to them in the sixty-second and sixty-sixth sections of the Act No. 48 of 1882.

Short Title and
Construction.

14. This Act shall be read as one with the Act No. 48 of 1882, and the Act No. 14 of 1885, and may be cited for all purposes as the "Diamond Trade Amendment Act, 1888."

No. 35—1888.]

[Promulgated 21st August, 1888.

ACT

To Amend the Ordinance No. 1 of 1838.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

Repugnant and in-
consistent laws re-
pealed.

1. So much of the third section of the Ordinance No. 1 of 1838, and of any other law in force in this Colony as shall be repugnant to or inconsistent with the provisions of this Act, shall be and is hereby repealed.

On petition by
licensed butchers
Governor may pro-
claim Act in any
division; after such
proclamation sale of
meat on Lord's Day
prohibited under
penalties.

2. Whenever a petition shall be received by the Governor, signed by a majority of not less than three-fourths of all the butchers licensed for the time being in any division, which petition shall pray that this Act shall be put in force in such division as aforesaid, then, and in every such case, it shall and may be lawful for the Governor to publish in the *Gazette*

a proclamation declaring this Act so to be in force in such division, and from and after the date of such proclamation any butcher trading in such division who shall at any time on the Lord's Day vend any meat or keep open any shop, store or other place for the purpose of vending the same, shall be liable to the penalties prescribed by the second section of the Ordinance aforesaid, and all meat sold or offered for sale in contravention of this Act may be seized and forfeited in accordance *mutatis mutandis* with the provisions of the said section: Provided that it shall be lawful to supply meat for the purposes of any sea-going vessel, railway train, or travelling conveyance, when in the case of the last-mentioned conveyance the meat shall be required *bonâ fide* for the purposes of travellers.

No. 36—1888.
 a b —

Exception pro-
 vided for.

3. Any person who shall personate any licensed butcher in signing any such petition as is referred to in the last section of this Act, shall on conviction be liable to a fine not exceeding fifty pounds sterling, or to imprisonment with or without hard labour for any term not exceeding three months.

Penalty for per-
 sonation of butcher
 in signing petition.

4. This Act may be cited as "The Lord's Day Observance Act, 1888."

Short title.

No. 36—1888.]

[Promulgated 21st August, 1888.

ACT

To Give fuller effect to the measures of relief provided by
 "The Quitrents Relief Act of 1887."

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. Every holder of land the quitrent payable on which shall be or shall have been reduced by the Governor in accordance with the provisions of the fourth section of the Act No. 27 of 1887, commonly called "The Quitrents Relief Act of 1887," shall, as from the date of the application for reduction made under the said section to the Commissioner of Crown Lands and Public Works, be deemed to be and to have been lawfully entitled to such reduction in respect of all quitrent becoming due and payable after such date.

Reduction of quit-
 rent under Act No.
 27 of 1887, sec. 4, to
 take effect as from
 date of application
 for reduction.

2. Any such holder of land who, after the date of such application for reduction as aforesaid, shall have paid or pay by way of quitrent becoming due and payable after such date any sum in excess of the amount which would have been payable if the quitrent payable had on such date been already reduced, shall be entitled to receive and recover from the Treasurer of the Colony the amount so paid in excess.

Payments made of
 quitrent due after
 application for re-
 duction, and in
 excess of reduction
 granted to be re-
 funded.

3. This Act may be cited as the "Quitrents Relief Act, 1888."

Short Title.

No. 37—1888.]

[Promulgated 21st August, 1888.

ACT

*Repealed
Act 1/10*

To Impose Liabilities upon the Crown in regard to the Acts of its Servants.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

Court by which claims against the Crown shall be cognizable.

1. Any claim against Her Majesty in Her Colonial Government which would, if such claim had arisen against a subject, be the ground of an action in the Supreme Court, shall be cognizable by the said court, whether such claim shall arise or have arisen out of any contract lawfully entered into on behalf of the Crown, or out of any wrong committed by any servant of the Crown acting in his capacity and within the scope of his authority as such servant: Provided that nothing herein contained shall be taken to impose any liability upon the Crown for any acts or omissions of its servants in the Postal or Telegraph Services of this Colony.

Who shall be defendant in suit against the Crown.

2. In any action or other suit which shall be instituted by virtue of the last preceding section, it shall be competent for the plaintiff, applicant or petitioner, as the case may be, to sue as nominal defendant or respondent such one of Her Majesty's Ministers as shall for the time being preside over the department to which the servant of the Crown alleged to have committed the breach of contract or wrong shall have belonged.

Power of Treasurer of Colony to satisfy judgment.

3. No execution or attachment, or process in the nature thereof, shall be issued against the defendant or respondent in such suit as aforesaid, or against any property of Her Majesty, but it shall be lawful for the Treasurer of the Colony to pay out of the colonial revenue such sum of money as shall by the judgment of the Supreme Court, be awarded to the plaintiff, applicant or petitioner.

Supreme Court may remove suit to another Court.

4. It shall be lawful for the Supreme Court to remove such suit as aforesaid into the Eastern Districts Court, High Court of Griqualand, any Circuit Court or any Resident Magistrate's Court, and thereupon all and singular the provisions of this Act shall apply to the court into which such suit shall have been removed.

Short title.

5. This Act may be cited as the "Crown Liabilities Act, 1888."

No. 38—1888.]

[Promulgated 21st August, 1888.

ACT

To grant and confirm certain Rights, Powers and Privileges to the De Beer's Consolidated Mines (Limited) for the Public Supply of Water.

Preamble.

WHEREAS it is desirable that the inhabitants of the Municipality of Beaconsfield and the Diamond Mines and Mining Areas of Kimberley, De Beer's, Du Toit's Pan, Bultfon-

tein and such other Diamond Mines and Mining Areas as may be from time to time declared, should be supplied with an ample supply of good water :

And whereas the De Beer's Consolidated Mines (Limited), a Joint Stock Company registered in this Colony with Limited Liability, has undertaken such supply of water by means of water pipes, sluits, cuttings, reservoirs or otherwise from the Vaal River ; and whereas it is expedient and necessary that certain rights, privileges and powers should be granted to and conferred upon the said De Beer's Consolidated Mines (Limited) to enable the said company to carry out and effect the objects aforesaid :

Be it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows :—

1. It shall and may be lawful for the company at or near a certain point upon the Vaal River situate upon the farm "Nooitgedacht" and within the division of Kimberley, distant about fifteen miles from Kimberley, to take, collect, impound, divert, appropriate, and convey such a supply of water from the said river as the company may require for the purposes of this Act, and to conduct, lead, and carry such water across the said farm "Nooitgedacht," the farm "Wildestekuil," the farm or estate "Vooruitzigt" and the farm "Bultfontein" to the township of Beaconsfield, the Diamond Mines of Kimberley, De Beer's, Du Toit's Pan and Bultfontein, and the respective mining areas thereof, to such other mines or mining areas as may from time to time be declared.

Point of Intake to be upon the Farm Nooitgedacht.

2. For the purposes of this Act the company is hereby authorised and empowered to do all and each of the following acts and things in respect of land lying adjacent or convenient to the line marked in the plan deposited in the office of the Civil Commissioner for the division of Kimberley, on the introduction of this Act, as the line of pipes, but not outside the limits of deviation where shown on the said plan, that is to say :

Powers of the company defined.

- (a) To enter upon, take possession of, use, hold, and appropriate any such land.
- (b) To dig and make excavations and cuttings in, and make and construct mounds, walls, slopes, banks, bridges, and culverts upon the said land.
- (c) To place, make, construct, and lay down upon, in, and under such land, reservoirs, dams, pipes, canals, aqueducts, and any other construction or work suitable or adapted for the impounding, storing, diverting, appropriating, cleaning, purifying, taking, or conveying water.
- (d) To take, raise, and carry away stones, clay, gravel, and other materials upon and from such land.
- (e) To build and erect buildings, store-houses, engine-houses, sheds, machinery, and any other requisite for construction or maintenance of the said water pipes and works.

No. 38—1888.

- (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 or maintain the works made and constructed for the purposes of this Act.

Provided, however, that in respect of every such act and thing done by the said company in respect of such land without agreement made and entered into with the owner, lessee, or occupier thereof before or after the passing of this Act, and without the consent of the Governor in respect of the farm or estate called "Vooruitzicht,"

- (g) The Governor or owners of such land, as the case may be, shall be entitled to claim compensation from the company.
- (h) 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;

And provided further

- (i) That no such act or thing as aforesaid shall be done by the company without the consent of the Governor or of the owner as the case may be in respect of any such land which shall be cultivated, planted or built upon.

3. For the purposes of this Act and within the limits of the said Municipality of Beaconsfield and the mines, mining areas and other places as aforesaid, the company is authorised and empowered to lay down, make, and construct pipes, conduits, or other appliances for the supply of water, and to attach hydrants upon, under, and along any public road, street, or thoroughfare, and upon, under, and along any ground set apart in the diagram or conditions of sale of any land as a public road, street, or thoroughfare, and further at the request of the owner or of the occupier with the consent in writing of the owner of any dwelling-house, building, or other property, to lay down, make, and construct communicating pipes, conduits, and other appliances, and to attach hydrants for the supply of water to such house, building, or other property from the first-mentioned pipes, conduits, or other appliances for the supply of water upon, under, along, or across any such public road, street, or thoroughfare, or such ground as aforesaid, without making or being liable to make any compensation in respect thereof except in the case of damage to railways or tramlines, water, or gas pipes already laid: Provided that there shall be no unnecessary interference with or obstruction, injury or damage to any pipes or other works of the Kimberley Waterworks Company, Limited: Provided, further, that the De Beer's Consolidated Mines (Limited) shall not use any of the trenches or excavations of the Kimberley Waterworks Company (Limited) for the purpose of laying their pipes or mains.

The company authorised to lay down, make and construct pipes, conduits or other appliances for the supply of water in certain cases without making compensation, except in the case of damage to railways, tramlines, water or gas pipes already laid; and no unnecessary damage to be done to existing Waterworks Company.

Pipes and mains not to be laid in trenches of existing Company.

No. 38—1888.

4. All compensation claimable from the company under the provisions of this Act shall be assessed and determined by reference to arbitration, and the provisions of the "Lands and Arbitrations Clauses Act, 1882," shall in so far as they are not inconsistent with any of the provisions of this Act apply to every arbitration under this Act: Provided however that no person shall, without an order of the Supreme Court, or High Court of Griqualand West, be entitled to claim such compensation unless he shall have given notice to the company of his intention to make such claim within four weeks after the company shall have given him notice of its intention to do the act or thing in respect of which such compensation is claimed.

All claims for compensation to be submitted to arbitration under the Lands and Arbitration Clauses Act of 1882.

5. The right to and property in all and singular the works constructed by the company under the provision of this Act and in all and singular the appurtenances to such works, and also in all land appropriated for the purposes of this Act, shall be vested in the company: Provided, however, that the company shall not by reason of anything in this Act contained be deemed or taken to be or to become entitled to any precious stones or minerals which may be found or discovered upon or under land used, possessed, or acquired by it under the provisions of this Act, but all rights to such precious stones and minerals shall remain the same as if this Act had not been passed; and provided, further, that no land vested in the London and South African Exploration Company (Limited) shall under any provision of this Act be capable of being or be deemed to be appropriated by the De Beer's Consolidated Mines (Limited), but any such land required and used by the last mentioned company for any of the purposes of this Act shall, for those purposes only, be deemed and taken to be subject in favour of the lastmentioned company and its assigns to a servitude enforceable at all times against the firstmentioned company and its assigns.

The rights to and property in the works and land acquired under this Act to be vested in the company, except as to land vested in London and South African Exploration Company.

6. 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 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.

Right of way secured to the company for the purpose of carrying out the provisions of this Act.

7. Whenever any work constructed or any act done by the company in the exercise of the rights, powers, and privileges conferred upon it by this Act, shall interfere with or disturb the free and safe passage along or the accustomed use of any public road, street, or thoroughfare, it shall be lawful for the Divisional Council of Kimberley or the Municipal Council of Beaconsfield, as the case may be, to require the company within a reasonable

All damage done to roads, streets, thoroughfares to be repaired by the company, and within a reasonable time, and thereafter maintained by the company in a proper condition.

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time either to restore such public road, street, or thoroughfare to its former condition, and repair all damage, or to construct such works as shall prevent any danger or inconvenience to persons using such public road, street, or thoroughfare, and any such works so constructed as last mentioned shall be maintained in proper condition by the company.

The company to have the right of supplying the inhabitants of Beaconsfield with water, without prejudice to rights of Kimberley Waterworks Company (Limited), or other persons.

8. The company shall have the right to supply the inhabitants of the said Municipality of Beaconsfield and the Municipal Council thereof with running water according to their requirements: provided, however, that nothing in this Act contained shall be deemed or taken to prejudice in any way any rights or privileges lawfully vested in the Kimberley Waterworks Company (Limited), or any other person or body corporate regarding the sale or supply of water either within or beyond the limits of the said municipality.

The Council of Beaconsfield Municipality and the Mining Boards of any of the mines entitled to water free of charge.

9. The Council of the said Municipality of Beaconsfield or the Mining Boards of any of the mines may at any time when and after the company is prepared and ready to supply them with water, claim and demand the right to attach and connect hydrants with and lay down, make, and construct communication pipes or conduits to the main pipes or conduits then laid down, made, or constructed by the company, and at as many places as the said Council or Mining Boards shall deem advisable, and the said Council shall be entitled to take by means of such hydrants, pipes, and conduits, and for the use of the said Council, a quantity not exceeding one million gallons of water in the whole per annum free of charge.

No rate to be levied by the Municipality of Beaconsfield upon the pipes or other appliances connected with the supply of water.

10. No rate or tax shall be levied or imposed by the Council of the Municipality upon the pipes, conduits, or other appliances for the supply of water laid down, made, or constructed within the Municipality of Beaconsfield by the company.

The company to frame tariff of charges and regulations for the supply of water.

11. So soon as may be after the company is prepared and ready to supply water, it shall be lawful for the said company and it is hereby required to frame a tariff of charges shewing the terms upon which filtered and other water will be supplied by the said company, and to make regulations shewing at what times, in what manner, and under what conditions the inhabitants of the said Municipality of Beaconsfield and others may obtain a supply of water: Provided that such tariff and regulations or any alteration thereof shall be published in the *Gazette* from time to time and also in one or more of the newspapers published in Kimberley or Beaconsfield: And provided that in no event shall the company be entitled to charge or to recover by legal proceedings any sum exceeding nine pence for one hundred gallons of water, any agreement with any person or body corporate to the contrary notwithstanding.

12. If any person supplied with water by the company under the provisions of this Act shall, for twenty-one days after lawful demand, fail or neglect to pay the amount fixed by the tariff of the company, for water supplied to him, the company may lawfully cut off the supply of water to such person, and may by legal proceedings recover not only the amount due for water supplied but also any expense or costs incurred in and about the cutting off of such supply.

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The company authorised to cut off the supply of water and enforce payment of amount due according to tariff from persons failing to pay for water supplied.

13. Any person who shall wilfully injure, damage, disturb, obstruct or interrupt any building, erection, conduit, aqueduct, reservoir, dam, watercourse, drain, ditch, pipe, or pipes, or other work or works forming portion of the works contemplated by this Act, or obstruct, hinder, or prevent the forming, constructing, completing, or maintaining of the said works, 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 injuring waterworks, &c.

14. Any person who shall bathe or wash himself in any dam or reservoir belonging to the company, or in any stream flowing into such dam or reservoir, or wash, throw, or cause to enter therein, any dog or other animal, or place or throw any rubbish, dirt, filth, or noisome thing into any such dam, reservoir, or stream, or dip, wash, or cleanse therein any wool, leather, or skin of any animal, or any clothes or other thing, or in any way contaminate the same, shall for each such offence upon conviction be liable to the penalty prescribed by the preceding section.

Penalty for polluting water.

15. The provisions of the first, second, and twenty-first sections of the Act No. 19 of 1861 shall, *mutatis mutandis*, be applied to such bye-laws as the company may frame for the regulation of the conduct of the persons employed by the company for the purposes of this Act, including persons engaged hereafter by the company, to supervise or attend to the distribution of water.

Certain provisions of Act 19 of 1861 applicable to the bye-laws under this Act.

16. Every offence against the provisions of this Act, including every offence against the company's bye-laws framed in accordance with the last section, shall be cognisable and tried by criminal process in the Court of the Resident Magistrate of the district wherein such offence was committed, and of every fine imposed by any such court, one-third shall be paid to the Government, one-third to the said Municipality of Beaconsfield, and one-third to the company.

How offences under this Act to be dealt with.

17. Nothing in the thirteenth and fourteenth sections of this Act contained shall be deemed to exempt any offender from any civil or criminal liabilities to which he would have been subject if those sections had not been enacted; provided, however, that no person shall be put upon his trial, both under

Offences under this Act not to affect existing laws.

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this Act and under any other law in respect of the same act or thing done by him.

Plans of the Water-works to be deposited with Civil Commissioner, Kimberley, and Surveyor-General, and open for inspection on payment of fee.

18. Forthwith after the passing of this Act, the company shall deposit with the Civil Commissioner of Kimberley and the Surveyor-General of this Colony, and the said Civil Commissioner and the Surveyor-General shall receive and permanently hold and keep as of record in their several offices, true copies of the plan deposited with the Clerk of the House of Assembly, for the purposes of this Act, and any person shall at all reasonable times be entitled to inspect either of such plans, when so held and kept as aforesaid, upon payment of a fee of two shillings and sixpence for each inspection.

Time prescribed for completion of work under this Act.

19. The company is hereby bound and required to commence the works to be constructed for the purposes of this Act within one year, and to complete the said works so as to be prepared and ready to supply water to the said Council and inhabitants of the said Municipality of Beaconsfield and the said Mines and Mining Areas within three years from the date of the passing of this Act, and failing either the due commencement or the due completion of the said works within the time specified, all and singular the rights, powers and privileges by this Act conferred on the company shall cease and determine, unless before the expiration of the period either of one year or of three years aforesaid, the Governor shall see fit to extend the time for either the commencement or completion of the said works, upon proof that the company is unable through no negligence or fault on its part either to commence or complete the said works within the periods respectively specified: Provided that no extension of time shall be granted until after the expiration of three months from the date of a notice to be published in the *Gazette*, setting forth the intention to apply for such extension.

Time extended.

Prosecutions under this Act to be at the instance of the Company's Secretary.

20. The secretary for the time being of the De Beer's Consolidated Mines (Limited) shall be the proper party to prosecute for all contraventions of this Act or any bye-law or regulation duly promulgated thereunder, and his oath as to his appointment shall be sufficient evidence of the fact, and it shall not be necessary in any such proceedings to prove the registration of the said company under the Limited Liability Laws of this Colony.

Interpretation Clause.

21. The word company appearing in this Act shall mean the De Beer's Consolidated Mines (Limited).

Short Title.

22. This Act may be cited as the "De Beer's Consolidated Mines (Limited) Water Supply Act, 1888."

No. 39—1888.—Special Session.]

[Reserved.

ACT *Repealed by 1889 Act 6.*

To Amend the law regulating the imposition of Customs Duties, to provide for the entry by this Colony into a South African Customs Union, and to make provision for the free importation into this Colony of products of South Africa, and for the equitable distribution of Customs Duties collected on goods.

BE it enacted by the Parliament of the Cape of Good Hope, in Parliament assembled, as follows:—

1. This Act shall come into force upon a day to be fixed by the Governor by proclamation in the *Gazette*, and in such proclamation shall be set forth the names of the colonies, states, or territories constituting a South African Customs Union, and from time to time it shall be lawful for the Governor, by further proclamation in the *Gazette*, to declare the admission to the said Union, as and from the first day of January or July as the case may be after such proclamation, of any other colony, state or territory in South Africa having a civilised Government; provided, however, that no colony, state or territory, not named in the proclamation giving effect to this Act, shall be deemed to be admitted to the said Union until after the expiration of six months from the date of receipt by the Governor of a request from such colony, state or territory asking for a declaration of admission to the said Union.

Operation of Act in connection with establishment of South African Customs Union; provisions for admission to such Union.

2. The Act No. 13 of 1884, intituled an Act for altering the duties of Customs in the Colony of the Cape of Good Hope, Act No. 22 of 1884, intituled an Act for authorising the Governor to grant a Rebate of Customs duty in respect of goods removed overland to certain places beyond the Borders of the Colony; and so much of any other Act as may be repugnant to or inconsistent with the provisions of this Act, shall be and are hereby repealed.

Acts No. 13 and No. 22 of 1884 repealed, with other repugnant or inconsistent laws.

3. On and after the date of the taking effect of this Act there shall be raised, levied, collected and paid upon the goods, wares and merchandize imported or brought into this Colony described and set forth in the Schedule A, hereunto annexed, the duties set forth under the heading Customs Union Tariff, and also, in respect of certain articles, the duties set forth under the heading Additional Local Customs Duty in the said Schedule, and all such duties shall, on collection, be paid into the Colonial Treasury.

Duties under Schedule A:
(a) Under Customs Union Tariff;
(b) Additional Local Customs Duties.

4. The goods, wares and merchandize mentioned in the Schedule B, hereunto annexed, shall be admitted into this Colony free of Customs duty.

Goods duty free under Schedule B.

No 39—1888.

Rebate in respect of goods removed overland through Colony to Colony, &c., not a member of the Union.

5. Whenever any goods imported or warehoused on importation into this Colony shall be removed overland to any colony, state or territory outside the Customs Union, it shall be lawful for the Governor to grant a rebate of the Customs duties payable on the said goods; provided, however, that no such rebate shall be granted until after notice thereof shall have been given in the *Gazette*.

Three-fourths of Customs Union Duties paid to Colony, &c., being a member of the Union who imports overland through this Colony; also rebate of local Customs duties.

6. Whenever any goods imported or warehoused on importation into this Colony shall be removed overland to any colony, state or territory within the Customs Union, there shall be payable to the Government of such colony, state or territory three-fourths of the Customs Union duties collected on the said goods; and the Governor shall grant a rebate of the local Customs duties otherwise payable on the said goods to the person exporting the same.

Power of Governor as to regulations for the purposes of the Act.

7. The Governor may make and alter, by notice published in the *Gazette*, regulations for the removal and conveyance to and across the borders of the Colony, of the goods referred to in this Act, for the rebate of duties, and for the payment to any other colony, state or territory of its share of the Customs duties collected by the officers of this Colony.

Penalty for contravention of regulations.

8. Any person who shall contravene any regulation made and published, as in the preceding section mentioned, shall be liable to a fine not exceeding three hundred pounds sterling, and in default of payment, to imprisonment, with or without hard labour, for any period not exceeding twelve months, or to both such fine and such imprisonment; and all goods removed in contravention of any such regulation, and all vehicles and animals made use of in the removal of such goods shall become forfeited to the Colonial Treasury.

Rebate of duty on sugars allowed to wholesale consumers manufacturing jams, &c.

9. Under such regulations as may be prescribed by the Governor in that behalf, a rebate of Customs duty (which, if the Colony of Natal shall become, and so long as the said Colony shall be a member of the said Union, shall not exceed five shillings and three pence per one hundred pounds weight), may be allowed to wholesale consumers of sugars, for the manufacture of jams, preserves and confectionery: Provided that no premises, on which the brewing of beer or distillation of spirits is carried on, shall be licensed for the manufacturing of jams, preserves and confectionery.

Special Customs Union Tariff for certain articles if Colony of Natal not member of Union.

10. So long as the Colony of Natal fails to enter the Customs Union, the duty upon sugar of all sorts wherever produced shall in lieu of the duties specified in Schedule A be eight shillings and four pence for every hundred pounds weight thereof; and there shall be no local duties upon the articles in Schedule A upon which local duties are imposed, but the duties levied, collected, and paid, upon such articles under the Customs Union Tariff shall be as follows:—

Ale and Beer	per gallon	£	s.	d.
Carriages, carts, wagons, and other wheeled vehicles, including wheel- barrows	per £100	20	0	0
Flour, Wheaten, or Wheaten Meal		0	5	0
Wine, Claret, per Imperial gallon ..		0	6	0

No. 39—1888.

11. Whenever the Governor shall be satisfied that any colony, state, or territory which is a member of the said Union has made legislative provision for the payment of local Customs duties on any of the articles on which additional local Customs duties are payable under the provisions of this Act, and is desirous that such local duties shall be collected in this Colony in respect of any of the said articles which shall be imported overland through this Colony into such colony, state, or territory, it shall be lawful for the Governor by proclamation in the *Gazette* to declare that, in addition to the duties set forth in Schedule A, there shall be collected by the Customs officers of this Colony and paid into the Colonial Treasury the amount of any such local duty on any such article so imported: Provided that the amount of such local duty shall not in respect of any article exceed the additional local Customs duty set forth in the said Schedule, and that with such proclamation there shall be published the legislative enactment by which such colony, state, or territory, has imposed such local duty.

Power to collect in this Colony when requested local duties for account of Colony, &c., being a member of the Union: but such local duties not to exceed the additional duties specified in Schedule A.

12. This Act may be cited as the "Customs Union Tariff Act, 1888."

Short title.

SCHEDULE A.

Schedule A.

ARTICLES.		Customs Union Tariff.			Additional local Customs Duty.		
		£	s.	d.	£	s.	d.
Ale and Beer	per Imperial gallon	0	1	0	0	0	3
Agricultural Implements (Kafir hoes and picks excepted)	per £100	10	0	0			
Axles, Bushes, Springs and Lamps for Carts, Carriages and other wheeled vehicles ..	„ £100	10	0	0			
Bacon and Hams	„ lb.	0	0	2			
Bags for Flour, Grain, Coal and Wool	„ £100	7	0	0			
Beads	„ lb.	0	0	2			
Butter	„ lb.	0	0	3			
Candles	„ lb.	0	0	2½			
Carriages, Carts, Wagons and other wheeled vehicles, in- cluding Wheelbarrows ..	„ £100	10	0	0	10	0	0

No. 39—1888.

ARTICLES.		Customs	Additional
		Union Tariff.	local Customs Duty.
		£ s. d.	£ s. d.
Cement	per 400 lbs.	0 2 0	
Cheese	„ lb.	0 0 3	
Chicory	„ 100 lbs.	0 16 8	
Cider	per Imperial gallon	0 1 0	
Coals, Coke and Patent Fuel ..	per ton	0 2 0	
Cocoa and Chocolate	per 100 lbs.	0 16 8	
Coffee	„ 100 „	0 12 6	
Confectionery: Jams, Jellies, Bottled and Tinned Fruits and Manufactured Sweets not being medicated or pro- perly classed as Apothecary- ware, but including Sweet- meats of all sorts, and other Articles with which Sugar is largely compounded for pre- serving purposes	per 100 lbs.	0 16 8	
Corks and Bungs	„ £100	10 0 0	
Corn and Grain, of all kinds ..	„ 100 lbs.	0 2 0	
Dynamite	„ lb.	0 0 3	
Dates	„ lb.	0 0 2	
Fruits, dried	„ lb.	0 0 2	
Flour, Wheaten or Wheaten Meal	„ 100 lbs.	0 1 6	0 2 6
Ginger, dry, Chow-Chow and other similar preserves ..	„ lb.	0 0 3	
Gunpowder	„ lb.	0 0 6	
Guns and Gun Barrels	„ barrel	1 0 0	
Hops	„ £100	10 0 0	
Iron, Bar, Bolt and Rod	„ £100	10 0 0	
Lard	„ 100 lbs.	0 12 6	
Marble	„ £100	10 0 0	
Matches, viz:— Wooden in boxes or other packages containing not more than 100 matches ..	per gross	0 2 0	
Matches, viz:— Wooden, in boxes or other packages, containing more than 100 and not more than 200 Matches	„ gross	0 4 0	
Wax, Vestas, and Fusees, in boxes or other packages, containing up to 50 Vestas or Fusees	„ gross	0 2 0	
In boxes or other packages containing up to 100 Vestas or Fusees	„ gross	0 4 0	
(And at the same rate for every additional 50 Vestas or Fusees).			

ARTICLES.		Customs Union Tariff.	Additional Local Customs Duty.
		£ s. d.	£ s. d.
Meats, Salt and Preserved, in tins, cases, or otherwise ..	per lb.	0 0 2	
Metal, Composition and Sheathing	„ £100	10 0 0	
Mules	each	1 0 0	
Oils of all descriptions, other than Chemical, Essential and Perfumed	per Imperial gallon	0 1 0	
Oils, Chemical, Essential and Perfumed	per £100	15 0 0	
Paddy (known in Natal as Coolie Rice)	„ 100 lbs.	0 1 6	
Pistols or Pistol Barrels ..	each	0 5 0	
Picks and Hoes (Kafir)..	each	0 0 6	
Rice	per 100 lbs.	0 3 6	
Rosin	„ £100	10 0 0	
Salt, Rock	„ ton	0 2 0	
Salt, all other descriptions ..	„ ton	0 5 0	
Soap, Common, Brown, Blue, Yellow or Mottled	„ 100 lbs.	0 4 2	
Soda Caustic	„ £100	10 0 0	
Spirits, of all sorts, not exceeding the strength of proof by Sykes' hydrometer, and so on in proportion for any greater strength	per Imperial gallon	0 10 6	
Spirits, of all sorts (the produce of any State, Colony or Territory within the Customs Union) not exceeding the strength of proof by Sykes' hydrometer, and so on in proportion for any greater strength	per Imperial gall.	0 4 6	
Spirits (sweetened or perfumed) Liqueurs and Cordials ..	„ Imperial gall.	0 10 6	
Sugar, of all sorts (including Molasses and Concrete) other than the produce of Natal or other State, Colony or Territory within the Customs Union	per 100 lbs.	0 12 6	
Sugar (including Molasses and Concrete) the produce of Natal, or any other State, Colony or Territory within the Customs Union	„ 100 lbs.	0 6 3	
Staves	„ £100	10 0 0	
Tallow	„ 100 lbs.	0 4 2	
Tamarinds	„ lb.	0 0 2	
Tea	„ lb.	0 0 8	

No. 39—1888.

ARTICLES.		Customs	Additional
		Union Tariff.	Local Customs Duty.
		£ s. d.	£ s. d.
Tin, viz: Plate or Sheet ..	per £100	5 0 0	
Tobacco, not Manufactured ..	„ lb.	0 1 0	
Tobacco, Manufactured, not Cigars or Snuff	„ lb.	0 2 0	
Cigars	„ lb.	0 4 0	
and for every £100 value ..	„ £100	10 0 0	
Cigarettes	„ lb. gross	0 2 0	
Snuff	„ lb.	0 4 0	
Turmeric	„ lb.	0 0 3	
Turpentine	„ gallon	0 1 0	
Varnish	„ gallon	0 1 0	
Vegetables, preserved or pressed, Pickles, Sauces and Potted and Bottled Fish ..	„ lb.	0 0 2	
Vinegar	„ gallon	0 0 6	
Wine in Bottles each of not greater content than 6 to the Imperial Gallon	per dozen bottles	0 12 0	
Do. in Bottles each of not greater content than 12 to the Imperial Gallon	per dozen bottles	0 6 0	
Do. in other Bottles or in Wood	per Imperial gall.	0 6 0	
Wine, Claret (in Bottles or in Wood)	„ Imperial gall.	0 3 0	0 3 0
Wood, Unmanufactured, other than Teak	per cubic foot	0 0 2	
Wood, other than Teak, planed or grooved	per cubic foot	0 0 3	
Teak	per cubic foot	0 0 4	
Goods not above enumerated or described, nor otherwise charged with duty, and not prohibited to be imported or used in any State, Colony or Territory of the Customs Union, under any law in force on the 16th day of February, 1888, in such State Colony or Territory of the Customs Union	per £100	12 0 0	

Schedule B.

SCHEDULE B.

FREE.

All raw produce of South Africa.

All goods grown, produced or manufactured within the Customs Union, excepting Sugar, Molasses, Spirits and Flour manufactured from other than South African Wheat.

All articles of Military, Naval, or Volunteer Uniforms or Appointments imported for the use of Her Majesty's Imperial or Colonial Forces, or Forces of the States belonging to the Customs Union,

- Animals, Living (excepting Mules).
 Anchors and Chain Cables for Ships' use.
 Bones.
 Bottles of Common Glass imported full of Wine, Beer, or other Liquid liable to Customs Duty.
 Books, Printed, not being Foreign Reprints of British Copyright Works.
 Bullion or Coin.
 Carriages, Carts, Wagons, and other Wheeled Vehicles, the manufacture of South Africa.
 Cotton, in its raw state.
 Diamonds or other Gems in their rough state.
 Feathers, Ostrich, Undressed.
 Fencing Wire, Iron Standards, and all other Materials intended to be used solely for the purpose of Wire Fencing.
 * Fish.
 Flowers of Sulphur.
 Fruit, Green, including Cocoa Nuts.
 Guano and other Manures.
 * Hair, viz., Angora.
 * Hides, Ox and Cow.
 * Horns, Ox and Cow.
 * Horns, Wild Animals.
 Ice.
 * Ivory.
 Machinery and the component parts thereof, viz.:—for Agricultural, Mining, Sawing, or Manufacturing purposes.
 Maps and Charts.
 Materials, for use in construction of Railways or Tramways within the States, Colonies, or Territories forming the Customs Union.
 Materials for use in construction of Télégraph Lines within the States, Colonies or Territories forming the Customs Union.
 Paper for Newspaper and Book Printing purposes.
 Photographs.
 Pig Iron.
 Printers and Bookbinders' materials.
 Provisions or other Stores for the Regular Forces in the service of Her Britannic Majesty, and the States belonging to the Customs Union.
 Seeds, Bulbs or Plants (Garden).
 Sheep Dip.
 *Skins, viz.: Goat.
 * Seal.
 * Sheep.
 * Wild Animals.
 Specimens Illustrative of Natural History.
 Tobacco, the produce of South Africa.
 Wine, imported or taken out of bond for the use of Military Officers serving on full pay in the Regular Land and Sea Forces of Her Britannic Majesty, and the States belonging to the Customs Union, and also for the use of Officers of Her Majesty's Navy serving on board any of Her Britannic Majesty's Ships: subject, however, to such regulations as may be made, and provided that if any such wines shall be subsequently sold, except for the use and consumption of any of such Officers serving as aforesaid, the same shall be forfeited and liable to seizure accordingly.
 *Wool, viz.: Sheep's.

* Being the growth and produce of Africa, and not manufactured, but in the raw state.

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